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MURAKAMI  
U.S. COAST GUARD

## Captain Mark M. Murakami Retires From the U.S. Coast Guard After 30 Years of Distinguished Service

*"Do a good job."*

With almost every new assignment and promotion he received over the course of his thirty year career in the United States Coast Guard, Mark Murakami received the same piece of advice: "Do a good job." This simple refrain, repeated to Mark by so many of his supervisors and mentors throughout his military service, might seem to most people too simple, lacking any real guidance or direction. But for Mark, it was perfect, and it was also reflective of the type of person that he is and always has been: an autonomous, creative problem solver; a diligent and conscientious leader; and someone with sound, thoughtful, and decisive judgment.



*Continued on page 2*

2013 – 2017 Reserve Chief of Staff, Fourth Coast Guard District  
Honolulu, Hawaii  
2017 – 2019 Reserve Chief of Staff, Coast Guard Pacific Area  
Alameda, California



We want to congratulate Captain Murakami (ret.) – our colleague, partner, and friend – on his recent retirement from the U.S. Coast Guard, effective July 1, 2022, after a distinguished military career that spanned three decades. At his retirement ceremony at Coast Guard Base Honolulu, he was awarded the Legion of Merit medal for his leadership, professionalism, and performance of duties.

After graduating from the U.S. Coast Guard Academy in New London, Connecticut in 1992, Mark spent thirteen years on active duty, first as Operations Officer of the USCG Cutter Iris, then as the Commanding Officer of USCG Cutter Point Heyer. He then enrolled in law school at the University of Hawaii's William S. Richardson School of Law, ultimately graduating with his law degree in 1999 as valedictorian of his class. After law school, Mark served for four years as the Assistant District Legal Officer for the Fourteenth Coast Guard District, followed by two years as the Executive Officer of the USCG Cutter Confidence stationed in Port Canaveral, Florida. During his time on the Confidence, Mark oversaw the rescue and interdiction of more than 1,000 migrants from Haiti, Cuba, and the Dominican Republic.

In 2005, Mark was ready for a change. After much contemplation, he decided to resign his active duty commission, join the U.S. Coast Guard Reserve, and move back home to Hawaii. A hot commodity in the local legal talent pool at the time, Mark (thankfully) decided to join Damon Key as a lateral Associate; he was promoted to a Director/Shareholder of the firm less than three years later. But his involvement with the U.S. Coast Guard continued, albeit as a reservist. As if maintaining a full caseload as an attorney in private practice wasn't enough, Mark has, for the last 17 years, simultaneously served in various capacities and assignments as a Coast Guard Reserve Officer. During that time, he was promoted to Commander, and then Captain, and he ultimately retired as the Senior Reserve Officer for the Coast Guard's Legal Service Command West. How he practiced law full time and honorably served our country all these years, most of us will never know or fully understand.



1988 Cadet Murakami

Mark and Captain, then-Commander John Fitzgerald, overseeing operations from the bridge of the ship Confidence in 2005.



In the summer of 1989, the U.S. Coast Guard's training ship Eagle was invited to visit Leningrad, Soviet Union, as the Iron Curtain was falling. It was very high visibility and Walter Cronkite was invited to sail on the ship. This is the summer after Mark's first year.



1995 Mark boarding a fishing boat in distress in Estero Bay while fellow coastie Michel Martin mans the boat.



In 2005, several hundred Haitian migrants were rescued from a derelict sailing vessel in the Bahamas by Mark and crew. They were cared for and fed while navigating back to Port Au Prince for repatriation.



By all accounts, Mark had a decorated military career. While a member of the Coast Guard, Mark received the Defense Meritorious Service Medal, the Joint Service Commendation Medal, two Coast Guard Commendation Medals, and four Coast Guard Achievement Medals, among other recognitions. His achievements as a lawyer in private practice have been equally impressive: Mark has been selected as one of *The Best Lawyers in America* for the last ten years in a number of different practice areas and, in 2013, was named Lawyer of the Year in the Hawaii market in the area of Eminent Domain and Condemnation Law. Mark also previously served on the Board of Directors of the Hawaii State Bar Association.

