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## The Best Kept Secret in the Law: How to Get Paid to Live on a Tropical Island

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## The Best Kept Secret in the Law: How to Get Paid to Live on a Tropical Island

### Cover Page Footnote

Michael J. Keyser is currently the Director of the Bureau of Consumer Protection and an Assistant Attorney General, Civil Division for the Territory of American Samoa. He has recently passed the one year mark on his time in the South Pacific. Prior to moving to American Samoa, Mr. Keyser practiced securities law for a Seattle, Washington firm and most recently was staff counsel for the Washington State Senate.

# THE BEST KEPT SECRET IN THE LAW: HOW TO GET PAID TO LIVE ON A TROPICAL ISLAND

MICHAEL J. KEYSER\*

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## I. PSST...

I'm going to let you in on a little secret: an exotic, profound, life-changing opportunity exists to newly minted grads and experienced professionals alike. Your guidance counselor does not know about it, your local job board will never post it, and your senior partner will never tell you about it. It does not require passing another bar exam, but it does require that you bring an adventurous spirit, your swimsuit and your sunscreen. It will quite literally teach you both the practice of law and the secret to life, and, I promise, will change every perception you have ever had about the world you live in. There is little competition for positions, and the benefit package is quite attractive. Oh, and send the tasseled loafers and expensive suits to storage, because here the court decorum is flip-flops and Hawaiian shirts, even for the judges. It is working as an Assistant Attorney General for a United States insular area,<sup>1</sup> and I'm going to teach you how.

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\* Michael J. Keyser is currently the Director of the Bureau of Consumer Protection and an Assistant Attorney General, Civil Division for the Territory of American Samoa. He has recently passed the one year mark on his time in the South Pacific. Prior to moving to American Samoa, Mr. Keyser practiced securities law for a Seattle, Washington firm and most recently was staff counsel for the Washington State Senate.

1. The Department of the Interior currently considers the term "U.S. insular area" the proper appellation for all U.S. territories, possessions, commonwealths and freely associated nation-states. Dep't of the Interior, Office of Insular Affairs, Definitions of Insular Area Political Organizations, available at [http://www.doi.gov/oia/Islandpages/political\\_types.htm](http://www.doi.gov/oia/Islandpages/political_types.htm)

## II. THE MEAT MARKET

In the last thirty years, the number of lawyers in our country has nearly doubled, spawning a \$30-plus billion-per-year industry.<sup>2</sup> In fact, Dan Quayle once famously quipped, "Does America really need seventy percent of the world's lawyers?"<sup>3</sup> Within this saturated industry, you have thousands of career choices, but most boil down to four basic forms: (1) the big firm, (2) the small/medium/solo firm, (3) the corporation (all considered "private practice"), and (4) the government. Much has been made in legal journals of lawyer dissatisfaction in the big firm environment, and for the sake of not repeating information currently available, I will only briefly discuss it in order to better convey the message of this piece. I will not go into much detail on the positives or negatives of the corporate ("in-house counsel") position or the small/medium/solo practice, although much of the experience in those environments can be equally applied to this discussion.<sup>4</sup> What this article will explain is why this particular form of government employment — an Assistant Attorney General for a U.S. insular area — is so personally and professionally rewarding and why it is so unknown to most of the legal community.

There is absolutely no question that the large law firm first-year associate position (the "big firm job") is the most coveted and sought-after opportunity one can obtain upon graduation of law school; therefore, we shall use it as our benchmark against which all else is measured. Virtually every law student on the planet has envisioned his- or herself at one time or another as Mitch McDeere, from John Grisham's 1991 novel *The Firm*: being offered a six-figure salary, a low interest mortgage, two country club memberships and the keys to a brand new BMW.<sup>5</sup> However, at

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(last visited Apr. 7, 2006). The term "possession" is no longer correct usage. *Id.* All U.S. insular areas are further discussed in Section IV of this article.

2. Alex M. Johnson Jr., *Think Like A Lawyer, Work Like a Machine: The Dissonance Between Law School and Law Practice*, 64 S. CAL. L. REV. 1231, 1240 (1991) (asserting that the practice of law is "radically changing" from a profession to a "billion-dollar business [in which money is the] only measure of success").

3. Contrary to Mr. Quayle's assertion, it turns out that "the United States has somewhere between 25% and 35% of the world's lawyers." Carl T. Bogus, *The Death of an Honorable Profession*, 71 IND. L.J. 911, 912 (1996).

4. A colleague and close friend in my office recently sold his own small practice to join the Office of the Attorney General of American Samoa. His practice, which included support staff and a few associates, was highly successful. However, he chose to make the move for the same reasons associates leave big firms: not enough personal time, high stress and unbearable client demands.

5. Remember, you pick the color. *The Firm* was also made into a major motion picture by Paramount in 1993. With an all-star cast including Tom Cruise as Mitch McDeere, *The Firm* became one of the biggest box office draws of 1993 and one of the top rental movies in history. THE WORLD ALMANAC AND BOOK OF FACTS 1995, at 301 (1994).

what price do the trappings of material wealth come? And what then can U.S. insular areas offer that would make them more attractive than the prospect of astronomical riches? To answer those questions, we must first analyze the large law firm model.

Large firms prospered in the go-go 1980s<sup>6</sup> and dot-com 1990s, contributing to a proliferation of law firms of massive size.<sup>7</sup> Take for example the prominent Midwest firm Piper Rudnick. As recently as 2004, it negotiated two mammoth mergers, making it one of the largest law firms in the world. After first joining hands with Silicon Valley's Gray Cary Ware & Freidenrich, LLP, Piper Rudnick merged with the United Kingdom-based firm DLA. The resulting behemoth, DLA Piper Rudnick Gray Cary, LLP, "is now the third largest law firm in the world, with over 2,800 attorneys" and annual revenues of over \$1 billion.<sup>8</sup> Moreover, consider Skadden, Arps, Slate, Meagher & Flom, LLP, a New York firm with offices in most of the world's major markets. In 1989, it recorded annual revenues of \$290 million, making it, at that time, the largest law firm in the U.S. in terms of revenue.<sup>9</sup> For at least nine years since then it has carried that title, becoming the first U.S. firm to exceed the \$1 billion mark in annual revenue.<sup>10</sup> This aggressive growth and lust for profitability inevitably comes at a price to someone, and in this case it is the Mitch McDeere of the world who pay dearest — with their time.<sup>11</sup>

Lawyers in large law firms are among the least happy in the entire profession, and without question, "the single biggest complaint among attorneys is increasingly long workdays with decreasing time for personal and family life."<sup>12</sup> This is due in large part to the fact that, in order to be ultra-profitable, law firms structure themselves as sweatshops where the young associates work grueling hours to line the pockets of the senior partners.<sup>13</sup> Though you might rationalize that the window office and the big

6. Martha Slud, *Scams, Scandals and Swindles: A Look at the Seamy Side of the 20th Century*, CNN MONEY (Dec. 29, 1999), available at [http://money.cnn.com/1999/12/29/investing/century\\_greed](http://money.cnn.com/1999/12/29/investing/century_greed).

