

Director
abb@starnlaw.com
808-537-6100

Education:
Stanford Law School
J.D. (1969), Stanford Law Review, Board of Editors

University of Southern California, Los Angeles
B.A., Economics, magna cum laude

Areas of Practice:
Complex Commercial Litigation, Real Estate Law and Litigation, Land Use and Zoning Approval and Litigation, Trusts and Estates Litigation, Business Litigation, Legal Malpractice Litigation-Defense

Professional Activities:
Licensed in Hawaii, California (Inactive)
Admitted to practice in the U.S District Court for the District of Hawaii
Admitted to practice in the U.S. Court of Appeals for the Ninth Circuit
Admitted to practice in U.S. Federal Courts
Admitted to practice in the U.S. Supreme Court
Member, National Trial Lawyers
Member Litigation Counsel of America
Hawaii Leeward Planning Conference
Urban Land Institute

Certified Legal Specialties:
Civil Trial Advocacy, Supreme Court of Hawaii
Civil Trial Advocate, National Board of Legal Specialization (National Board of Trial Advocacy)

Presentation/ Articles:
"Non-Compete Agreements in the Sale of a Business"

A. BERNARD BAYS

Hawaii litigation attorney, A. Bernard "Bernie" Bays is a Director of the firm. Mr. Bays has over 50 years of experience and has successfully represented clients in numerous landmark Hawaii litigation cases and over 150 trials or arbitrations.

Mr. Bays focuses his practice in the areas of complex commercial litigation, business litigation, real estate litigation, trusts and estates litigation, legal malpractice law-defendant litigation, real estate law and land use and zoning law.

Mr. Bays is Board Certified in Civil Trial Law by the National Board of Trial Advocacy (NBTA) and in Civil Trial Advocacy by the Supreme Court of Hawaii. In 2024, Mr. Bays received the ***President's Award*** from the NBTA. Mr. Bays is one of only two Hawaii lawyers who are certified by the NBTA.

Mr. Bays has represented clients in all state and federal courts including the Supreme Court of the United States, the Supreme Court of Hawaii, the Ninth Circuit Court of Appeals and all lower courts.

Mr. Bays is a member of the Hawaii State Bar Association's, "Living Legend Lawyers".

Mr. Bays has been recognized by ***The Best Lawyers in America®, as a "Lawyer of the Year"*** in Honolulu in the practice area of ***Legal Malpractice Law-Defendant Litigation (2015)***. He is also recognized by ***The Best Lawyers in America®*** in the practice areas of Commercial Litigation, Eminent Domain & Condemnation, Land Use & Zoning Law, Land Use & Zoning Litigation, Legal Malpractice Law-Defendants, Construction Litigation, Environmental Litigation, Real Estate Litigation and Trust & Estates Litigation.

Mr. Bays has also been selected for inclusion to the ***"Top 25"*** **Hawaii** ***Super Lawyers®*** list eleven consecutive times since 2010 in the practice area of Business Litigation, and selected to the list since 2008.

Mr. Bays is recognized by ***Chambers and Partners USA Leading Lawyers for Business*** in the practice area of Environment Law.

Mr. Bays holds ***Martindale-Hubbell's®*** highest "**AV Preeminent"** rating given by his legal peers based on his work, reputation and integrity. Mr. Bays has held this distinction for 35 years.

Mr. Bays was a founding partner at a large Hawaii law firm concentrating his

practice in complex litigation.

Some examples of Mr. Bays' legal work include:

Represented the Parker Ranch Foundation Trust in defeating a will contest over the $450M estate of Richard Smart filed by his two sons. The estate included the 225,000 acre Parker Ranch located at Waimea on the Island of Hawaii.

Represented Aloha Tower Associates, the developers of Aloha Tower Marketplace, in a $710M case against Mitsue Bank and Trust for its misconduct in the development of the Marketplace.

Represented the Makena Beach Partnership of local Maui investors in negotiating and obtaining the appropriations for a $12.0M sale of their Makena Beach property to the State of Hawaii. Subsequently represented them in obtaining a Judgment against the State of Hawaii for an additional $5.5M because of fraud by the State.

Represented the Newton family before the State Land Use Commission in reclassifying more than 400 acres of land above Hilo on the Island of Hawaii from Conservation to Agriculture.

Represented Budget Rent A Car in an antitrust case against Hawaiian Airlines.

Represented Oahu Gas Services in an antitrust case against Gasco.