This is all to say that the U.S. Coast Guard's loss is Damon Key's gain. To say we have been proud to call Mark our partner all of these years would be a massive understatement. The selfless example of service to a greater cause that he displayed was, and is, something to be championed. But we would be lying if we didn't admit, somewhat selfishly, that we are excited about Mark's future with the firm following his retirement from the Coast Guard. Mark's entire adult life has been about service: first to his country, and then (and now) to his clients and community.

The U.S. Coast Guard's motto is "*semper paratus*," translated from Latin as meaning "always ready." Even after his military retirement, we have no doubt that Mark intends on abiding by this virtue every day in his legal practice, just as he has for the last 17 years at Damon Key. We and our clients can rest assured that Captain Murakami is and will be always ready to "do a good job."



*Thank you Mark, for your service, and for everything  
you have done for your entire Damon Key 'ohana.*



Murakami Family; Mark, Kim, Kyra, Tyler receiving awards from Rear Admiral Nathan Moore



Presentation of Colors



Damon Key family





# Local Expertise With Worldwide Reach

## Leveraging Damon Key's Membership in Meritas

At the Meritas Annual Meeting held earlier this year in London, Damon Key was honored as one of just a handful of law firms whose membership with this premier law firm alliance spans more than thirty years. As one of the founding members of Meritas, Damon Key remains steadfast in its belief in, and its contributions toward, the organization's mission: providing exceptional legal services through a global network of independent law firms with a shared commitment to efficiency, responsiveness, and unmatched dedication to client service.



*Damon Key Directors Na Lan and Matt Evans with Darcy Kishida, Meritas Board of Directors member from Japan*

At Damon Key, we pride ourselves on being able to offer legal expertise on a wide variety of matters involving federal, state, and local laws in the State of Hawaii. However, when our clients require legal expertise in a different State, or even a different country, we are readily able to facilitate our clients' needs through our close connections with our Meritas affiliates. It is not an exaggeration to say that our network of qualified attorneys truly spans the entire globe: Meritas currently has nearly 200 member firms in nearly 100 countries, with more than 8,000 lawyers in the aggregate serving approximately 250 different legal markets worldwide. We have connections throughout the United States – in Los Angeles, New York, Washington, D.C., Chicago, Houston, Las Vegas, Seattle, Philadelphia, and nearly 100 other U.S. cities – and all around the world: in Paris, London, Tokyo, Dubai, Sydney, Rio de Janeiro, Hong Kong, Toronto, Shanghai, Rome, and the Cayman Islands, just to name a handful. You can view the entire roster of Meritas firms and where they're located by visiting [www.meritas.org](http://www.meritas.org). You will be impressed by the breadth and reach of the Meritas network.

As the sole law firm in Hawaii within the Meritas alliance, Damon Key is uniquely positioned to offer its clients **local expertise with a worldwide reach**. All of the law firms in the Meritas network have been meticulously vetted, and membership in the alliance is by invitation only, a process that is extremely competitive and selective. Once being invited to join Meritas, a firm needs to be recertified every three years in order to remain a member; robust quality assurance processes and feedback from both clients and other firms are consulted in the decision to recertify a member firm. Because of this, Damon Key has at its disposal a list of trusted, prequalified law firms around the world and can confidently facilitate for its clients access to the highest quality of legal services on a national and international scale.

We are proud of our affiliation with Meritas, and are equally proud to be such a long-tenured member. We are keenly aware of the important advantage that the firm's membership in the network offers to our clients, and we feel invested in ensuring that we preserve this advantage for our clients' benefit for years to come. With that in mind, many of the firm's Directors have, over the years, served in leadership roles within the Meritas organization, volunteering their time to promote the current and long-term success of the network and its objectives.