7. See Johnson, *supra* note 2, at 1240.

8. Vera Djordjevich, *THE VAULT GUIDE TO THE TOP CHICAGO AND MIDWEST LAW FIRMS*, available at [http://www.vault.com/bookstore/book\\_preview.jsp?product\\_id=25652](http://www.vault.com/bookstore/book_preview.jsp?product_id=25652) (last visited February 8, 2006).

9. See Johnson, *supra* note 2, at 1241.

10. Skadden, Arps, Slate, Meagher & Flom, WIKIPEDIA, [http://en.wikipedia.org/wiki/Skadden,\\_Arps,\\_Slate,\\_Meagher\\_&\\_Flom](http://en.wikipedia.org/wiki/Skadden,_Arps,_Slate,_Meagher_&_Flom) (last visited May 15, 2006).

11. Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 889 (1999) (asserting that "the single biggest complaint among attorneys is the increasingly" long hours they are required to work).

12. *Id.*

13. See Johnson, *supra* note 2, at 1250 (asserting that "law firms may have become legalized Ponzi schemes").

salary are worth the price of your time, you will more often than not find that the work will become monotonous, you will never see your family, you will consider your life wasted, and you will seriously question your decision to go to law school.<sup>14</sup>

Let's assume you work in a firm that requires a billable rate of 2,000 hours per year.<sup>15</sup> To satisfy this requirement, you will have to be in the office working sixty hour weeks and will not be able to take any more than two weeks of annual or sick leave.<sup>16</sup> Assuming an average commute time of forty-five minutes, you will most likely wake up at 6:45 a.m. and arrive at the office around 8:30 a.m. You will sit down at your desk and work until 6:30 p.m., without taking a lunch, and arrive home at approximately 7:15 p.m. You will do this every day, six days per week, for many years.<sup>17</sup> This is in theory. Practically, it is impossible to keep up this kind of grueling schedule, let alone bill eight hours in one day.<sup>18</sup> You will inevitably need to take a break for lunch, talk to at least one human being in your office each day, get a cup of coffee, or run a personal errand.<sup>19</sup> Ultimately, this means that you will need to work longer days and go into the office on Sundays, leaving at most a week's vacation per year, if any.

Your initial response is that the pay is worth the sacrifice. What happens, though, if you can't spend your money and enjoy those material benefits because you are always working? It is simple: you will stop enjoying your life. Remember: every hour that you spend at your desk is an hour you do not spend on the golf course, at the beach, at the movies, at the gym, with your significant other, with your kids or with your friends.<sup>20</sup> When your friends invite you for lunch, although you will be wealthy enough to buy their meals, you will rarely have time to join them. When your friends invite you to the movies, you will no doubt be forced to turn them down. No amount of pay compensates for this kind of stress and lifestyle, and very few people have the kind of pain

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14. *Id.* (asserting that many attorneys are learning that the glamorous big firm job they envisioned is actually less glamorous and "downright trivial and boring").

15. Generally speaking, the minimum billable requirement in all law firms is just a threshold level allowing you to keep your job. If you wish to be judged favorably by the partners and ultimately considered for partnership, you will need to bill significantly more than the firm minimum, which equates to significantly more time behind your desk.

16. See Schiltz, *supra* note 11, at 894.

17. *Id.* at 894-95.

18. Joseph N. Van Vooren, *Is There a Solution to the Problem of Lawyer Stress? The Law School Perspective*, 10 J.L. & HEALTH 61, 62 (1996) (asserting that it is impossible to bill seven and a half hours in one day).

19. *Id.* (asserting that there will be outside influences and distractions that reduce your available time for billing).

20. See Schiltz, *supra* note 11, at 895 (asserting that every hour spent at a desk is one less hour to do many things that give life meaning).

threshold to endure this on a long term basis. I hereby pose this question to you: when you are old and gray will you look back on your life and remember the hundreds of hours spent in a sterile office typing in front of a computer, or will you remember the two years you spent working and living on a tropical island in the South Pacific?

Associates in big firms “live to work;” Assistant Attorney Generals for insular areas, all of which are tropical islands, “work to live.”<sup>21</sup> I will show you that this type of employment will allow you to live richly but simply, to receive practical, meaningful legal experience in and out of the courtroom, to travel the world and pursue personal interests of your choosing. If money is your biggest motivator, I will prove to you that financially, being a big firm first year associate or an Assistant Attorney General is nearly a wash.

### III. LIVING “THE LIFE” ISLAND STYLE: AMERICAN SAMOA

I can only speak from experience in describing daily life as an Assistant Attorney General for an insular area and therefore the discussion in this section will apply directly to my employment within the American Samoa Office of the Attorney General.<sup>22</sup> I cannot conclusively say whether my experiences living in American Samoa and working at the Attorney General’s Office are similar to experiences of other Assistant Attorneys General (“AAGs”) in other insular areas. However, I have spoken to former AAGs, and many have had similar experiences to those described herein.<sup>23</sup> Other American Samoa Government (“ASG”) departments and agencies hire off-island attorneys directly, and a vast majority of my experiences can be similarly applied as well.<sup>24</sup>

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21. *Id.* at 890.

22. American Samoa Government, Department of Legal Affairs, at <http://www.asg.gov.net/LEGAL%20AFFAIRS.htm> (last visited February 22, 2006).