Represented the St. Louis Heights Community in a test case appealing and reducing the real property taxes for hundreds of homeowners.

Represented Hidenori Ito in blocking the $11M sale of the Gerbode Estate property; which enabled Ito to buy the property for $10.3M.

Represented homeowner groups before the U.S. Supreme Court in a landmark case upholding the constitutionality of the Hawaii Land Reform Act.

Represented a homeowner group in a test case before the Hawaii Supreme Court upholding the Hawaii Lease Rent Renegotiation Relief Act.

Represented Michael Fuchs, the former Vice Chairman of Time Warner, in a lawsuit regarding the $18M purchase of an oceanfront development property from Mauna Lani Resort that enabled Fuchs to purchase the property for $16.5M.

Represented Seibu in defending a case to block the sale of the Makena Resort and Prince Hotel on Maui. The case was dismissed and affirmed on appeal allowing the $500M sale to proceed.

Represented Forest City as co counsel before the Land Use Commission to obtain approval for a 2,600 unit affordable housing planned community at Kailua-Kona

on the Island of Hawaii and in litigation challenging the Land Use Commission approval.

Represented Forest City in land use approval litigation in opposition to the Forest City planned community brought by the adjoining landowner.

Represented the Aina Lea project in proceedings before the Land Use Commission to have the affordable housing requirement reduced from 60% down to 20% for its 1,900 unit planned community adjacent to the Mauna Lani Resort on the Island of Hawaii.

Represented the Aina Lea project in defending land use approval litigation brought by a nearby community.

Represented developer Jack Myers in a suit against Kaiser Hospital which enabled Myers to purchase the Waikiki Prince Hotel site. Also represented Myers in litigation involving development of the hotel, including the first appellate decision in Hawaii upholding the issuance of a Special Management Area Use Permit.

Represented developer Pankow Associates in a case against Crocker National Bank regarding $135M in loans secured by 3 large condominium projects which resulted in a reduction of the loan balances to a fraction of the face value.

Represented the St. Louis/Chaminade Community in successfully opposing certain undesirable aspects of a proposed condominium development.

Represented a coalition of North Shore Community groups in successfully blocking a $1B Ameron rock quarry operation that had been planned for the North Shore.

Represented tens of thousands of single family lessees in purchasing the fee interest in their homes.

Represented thousands of condominium lessees in buying the fee interest in their condos.

Represented the developer of the Kaluakoi Resort Community on Molokai in a test case before the Ninth Circuit Court of Appeals to obtain a water supply for

the resort.

Published Works:

"Business & Economic Reactions to Climate Change – Renewable Energy", TSG 2015

"Insurance Company Reactions to Climate Change", TSG 2015

"Title risks and title Insurance Coverage", NBI 2009

"Constitutional Limitations on Land Use Regulations", NBI 2009

"Challenging a Rezoning Decision", NBI 2009

"Co-Author, Practical Guide to Zoning and Land Use Law", 2009

"How to Avoid and Handle Real Estate Disputes", The Real Book of Real Estate, By Robert Kiyosaki, 2009 Vanguard Press

"The Scramble to Protect the American Dream in Paradise: Is Affordable Housing Possible in Hawaii?", 2007

'Hawaii Boundary Law: Critical Issues and Solutions Every Practitioner Needs to Know", 2005

"Advanced Real Estate Purchases & Sales, Agency Duties and Liabilities", 1993, 1994

"Agency Duties & Liabilities: Advanced Conference on Real Estate Purchase and Sales",

1993-1996, 1999

"Boundary Law in Hawaii", 1991,1994,1995

"Risk Management III: Misrepresentation and Non-Disclosure", 1991

"Risk Reduction", 1990

"When You Can't Settle, Try Mediation", 1990

"Hazardous Waste, The Purchasers Point of View", 1989

"Real Estate Broker Liability", 1989

"How Agency Relationships and Disclosure Affect Managing Agents", 1989

"What You Need to Disclose About Leases", 1988

"Current Legal Aspects of Real Estate Law", 1986

"Misrepresentation and Disclosure in Real Estate", 1986

"Real Estate Brokers: Selected Legal Issues", 1985

"Errors and Omissions, Casualty, Liability, and Other Insurance for the Attorney", 1984

"Avoid Agency/Sub-Agency Liability", 1984

"Hawaii Land Reform Act: A New Approach", 1984

"Real Estate Litigation: Condemnation", 1984

"Handling the Lawyer's Professional Liability Claim", 1984