Currently, Greg Kugle serves as a member of the U.S. Leadership Group for Meritas, and Matt Evans serves on the Meritas Finance Committee and its Young Lawyer Advisory Board. If you are interested in learning more about Meritas and the potential benefits it can offer for Damon Key's clients, we encourage you to reach out to Greg, Matt, or any of the firm's lawyers.

*Meritas Young Lawyers Dinner from right to left: Josh Stadtler (member from Portland, Oregon), Matt Evans and Taryn Yonaha (Hawaii), David Reid (member from Ottawa, Ontario, Canada), and James Skelton (member from Sydney, Australia)*



# R. Charles "Charlie" Bocken – A Celebration of Life

**It was an extraordinary life worth celebrating, so we did just that.**

**O**n June 14, 2022, we gathered to remember Damon Key's long-time partner, exceptional attorney, family-man, friend, colleague and mentor, Richard Charles "Charlie" Bocken. The Celebration of Life was held at Oahu Country Club, one of Charlie's favorite places.

Charlie passed away on August 11, 2020, at the age of 98. The nearly two-year delay for the celebration was due to pandemic-related concerns and restrictions. His loved ones understand the value of patience and waited for the perfect time to gather and mark his incredible life.

The long-awaited gathering reflected upon a long journey that began in Omaha, Nebraska. A small-town boy with humble beginnings, Charlie went on to have an impressive military career, serving as a Judge Advocate General (JAG) officer in the Air Force. He would travel to many different locations with his growing family. One of his assignments brought them to the sunny shores of Hawaii. After retirement, the family moved to the islands permanently.

In 1968, Charlie joined our growing law firm. It wouldn't take long before the talented attorney was made partner. He remained with us until he retired at the age of 94, quietly growing a legacy that remains strong among generations of attorneys in the firm and in the greater legal community in Hawaii and beyond. Charlie's many legal achievements included a landmark case involving Koko Marina, which he took to the United States Supreme Court and won. He argued against established law in *Kaiser Aetna v. United States* in 1979, ultimately affirming the rights of the private property owners. He was appointed to represent several thousand residents in Guam who lost their lands to military bases following World War II and supervised the approximately \$40 million dollar settlement distribution. It's fair to say that Charlie was a true hero to many.

Charlie's faith and generosity led to the creation of the Newman Center (a Catholic parish) on the University of Hawaii campus. For this kind and thoughtful human being, it was always about people. He considered relationships, integrity and trust to be paramount. These are the very qualities that Charlie brought to the halls of our law firm for so many years.

Thank you, Charlie, for raising the bar and setting an example that the rest of us will admire and work to emulate for the rest of our days. Rest in peace, friend.



*R. Charles "Charlie" Bocken*



*Damon Key Family*



*Directors Denis Leong and Ken Kupchak*



# 2022 Legislative Update for Condominium and Community Associations

By Na Lan



## Reasonable Accommodation for Assistance Animals

**A**ct 154 (SB2002), effective November 1, 2022, defines “assistance animal” and codifies the administrative process in verifying whether a reasonable accommodation request is legitimate in the context of Hawaii law prohibiting discrimination in real property transactions.

“Assistance animal” means an animal that is needed to perform disability-related work, services, or tasks for the benefit of a person with a disability or provide emotional support that alleviates one or more identified symptoms or effects of a person’s disability. “Assistance animals” may include but are not limited to service animals, therapy animals, comfort animals, or emotional support animals that may have formal training or may be untrained and may include species other than dogs.

Act 154 clarifies that when the disability (or disability-related need for an assistance animal) is not readily apparent, an owner or other person engaging in a real estate transaction may request information that verifies that the person has a disability, defined as a physical or mental impairment that substantially limits a major life activity (or the assistance animal is needed to alleviate one or more symptoms of the person’s disability). Request for medical records or access to health care providers, and inquiry as to the diagnosis, nature, or severity of the person’s disability are prohibited. Verification may be provided by a letter or other communication from the person’s treating health care professional, mental health professional, or social worker. Possession of a vest or other distinguishing animal garment, tag, or registration documents that are commonly purchased online and purporting to identify an animal as a service animal shall not constitute valid verification.