23. A colleague and friend of mine, who provided much of the impetus for my own journey to the South Pacific, was formerly an associate at McCully, Lannen, Beggs & Melançon in Maite, Guam while his wife worked at the Office of the Attorney General. In comparing my experiences in American Samoa to our many discussions of their experiences in Guam, I have come to realize that there are only minor differences. In short, Guam is more developed, has more tourism and better public beaches. American Samoa on the other hand is significantly more rural, has fewer public beaches, but is located in an (arguably) better geographic area in terms of travel opportunities.

24. Other ASG departments and agencies currently employing attorneys include the Public Defender’s Office, the Department of Commerce, and the Tax Office. The American Samoa Environmental Protection Agency is currently seeking an in-house counsel.

Someone once said of American Samoa that “[t]he ocean is so blue, the sky is jealous.”<sup>25</sup> Picture this: coconut trees hang over beaches of fine white sand. Warm, inviting crystal blue water shimmers in the midday sun. Lush jungle rainforests blanket stunning mountain peaks plummeting precipitously into the ocean. Schools of colorful fish dance over giant expanses of coral reef. Such are the wonderful realities of working and living on a tropical island. They can be yours.

However, I will warn you now that moving to American Samoa, and every insular area, requires a serious decision, serious sacrifices and a serious effort; it is not as simple as snapping your fingers and settling into the lazy dream vacation often conjured from images on postcards. The World Bank considers five of the eight U.S. insular areas, including American Samoa, to be “developing countries,” and as such, your daily life will most certainly not be the same as it is now.<sup>26</sup> You will not have the twenty-four-hour supermarkets, multiplex movie theaters, freeways, restaurants and sometimes even traffic lights that you have grown accustomed to enjoying. Within your first few days after arrival, you will repeatedly second-guess your decision to leave the luxuries of urban and suburban life behind. With all rewards come sacrifices, and you will be forced to make them. Fully appreciating this type of exotic employment experience requires a personal resolve to focus on the positive aspects of island life and minimize the relative poverty and lack of modern conveniences. At rush hour, there will most likely still be gridlocked traffic, except you will have swapped the smog-filled city for the palm tree paradise. Island life means sometimes bypassing the grocery store for a roadside produce stand, and even then not always finding every ingredient you need. You will not find a Best Buy, except maybe on Guam, and your internet will not be as fast. If you have made the commitment to move to a US insular area, though, you should really be in the ocean instead of the shopping mall anyway.

Being an AAG for a U.S. insular area means more time for yourself and for your family. Your frenetic, high-paced and over-scheduled former life will seem like ages ago, and you will quickly settle into the pleasant, easygoing lifestyle of the islanders. It is the time and the place to slow down and spend valuable time ex-

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25. Ted Miller, *Talented Players From Tiny American Samoa Are Changing the Face of Football*, SEATTLE POST-INTELLIGENCER (August 31, 2000), at <http://seattlepi.nwsource.com/cfootball/samo29.shtml>.

26. Guam, Puerto Rico and the US Virgin Islands are not on the list. See The World Bank, Data and Statistics, Country Groups, at <http://web.worldbank.org/WBSITE/EXTERNAL/DATASTATISTICS/0,contentMDK:20421402~menuPK:64133156~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html> (last visited February 22, 2006).



periencing the fullness of life: exploring tide pools, connecting with friends and loved ones, swimming in the ocean, buying fresh produce, hiking in the jungle, strumming a guitar, and generally enjoying your surroundings.

### A. *The Lifestyle*

Let's compare the lifestyle of an AAG in American Samoa with that of a big firm associate, as I discussed above. You will wake up around roughly the same time as an associate in a large law firm (7:00 a.m.), but for most of the year the sun will be shining and the palm trees outside your house will be swaying to the gentle breeze of the tropical trade winds. You will put on your *ie faitaga*<sup>27</sup> and a short-sleeve Hawaiian shirt, grab your cup of coffee, and throw on your sunglasses. As you step outside, the sweet tropical air will surround and overwhelm you, as if you were stepping into a candy factory. The drive to work, which snakes along the southern coast of the island, will take you approximately twenty-five minutes and will provide you with the breathtaking scenery of crashing waves, which I can assure you is impossible to become desensitized to.

You will arrive at the office between 8:00 and 8:30 a.m., at which time every staff member — all Samoan — will go out of their way to greet you and offer you a fresh pastry or cup of coffee. Depending upon your daily calendar, you will either then head to the courthouse or will retire to your office to handle the myriad of legal issues consistently presented to you. Around noon, your coworkers, who are also your close friends, will seek you out for lunch, and as a group you will head out to either the Yacht Club at Pago Harbor or to the Sadie Thompson Inn for fine dining, while coworkers place cellular calls to those in court seeking them for the lunch siesta. After lunch, you will return to court or to your office rested, relaxed and ready to tackle the challenges of the afternoon. At around 4:00 p.m., the entire American Samoa government shuts down, and unlike your big firm counterpart, you are under no obligation to burn the midnight oil. You will get back into your vehicle for the return drive along the coast, arriving at home around 4:30 p.m. with enough time to head to the gym, go for a quick swim or simply relax on your couch. You will repeat this scenario every day, except for the five weeks of paid vacation you are allowed to take at virtually any time, whereupon you will visit places like

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27. A traditional and formal Samoan lower-body wrap worn in lieu of pants. It is usually made out of suit or dress pant material and contains side pockets and a belt strap with a buckle. In the extreme humidity of the South Pacific, it is a necessary and welcome replacement to pants.

New Zealand, Fiji, Australia, and Tahiti. This does not include any short weekend getaways you might take to places like Apia or Ofu — a small island in the Manu'a chain of American Samoa and home to one of the top beaches in the United States, if not the world.<sup>28</sup>

Weekends will be spent snorkeling at the Blue Hole, a coral reef paradise filled with tropical fish comprising roughly three football fields, hiking out to Palagi Beach, an untouched coconut tree-lined white sand beach, or driving to the top of the Afono Pass for a stellar view of both Pago Harbor and the vast expanse of the Pacific Ocean. Every so often, you might take a day trip by small ferry to Aunu'u, a small island off the coast of Tutuila that is home to a fiery red quicksand lake and Ma'am'a Cove, a breathtaking volcanic rock inlet of crashing waves.