## Omnibus Bill on Condominium Associations

Act 062 (HB2272), effective January 1, 2023, clarifies that 67% of unit owners may amend a condominium declaration at any time by vote or written consent, unless the declaration specifies a higher percentage.

It requires developers to include annual reserve contributions based on a reserve study, and mandates a reserve study to be reviewed by an independent reserve study preparer and reviewed and updated at least every three years. It also specifies that cash flow plans be based on 30-year projections for Association budgets.

When an owner group with not less than 25% units ownership petitioners to amend the bylaws or call for a special association meeting, such petition shall be valid only if submitted within 120 days of the earliest signature.



Act 062 also provides the board in its sole discretion may authorize remote meetings and electronic, machine or mail voting under any of the following circumstances: (1) during state or local emergency; (2) notice was given during state or local emergency, and meeting is held within 60 days of the date of such notice; (3) for written notice of electronic, machine or mail voting, voting deadline shall be within 60 days of the date of such notice; (4) whenever approved in advance by written consent of a majority of unit owner or majority vote at an association meeting; or (5) whenever otherwise authorized in an association’s declaration or bylaws.

It removes the 60-day time frame for association meeting minutes approval, and gives flexibility to the Board on when and where to adopt owner participation rules at board meetings, other than executive sessions, and allows the board to make such rules available to owners on association website.

### **Community Association Members' Personal Agriculture in Enclosed Yard**

Act 133 (HB2280), effective June 27, 2022, prohibits planned community associations from prohibiting or unreasonably restricting the use of a unit owner's enclosed yard area for personal agriculture, provided that such use is not in violation of the association's existing master landscape plan or other restrictive covenants applicable to the unit.

"Personal agriculture" means a use of land where an individual cultivates lawful edible plant crops for personal use or donation. "Reasonable restrictions" means restrictions that are reasonably necessary to protect neighbor unit owners or residents' use and enjoyment of their property and do not unreasonably increase the cost of engaging in personal agriculture or unreasonably decrease its efficiency.

### **Community association cumulative voting**

Act 069 (SB2685), effective January 1, 2023, establishes requirements for cumulative voting and the removal of directors of planned community associations. It exempts planned community associations from certain requirements regarding cumulative voting for and the removal of directors under the Hawaii Nonprofit Corporations Act. Unless otherwise provided in the association documents, cumulative voting shall not be permitted.

Cumulative voting allows a person to vote for a director by multiplying the number of votes the person has by the number of directors to be elected and being able to allocate all those votes to a single director or split the votes unevenly between candidates.

### **Employment Practice re Sexual Harassment/Assault and Wages**

Act 288 (HB2495), effective July 12, 2022, prohibits an employer from entering into or requiring an employee to enter into a nondisclosure agreement pertaining to sexual harassment or sexual assault occurring in the workplace, at work-related events, between employees, or between the employer and an employee.

Act 300 (SB2298), effective July 12, 2022, increases the penalty for employers who fail to pay the wages of their employees in accordance with the State's wage and hour law and payment of wages and other compensation law, to a Class C felony, and adds a minimum penalty of \$500 per violation. Beginning on October 1, 2022, Act 114 (HB2510) gradually increases Hawaii's minimum wage to \$18 per hour on January 1, 2028.



**For more information or questions regarding this article,  
please call Na at (808) 531-8031, email her at [nl@hawaiiilawyer.com](mailto:nl@hawaiiilawyer.com)  
or scan the code with your smartphone.**



# Kristi Yamaguchi's Always Dream Celebrates 25th Anniversary

## Christine Kubota Helps Mark the Milestone

**D**amon Key Director Christine Kubota was on hand to help celebrate the 25th Anniversary of Kristi Yamaguchi's Always Dream. The benefit dinner was held on May 4, 2022, at the Pacific Club in Honolulu. Chris has served as a Hawaii member of the non-profit organization's board of directors since 2020.

Following her stellar skating career, Kristi Yamaguchi had a desire to give back to the community and support children in achieving their dreams. In 1996, she founded Always Dream and began operating in the San Francisco Bay area. The non-profit's mission is to ensure children from low-income families have access to high-quality books in the home environment and extensive family engagement support.

With a special fondness for Hawaii – which Kristi and her family consider a second home – the program expanded to the islands in the 2014-2015 school year with its Always Reading program. The Always Reading program supports pre-k and kindergarten students at home by giving families an entire library of books and the support of a Book Coach to help parents and caregivers read regularly with their children.

While Christine is actively involved in numerous community and professional programs and runs a busy law practice, she was pleased to make room in her busy schedule for the important work of Always Dream.

"No matter how much the world changes around us, reading remains a core skill for anyone to succeed. The ability to read is fundamental to a child's future capacity to fulfill their dreams," said Christine. "I'm especially proud to be involved with a program that brings 21st-century technology tools to those in need."

Christine points to staggering statistics that show 80% of children from low-income households are not reading at grade level and 61% of low-income families have no children's books in their homes. However, hope prevails because 40% of schools with strong parent involvement showed substantial improvement in reading.



Christine Kubota



Governor David Ige and Dawn Amano-Ige. Kristi Yamaguchi presented the First Lady with the Inaugural Hawaii Dream Maker Award





Always Dream is built on three main pillars:

**21st-Century Technology:** Students receive a tablet and data connection (if needed) to use at home for reading.

**High Quality Books:** Access to a digital library subscription and gifting of hard copy books via a partnership with Kamehameha Publishing.

**Family Engagement Strategies:** Education around book sharing strategies and technical training from a dedicated Book Coach based in Hawaii.

During the 2022-2023 school year, Always Dream will be working with students, families, and teachers at seven Oahu schools, involving over 1,000 individuals (composed of pre-k and kindergarten students and their caregivers) in the Always Reading program. The program is also active in Molokai and Hilo.

The organization is especially proud of the outcomes it achieved in Hawaii during the 2021-2022 school year.

- 80% of families report their child asks to be read to more often
- 75% of families read for at least 15 minutes every time they read with their child
- 224 average monthly minutes were read per student
- 190 is the average number of books read per student during the program

According to Always Dream Executive Director, Aarika Riddle, the board has outlined an ambitious five-year strategic plan that seeks to increase its reach in Hawaii by June 2027. "Always Dream aspires to serve 7x more individuals annually in Hawaii than we do today. This plan has 50% of the organization's expansion focused on Hawaii's keiki and their family members," said Riddle.

Christine looks forward to her continued involvement with Always Dream, helping to ensure that Hawaii's children thrive in reading through the good work of the organization.

Christine Kubota practices in the firm's Corporate, Commercial, and Real Estate Law practice groups, primarily with Japanese-speaking clients. Chris once again was selected by her peers for inclusion in the 2022 Edition of The Best Lawyers in America® for her work in Corporate Law, Real Estate, and Employment Law-Management.



*Sitting: Dan & Jerusha Tabori, Justin & Anna Carley, Dr. Irene Ohbe-Arakaki  
Standing: Kim & Mark Murakami, Kristi Yamaguchi, Sadao Takahashi, Christine Kubota, Dean Arakaki*



*Board members: Nadyne Orono, Lori Yamaguchi, programs, Kristi Yamaguchi, Kara Okamoto, Christine Kubota, Aarika Riddle, Executive Director and Deal Osaki, Marketing*

# Entering the United States to Direct and Develop a Business as a Foreign National: How Hard Can It Be?

By Cheyne I.Y. Yonemori



**T**hose with an entrepreneurial mindset may find the United States to be an attractive market to invest in a business; but how is a foreign national meant to direct and develop his investment in the United States from a foreign country that may be thousands of miles away? U.S. immigration laws are strict and violating the restrictions on one's stay comes with stern consequences. Luckily, the United States government does offer a visa specifically tailored toward overseas investors and their executives, managers, or essential employees.