Your salary will be approximately \$40,000 per year, which with the standard local income tax deduction equates to a net take-home pay of about \$3,000 per month.<sup>29</sup> After paying your rent, you will be left with \$2,900 to put towards utilities and expenses. Water, sewer and electricity will run you about \$200 per month. You will have no need for a cellular phone plan. Because you drive such short distances, you will only need to fill up the tank, at most, twice a month at a total cost of \$80. The vehicle you drive is dictated by the island's conditions. With 200 inches of annual rainfall, the island roads are prone to flooding and potholing, which means a pickup truck is your optimum vehicle choice (this is not taking into account any off-road tracks you might maneuver). A decent used pickup will run you around \$12,000 and will hardly lose its value, equating to a car payment of about \$256 per month.<sup>30</sup> This wraps up your monthly expenses, leaving you with \$2,364 for monthly spending.

Let's compare that to the salary of a first year associate at a large law firm. Your salary will be approximately \$98,000 per year, which breaks down to a net monthly salary of about \$6,000, not including state income tax. Your modest single-family home

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28. Jenn Plum, *All Time Best Beaches, Ofu Beach, American Samoa*, Travel Channel, <http://travel.discovery.com/convergence/beachweek/ofubeach.html> (last visited May 15, 2006). Interestingly enough, Ofu beach is part of the United States National Park Service, <http://www.nps.gov/npsa/pphtml/nature.html> (last visited May 17, 2006).

29. American Samoa's minimum income tax rate is 4%. See American Samoa Individual Income Tax Return Form 390. Based on the 2000 IRS tax table, which is currently in use in American Samoa, your effective income tax rate will likely be around 8%.

30. This assumes you do not just pay cash and buy the truck outright. If you do, you could likely resell it at the end of your contract for the same price you paid, rendering your use of the truck over the life of your contract almost free. The loan calculation is based on assuming the overnight interest rate on a 48-month auto loan on February 10, 2006 at 6.5% with 10% down. Auto Loan Calculator available at <http://www.bankrate.com>.

near the city will run you approximately \$374,000.<sup>31</sup> Assuming you have good credit and obtain a standard 30-year mortgage at an interest rate of 5.41%, and make a down payment of 20%, your monthly mortgage will likely run you about \$1,760, leaving you with \$4,240 in net pay.<sup>32</sup> Being a big firm lawyer, you will work long hours, beyond the public bus' scheduled route. Therefore, you will be forced drive to work every day (assuming you live near the city and not in the suburbs, where you will also have no choice). Because you are making such an enormous salary you will want to drive something respectable, so you purchase a modest, pre-owned BMW 325i for \$30,000.<sup>33</sup> Your monthly car payment will be \$640, reducing your monthly net income to \$3,600.<sup>34</sup> You will drive much greater distances than you would on a small tropical island, spending in excess of \$100 more per month on gasoline, not to mention the monthly parking fee at your office building of \$250. Your water, sewer, electricity, garbage, and gas bills will run you about \$450, and you can't be an attorney without a cellular phone, which will run you about \$120 per month for a basic plan. After all these expenses, your disposable income will be \$2,680. All of this is not taking into account the added stress to your life as you are required to administer to these painful details, constantly knowing that you must consistently bring in a high salary to meet the expensive demands of your life.<sup>35</sup> Is the money still worth it?

### *B. The Culture*

Living in a U.S. insular area means learning about, and being immersed in, a new culture and society in which you are the minority. In American Samoa, life centers around both the village and the family (the '*aiga*').<sup>36</sup> A Samoan village can be made up of several households, each of which is presided over by a chief (a *ma-*

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31. In my hometown of Seattle, Washington, \$374,000 is the median home price of a single-family home. Elizabeth Rhodes, Washington Home Prices Rose Fastest in Skagit County, *THE SEATTLE TIMES* (Jan. 28, 2006), at [http://seattletimes.nwsourc.com/html/real-estate/2002766822\\_appreciation29.html?syndication=rss](http://seattletimes.nwsourc.com/html/real-estate/2002766822_appreciation29.html?syndication=rss).

32. Interest rate is based on standard 30-year fixed mortgage and is the current average rate for February 10, 2006. Mortgage calculator available at <http://www.bankrate.com>.

33. See Auto Loan Calculator, *supra* note 30 (assuming the same interest rate, term and down payment). BMW 325i pricing available at <http://www.bmwusa.com/CPO/cpomain.htm> (last visited February 22, 2006).

34. Auto Loan Calculator available at <http://www.bankrate.com/brm/auto-loan-calculator.asp>.

35. Also known as the "golden handcuffs."

36. LOWELL D. HOLMES, *QUEST FOR THE REAL SAMOA: THE MEAD/FREEMAN CONTROVERSY & BEYOND* 38 (1987), quoted in Daniel E. Hall, *Curfews, Culture and Custom in American Samoa: An Analytical Map for Applying the U.S. Constitution to the U.S. Territories*, 2 *ASIAN-PAC. L. & POL'Y J.* 69, 71–72 (2001).

*tai*).<sup>37</sup> Each village has between ten and fifty *matais* of various ranks and importance.<sup>38</sup> Within each village, every household is represented by a chief who represents their interests as a member of the village council (the *fono*).<sup>39</sup> The village council is responsible for administering law and order.<sup>40</sup> The leader of the *fono* is called the *ali'i*.<sup>41</sup> The *ali'i* is considered far too important a person to discuss other people's problems, and therefore he is represented by a talking chief (a *tulafale*).<sup>42</sup> "The *tulafale* acts on behalf of the *ali'i* at social occasions, ceremonies and in discussions with other" village bodies.<sup>43</sup> Samoans have great respect for oration, so the *tulafale* almost always has an imposing figure and a masterful command of the Samoan language.<sup>44</sup> Samoans take the *matai* system very seriously — so seriously, in fact, that the unauthorized use of a *matai* title is a class B misdemeanor.<sup>45</sup>

The Samoan village is a significantly different political and geographic construct than a person from the U.S. might envision.<sup>46</sup> Samoans view their social and family lives through two lenses: their 'aiga and their village.<sup>47</sup> Being part of a group is of the utmost importance to Samoans and therefore the village takes on much greater significance.<sup>48</sup> Young men without *matai* titles, called the "aumaga," and unmarried girls, called the "aualuma" are expected to expend their efforts towards improvement of the village. They also are expected to participate in 'aiga and village social activities.<sup>49</sup> The *aumaga* police their villages under the direction of the village *matai*, and their organization reflects the organization of the *matais* in the *fono*, in that the young men learn to prepare and deliver speeches, learn to conduct themselves with the gravity and decorum befitting of a *matai*, and plan and execute group enterprises.<sup>50</sup>

Although U.S. materialism and individuality is rapidly spreading on the island, the traditional sense of property, both personal and real, is communal; "[o]ver ninety percent of all land is com-

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37. *Id.*

38. *Id.*

39. Samoan Sensation, *Matai*, at <http://www.samoa.co.uk/matai.html> (last visited May 15, 2006).

40. See Hall, *supra* note 36, at 71—75.

41. Samoan Sensation, *supra* note 39.

42. *Id.*

43. *Id.*

44. *Id.*

45. American Samoa Code Annotated [§ 1.0414 (2005) [hereinafter ASCA].

46. See Hall, *supra* note 36, at 72—73.

47. *Id.*

48. *Id.*

49. *Id.*

50. See HOLMES, *supra* note 36, at 56.

munally owned, and attempts to return privately held lands to communal status continue today.”<sup>51</sup>

### *C. Employment*

The American Samoa Government hires attorneys on a contract basis when no qualified eligible individuals exist on the island.<sup>52</sup> Practically speaking, because no law school exists on the island, and there are few, if any, unemployed native Samoans with a bar license, every attorney is recruited from the United States on an employment contract with the ASG.

The Office of the Attorney General is a division of the Department of Legal Affairs (“DLA”), which is headed by the Attorney General.<sup>53</sup> The DLA also consists “of the Office of Immigration, the Office of the Territorial Registrar, and the Office of Weights and Measures.”<sup>54</sup> Within the Office of the Attorney General exists the Bureau of Consumer Protection, with the statutory authority to investigate consumer complaints and initiate civil actions, including class actions, on behalf of the consuming public.<sup>55</sup> The Bureau’s director also has the authority to issue subpoenas and appoint investigators who have full police powers.<sup>56</sup> The Office of the Attorney General can be contacted at P.O. Box 7, Pago Pago, AS 96799.<sup>57</sup>

A similar employment contract is executed by all AAGs. You are required to make a two-year commitment, although you are free to break your contract at any time with only minor repercussions.<sup>58</sup> The government will furnish coach class commercial air transportation for you and your dependents to American Samoa.<sup>59</sup> It will also provide you with a shipping allowance for your household goods.<sup>60</sup> If you satisfy the terms of your contract, the fulfill-

51. See Hall, *supra* note 36, at 72.

52. ASAC § 4.1001 (2005).

53. See American Samoa Government, Department of Legal Affairs, *supra* note 22.

54. *Id.*

55. ASCA § 27.0402 (2005).

56. ASCA § 27.0402(b) (2005).

57. The telephone number is 684-633-4163; the facsimile is 684-633-1838. See American Samoa Government, Department of Legal Affairs, *supra* note 22.

58. The sole consequence to “breaking your contract”—in other words, leaving early—is that if you leave after one year, your return voyage and shipping expenses will not be covered by the government. If you leave within the first year, you may be required to reimburse the government for your original travel costs and shipping stipend to the island.

59. ASAC § 4.1004(a)(1) (2005).

60. ASAC § 4.1004(a) (2005). Under my contract, I received \$1,300 in reimbursed shipping expenses. It should be noted that the stipend acts as a reimbursement. If you do not spend your full allotment, you will not receive your full amount. In sum, you must show proof of your shipping expenses, and you will only receive reimbursement up to the contracted amount.

ment of a two-year obligation, the ASG will furnish transportation for you and your dependents to a return destination in the United States.<sup>61</sup> It will again provide you with an identical shipping allowance to send items home.<sup>62</sup>

You will be provided with a government-owned and subsidized single family home, apartment or townhouse, or if none are available, a housing allowance to be applied towards a private residence. Rent obligations will seem ridiculously low: to wit, your rent for a one-bedroom single-family home is \$100 per month. While the conditions are by no means fancy, they are comfortable. Your vacation package will be more generous than anything you might receive as a big-firm associate: you will receive approximately five weeks of paid vacation per year.<sup>63</sup> Finally, you and your dependents will be entitled to medical and dental services furnished by the Lyndon B. Johnson ("LBJ") Tropical Medical Center (LBJ).<sup>64</sup> If you contract an illness that requires you to go off-island, your employment contract provides that LBJ will be responsible for covering the costs of treatment, including medivac, if necessary.

At the expiration of your contract, you may request — or your employer has the option to offer — a renewal on your contract.<sup>65</sup> Upon renewal, you will receive a cash bonus of \$1,000.<sup>66</sup> You will also receive a round-trip economy class ticket for you and your dependents to take a trip home or elsewhere within the United States.<sup>67</sup>

The nature of the position seems to attract genuinely interesting, adventurous individuals, which in turn makes for a very lively and interesting legal ex-pat community in the office. Having left substantially similar employment environments and with very few *palagis* on the island and none of the pressures of mainland billable hours, the bonds formed among ASG attorneys tend to be some of the strongest you will ever form.

The Office of the Attorney General is divided into two divisions, criminal and civil, with the criminal division comprised of six attorneys and the civil division currently housing just two attor-

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61. *Id.*

62. *Id.*

63. ASAC § 4.1005(a) (2005).

64. ASAC § 4.1006(a) (2005).

65. ASAC § 4.1004(f) (2005).

66. ASAC § 4.1004(f)(1) (2005).

67. ASAC § 4.1004(f)(2) (2005). Some restrictions do apply. You may be required to pay the difference for airfare to a destination beyond your original point of hire. However, this may be negotiable with your employer.

neys.<sup>68</sup> Criminal attorneys appear in both the district and High Court, and handle all prosecutions on the island, from minor misdemeanors to class-A felonies. Civil attorneys handle both litigation and transactional law for all government departments and agencies. They negotiate and prepare all government contracts, interpret and provide legal advice on American Samoa law, and appear in court both as civil prosecutors and defense counsel. For example, I currently perform a myriad of duties. In addition to providing legal advice to a dozen government agencies, I defend the government in civil litigation, including drafting pleadings, dispositive and pretrial motions, conducting and responding to interrogatories and depositions, and appearing at trials and appeals.<sup>69</sup> The opportunities for interesting practical experience abound.