If you are a citizen of one of the eighty countries with which the United States maintains an applicable treaty of commerce and navigation, then you may be eligible to obtain an E-2 visa for yourself and for certain eligible employees to enter the United States to grow your investment in a U.S. company. E-2 visas must be tied to an eligible U.S. investment in a real and active commercial enterprise, and multiple E-2 visas may be issued for a single eligible investment. As such, your first application for an E-2 visa is likely to be your most difficult, as it typically must include information and documentation both to apply for E-2 visa itself and also to register the company.

An initial E-2 visa application typically consists of six sections, each requiring different supporting documentation. Section 1 includes necessary forms and basic documentation with regard to eligibility of the U.S. investment and visa applicant for E-2 status; Section 2 includes documentation to prove the nationality of the investor or related business; Section 3 is for documentation proving that you've made or are in the process of making a substantial investment into a U.S. enterprise, and that your investment is





at risk in the commercial sense; Section 4 will consist of documentation proving that the commercial enterprise is real and operating; Section 5 is for documentation proving that the U.S. company is more than just a marginal operation, which means it must generate significantly more income than just to provide a living to you and your family; and Section 6 is for documentation proving that the investor applicant is coming to the United States to develop and direct the enterprise, or that an essential employee of the investor will work for the U.S. company in a supervisory, executive, or highly specialized role.

Instead of seeking a change of status in the United States, most E-2 visa applicants go through consular processing. This means that once your initial E-2 visa application has been assembled with all supporting documentation, it will be submitted to the U.S. consulate in your country of residence, where it will be determined if the visa applicant is eligible for E-2 status. This process generally takes anywhere from several weeks to several months, depending upon the U.S. consulate. If both the U.S. company and visa applicant are eligible, an interview will be scheduled with the visa applicant, where the applicant's passport will be taken; and within 1-2 weeks thereafter, the visa applicant's passport, with new E-2 visa page, should be returned to the applicant. For each entry into the United States, the E-2 visa holder will be admitted for a duration of stay up to two years subject to the passport expiration date, although the E-2 visa itself may be valid for up to five years based on the country-specific treaty. The E-2 treaty investor visa is a non-immigrant visa, but the visa holder can seek for renewals after the initial E-2 visa expires. There is no limit to the number of renewals an E-2 visa holder is eligible for.

The E-2 visa is a powerful tool for foreign nationals to control their investment in a U.S. company, and the best part about it is that you can even bring your spouse and children along on derivative E-2 visas.

**If you're interested in an E-2 visa or otherwise moving to the United States, please call Cheyne in our Immigration group at (808) 531-8031, email him at [ciyy@hawaiiilawyer.com](mailto:ciyy@hawaiiilawyer.com) or scan the code with your smartphone.**



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### Attorneys in the News

**Tred R. Eyerly** was interviewed and quoted in an article appearing in the Claims Journal, a publication geared toward the insurance industry and coverage attorneys. A New York appellate court confirmed that the New York Botanical Garden survived a motion to dismiss a business interruption claim due to COVID-19. *New York Botanical Garden v. Allied Work Assur. Co. (U.S.)*, 2022 N.Y. App. Div. LEXIS 3792 (N.Y. App. Div. June 14, 2022). In the face of many COVID-19 business interruption claims being denied by the courts under commercial property policies, Tred noted that the decision was not so earth-shattering because it addressed a pollution legal liability policy that expressly covered business losses due to government shut-down orders.



**Christine A. Kubota** was honored to once again participate in the 2022 Na Hoku Hanohano Awards. Christine is the Chair of the Pan-Pacific Festival Advisory Committee and Director of the Pan Pacific Festival Foundation, and presented the award for the Instrumental Composition of the Year. Chris was at the Japanese Junior Chamber of Commerce Installation Banquet with the Cherry Blossom court and also at the 15th Anniversary tournament at Hoakalei for the Hawaii Aloha Life Enrichment Association.