American Samoa presents a unique legal environment for mainland attorneys to practice in. Unlike the U.S., it does not have as rich a common law history to fall back upon. Therefore, a government attorney is free to cite to any federal or state jurisdiction for legal precedent. Perhaps the most interesting outcome of combining the American common law legal system with traditional Samoan culture is codification of the traditional *matai* title system. Replacing an ancient traditional system, the American Samoa Code requires persons to register their *matai* titles with the Territorial Registrar's Office, similarly to the registration of real property.<sup>70</sup> A Samoan is qualified to obtain and register a title only if he or she meets certain stringent elements: "he must be of at least one-half Samoan blood, he must have been born on American soil, he must be chosen by his family for the title, and he must live with Samoans as a Samoan."<sup>71</sup> A claim of succession to a *matai* title must be accompanied by a petition signed by twenty-five blood members of the title claimed, along with a certificate from the chiefs of the village to the effect that the title is an old and traditional title of the Samoan people.<sup>72</sup> Before taking effect, notice must be given by a posting on the High Court bulletin board and

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68. At the time of publication, there is talk around the office that as many as four additional attorneys may be hired, increasing the total number of attorneys to ten.

69. Currently, the departments and agencies I represent include the Territorial Office of Homeland Security ("TOHS"), the Lyndon B. Johnson Tropical Medical Center, the Office of Procurement, the Department of Human Resources, the Department of Education, the Department of Port Administration, the Department of Human and Social Services, the Department of General Administration, the Department of Parks and Recreation, the Department of Treasury, Customs, and the American Samoa Community College. I also advise the Commerce Commission and the Territorial Planning Commission.

70. ASCA § 1.0401 (2005).

71. ASCA § 1.0403 (2005).

72. ASCA § 1.0405 (2005).

two other public places.<sup>73</sup> To contest the registration of a *matai* title, a person must be a resident of American Samoa for one calendar year immediately preceding the date of objection, and must obtain a petition signed by no less than twenty-five persons related to the title by blood.<sup>74</sup> The High Court of American Samoa is vested with the authority to decide matters of title, and a special division of the High Court exists for this purpose: the Matai Titles Division.<sup>75</sup> In the trial of *matai* title cases, certain considerations are listed in order of importance to guide the High Court's decision.<sup>76</sup> They are: the best hereditary right, with male and female descendants of equal value in families where this has been customary, otherwise male descendants prevail over females, "the wish of the majority or plurality of those clans of the family as customary in that family, the forcefulness, character and personality of the persons under consideration for the title, and their knowledge of Samoan customs; and the value of the holder of the title to the family, village, and country."<sup>77</sup>

An AAG defends the Territorial Registrar on claims of improper registration of *matai* titles, a recognized cause of action against the ASG. However, private lawsuits over *matai* titles occur more frequently than title lawsuits against the government, and as a result, a rich and interesting common law has developed from the original statutory framework.<sup>78</sup> For example, in *In re the Matai Title "Tuiteleleapaga,"*<sup>79</sup> the court weighed the relative value of the "Sotoa rule," a *matai* title rule created entirely from common law. The Sotoa rule, as established in *In re the Matai Title "Sotoa,"*<sup>80</sup> stands for the principle that blood relationship in the candidate's genealogy is calculated to the original titleholder, rather than to the nearest titleholder.<sup>81</sup> The Appellate Division of the

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73. ASCA § 1.0406 (2005).

74. ASCA §§ 1.0404, 1.0407 (2005).

75. ASCA § 1.0409 (2005).

76. ASCA § 1.0409(c) (2005).

77. *Id.*

78. The wish of the majority of the clan is measured by consensus rather than a mere numerical majority. *In re the Matai Title "Le'aeno,"* 24 A.S.R.2d 117 (1993). Factors to consider regarding the consideration of forcefulness, character, personality and knowledge of Samoan customs are leadership ability, honesty, education, public service, involvement in church and village affairs and previous experience as a *matai*. *Id.* Village, county and district councils do not have authority to veto the court's decision, and the court is not required to take into consideration the views of the village, county or district councils in making its decision. *In re the Matai Title "Sotoa,"* 8 A.S.R.2d 10 (1988). Age is a factor in determining the consideration of knowledge of Samoan ancestry, but is not a guarantee of supremacy. *In re the Matai Title "Tuaolo,"* 28 A.S.R.2d 137 (1995).

79. 15 A.S.R.2d 90 (1990).

80. 8 A.S.R.2d 10 (1988).

81. Calculating blood relationships of candidates to the nearest titleholder is referred to as "the traditional rule." The *Tuaolo* court held that the use of the Sotoa rule is inappropriate.



High Court had criticized the *Sotoa* rule in several cases<sup>82</sup> stating that it might be of value in cases in which the particular family's tradition was to rotate the *matai* title among different branches of the family.<sup>83</sup> The Court ultimately dismissed the use of the *Sotoa* rule in favor of the traditional rule because it favored the claimant's position and "would do nothing to address the issue raised by [the objector]."<sup>84</sup>

Beyond defending the Territorial Registrar, an AAG handles a wide array of legal issues, and has the fantastic opportunity to plan and carry out his or her own civil litigation strategies, sometimes setting important legal precedents along the way. *Aga v. U.S. Secretary of the Interior, et. al.*<sup>85</sup> involved a medical malpractice claim brought against the LBJ Medical Center, among other parties.<sup>86</sup> In his motion to strike, the AAG argued that the remedy provided under the government's tort liability act is exclusive, and therefore, the plaintiff could only proceed against the American Samoa Government in its sovereign capacity.<sup>87</sup> In granting the motion, the court cited off-island cases that held that without express statutory or constitutional language, a government department or agency cannot sue or be sued.<sup>88</sup> The court reasoned that simply naming a government agency does not create a separate identity from the sovereign entity, and therefore, LBJ must be dismissed from the case.<sup>89</sup> In this case, the AAG was given — and maximized on — an opportunity to establish a legal precedent. No longer was it possible for money hungry plaintiffs to file suit and obtain judgments against individual government agencies. The effect of the holding under this case is that individual departmental budgets are shielded from liability, leaving either a legislative appropriation or the general fund as payment sources.

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ate when candidates do not agree on the identity of the original titleholder or any other common ancestor. *In re the Matai Title "Tuaolo,"* 27 A.S.R.2d 97 (1995).

82. *In re Matai Title "Le'iato,"* 3 A.S.R. 133 (1986); *In re Matai Title "La'apui,"* 4 A.S.R.2d 7 (1987); and *In re Matai Title "Tauaifaiava,"* 5 A.S.R. 2d 13 (1987).

83. 15 A.S.R. 2d at 91.

84. 15 A.S.R. 2d at 92.

85. 3 A.S.R.2d 103 (1986).

86. As referenced earlier, the LBJ Medical Center is a quasi-governmental agency. Originally a division of the Executive branch, it is now self-funded and self-governed by a board of directors. However, it continues to rely upon the Office of the Attorney General for legal advice and representation. Plaintiff additionally brought suit against the American Samoa Government, Dr. Claude Dalton Jagh, as well as the United States Secretary of the Interior.

87. *Id.* at 130.

88. *Id.* at 130—31.

89. *Id.*

You will provide legal advice to various government boards and commissions,<sup>90</sup> advise all government agencies, and defend the interests of the government in litigation. You might also bring suit to recover funds or enforce governmental rights. The autonomy and wealth of experiences provided to you make it one of the most rewarding legal positions you will ever have.

#### IV. THE UNITED STATES INSULAR AREAS

Now that we've discussed daily life as an AAG, the next step is to explain in detail the employment opportunities available. American Samoa is just one of many insular areas. The following section will discuss all of the U.S. insular areas, provide employment information and will give you contact information for each respective Attorney General's Office.

United States insular areas are rarely discussed in the mainstream media and therefore are seldom understood by the majority of Americans; in fact, they are exotic tropical worlds hundreds of miles away. The current collection of U.S. insular areas was almost entirely acquired for strategic military reasons, but the system itself owes much of its roots to the colonial system established by the British Empire.<sup>91</sup> The British colonial system was comprised of five levels of autonomous nation-states in much the same fashion as the U.S. territory system.<sup>92</sup> The attempt by our founding fathers to improve upon such a system left us with a complex and confusing lexicon of territory terminology, baffling to even the most experienced attorney. The terms sound more like something a corporate counsel needs to know than an international lawyer. Insular areas can be incorporated or unincorporated, organized or unorganized. Alas, we are not finished: insular areas can also be possessions, commonwealths, dependencies, protectorates or freely associated states. No matter how you slice it, it can be confusing.

A United States insular area "is neither a part of one of the fifty states nor is it a part of the District of Columbia."<sup>93</sup> The word "insular area" is the generic term used by the U.S. State Department to refer to any commonwealth, freely associated

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90. Such as: the Commerce Commission, the Territorial Planning Commission, and even the Cosmetology Board.

91. The Green Papers, *The Official Name and Status History of the Several States and U.S. Territories, an Explanation*, <http://www.thegreenpapers.com/slg/explanation-statehood.phtml> (last visited May 15, 2006) [hereinafter *The Green Papers*].

92. The British colonial system consisted of (1) Crown colonies, (2) Representative governments, (3) Responsible governments, (4) Internal self-governments, and (5) Dominion status. *Id.*

93. Insular Area, WIKIPEDIA, [http://en.wikipedia.org/wiki/Insular\\_area](http://en.wikipedia.org/wiki/Insular_area) (last visited May 15, 2006).

nation-state, possession, territory, dependency, or protectorate, however, it must be noted that the term “possession,” while once was a common moniker, is no longer current colloquial usage.<sup>94</sup> The terms “possession,” “territory,” “dependency” and “protectorate” are virtually indistinguishable. Residents of insular areas are either U.S. citizens or U.S. nationals.<sup>95</sup> They do not pay American federal income tax and cannot participate in U.S. presidential elections, nor can they cast votes for voting members of the U.S. Congress.<sup>96</sup> Interestingly enough, yet not surprising, goods manufactured in insular areas of the United States can be labeled “Made in the USA.”<sup>97</sup>

### *A. To Organize or Unorganize, that is the Question*

Whether an insular area is organized or unorganized depends upon whether Congress has in essence “organized” it into a self-governing unit by enacting an organic act.<sup>98</sup> While some organized insular areas now have constitutions of their own, the organic act was meant to substitute for such a document while retaining ultimate authority over the insular area.<sup>99</sup> The distinction between organized and unorganized insular areas draws its roots from the early nineteenth century, when the term “unorganized” was used to refer to the enormous territory in the Great Plains prior to it being organized into smaller territories.<sup>100</sup> The first organized “territory” in the history of the United States was the Northwest Territory, which was organized in 1787.<sup>101</sup> While use of the term “organized” once connoted a prelude to statehood, it is now generally only a classification for U.S. territories.<sup>102</sup> There are currently

94. *Id.* See also Dep’t of Interior, Office of Insular Affairs, *supra* note 1.

95. A U.S. national is an “individual who owes his sole allegiance to the United States.” Internal Revenue Service, Immigration Terms and Definitions Involving Aliens, <http://www.irs.gov/businesses/small/international/article/0,,id=129236,00.html> (last visited May 15, 2006). It includes all U.S. citizens, but also includes individuals who are not US citizens. *Id.* U.S. nationals cannot vote or hold elected office in the United States. 8 U.S.C. § 1408 (2006).

96. See WIKIPEDIA, *supra* note 93.

97. *Id.*

98. See Unorganized Territory, WIKIPEDIA, [http://en.wikipedia.org/wiki/Unorganized\\_territory](http://en.wikipedia.org/wiki/Unorganized_territory) (last visited May 15, 2006). See also Dep’t of the Interior, Office of Insular Affairs, *supra* note 1 (An “organic act” is the body of laws that the United States Congress has enacted for the government of a United States insular area, and usually includes a bill of rights and the establishment of a framework for the local tripartite government).

99. See Organized Territory, WIKIPEDIA, [http://en.wikipedia.org/wiki/Organized\\_territory](http://en.wikipedia.org/wiki/Organized_territory) (last visited on May 15, 2006).

100. See WIKIPEDIA, *supra* note 98.

101. The Northwest Territory comprised what is now Ohio, Indiana, Illinois, Michigan, Wisconsin and the eastern part of Minnesota. Northwest Territory, WIKIPEDIA, [http://en.wikipedia.org/wiki/Northwest\\_Territory](http://en.wikipedia.org/wiki/Northwest_Territory) (last visited May 15, 2006).

102. See Organized Territory, *supra* note 99.

two organized U.S. territories: Guam and the United States Virgin Islands.<sup>103</sup>

A commonwealth is a special type of organized United States insular area, which has established with the federal government a more highly developed relationship that is usually embodied in a written mutual agreement.<sup>104</sup> Currently, two United States insular areas are commonwealths: the Commonwealth of the Northern Mariana Islands and Puerto Rico.<sup>105</sup>

Conversely, an unorganized insular area refers to an insular area for which Congress has not enacted an organic act, and while they are possessed by the federal government, they have not been "organized" into a self-governing unit.<sup>106</sup> Currently, American Samoa is technically the only unorganized insular area, but, interestingly enough, it is now self-governing under its own constitution passed in 1967.<sup>107</sup>

### B. Going Corporate

The difference between being incorporated and unincorporated has to do with to what extent the U.S. Congress has determined that the U.S. Constitution is to be applied to a particular insular area.<sup>108</sup> While the U.S. Constitution applies to the fifty states *ex proprio vigore*, only fundamental rights apply to unincorporated insular areas.<sup>109</sup> Fundamental rights, also referred to as "natural protections," are civil liberties, such as the freedom of religion or freedom of speech,<sup>110</sup> and are distinguishable from "procedural rights" such as the right to equal protection or a trial by jury.<sup>111</sup> The consequence of this distinction is that no procedural rights apply to unincorporated insular areas unless they are expressly gained through a specific act of Congress.<sup>112</sup>

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103. *Id.*

104. See Dep't of the Interior, Office of Insular Affairs, *supra* note 1.

105. *Id.*

106. See WIKIPEDIA, *supra* note 101.

107. Instead of giving American Samoa an organic act, and therefore making it organized, it gave plenary authority to the Department of the Interior, who in turn allowed American Samoa to draft its own constitution under which it now functions. American Law Sources Online, United States, American Samoa, <http://www.lawsources.com/also/usa.cgi?xas> (last visited May 15, 2006).

108. See Incorporated Territory, WIKIPEDIA, [http://en.wikipedia.org/wiki/Incorporated\\_territory](http://en.wikipedia.org/wiki/Incorporated_territory) (last visited on May 15, 2006).

109. *Dorr v. U.S.*, 195 U.S. 138, 149 (1904); *King v. Morton*, 520 F.2d 1140 (D.C. Cir. 1975).

110. See *The Green Papers*, *supra* note 91.

111. *Id.* See also *Dorr*, 195 U.S. at 149.

112. See *The Green Papers*, *supra* note 91.

Only one incorporated insular area exists: Palmyra Atoll, an uninhabited archipelago of 50 small islands comprising about 1.56 square miles in the North Pacific Ocean.<sup>113</sup> Located halfway between Hawaii and American Samoa, Palmyra Atoll is a U.S. Fish and Wildlife-designated National Wildlife Refuge.<sup>114</sup> Here, rather inconsequentially, the United States Congress has applied the full corpus of the United States Constitution as it applies in the several States.<sup>115</sup>

Incorporation is interpreted as a perpetual state. Therefore, once incorporated, an insular area can not become unincorporated.<sup>116</sup> There are currently thirteen unincorporated insular areas: three in the Caribbean<sup>117</sup> and ten in the Pacific Ocean.<sup>118</sup>

### *C. The Freely Associated Nation-States*

Three of the four formerly called "Trust Territory of the Pacific Islands" are now considered freely associated nation-states with the United States: the Federated States of Micronesia ("FSM"), the Republic of the Marshall Islands (the "Marshall Islands") and the Republic of Palau ("Palau").<sup>119</sup> The Commonwealth of the Northern Mariana Islands ("CNMI") is the only former Trust Territory to have reached commonwealth status.<sup>120</sup> The relationship between these four nation-states and the U.S. began in 1947 as part of a post-World War II United Nations trust agreement which provided that the defense, aid and foreign affairs of these nation-states would be under the province of the U.S. government.<sup>121</sup> On November 3, 1986, the U.S. ended its administration of FSM and CNMI.<sup>122</sup> On December 22, 1990, the United Nations Security

113. See Palmyra Atoll, WIKIPEDIA, [http://en.wikipedia.org/wiki/Palmyra\\_Atoll](http://en.wikipedia.org/wiki/Palmyra_Atoll) (last visited May 15, 2006).

114. CENT. INTELLIGENCE AGENCY, *United States Pacific Island Wildlife Refuges*, in THE WORLD FACTBOOK, (2006), available at <http://www.cia.gov/cia/publications/factbook/geos/lq.html>.

115. See WIKIPEDIA, *supra* note 108.

116. *Id.*

117. Navassa Island, Puerto Rico and the United States Virgin Islands. *Id.*

118. American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, the Northern Mariana Islands and Wake Atoll. *Id.*

119. Three of the four insular areas are freely associated nation-states via the Compact of Free Association. See Compact of Free Association, WIKIPEDIA, [http://en.wikipedia.org/wiki/Compact\\_of\\_Free\\_Association](http://en.wikipedia.org/wiki/Compact_of_Free_Association) (last visited on May 15, 2006). See also Trust Territory of the Pacific Islands, WIKIPEDIA, [http://en.wikipedia.org/wiki/Trust\\_Territory\\_of\\_the\\_Pacific\\_Islands](http://en.wikipedia.org/wiki/Trust_Territory_of_the_Pacific_Islands) (last visited on May 15, 2006).

120. See Dep't of the Interior, Office of Insular Affairs, Commonwealth of the Northern Mariana Islands, <http://www.doi.gov/oia/Islandpages/cnmipage.htm> (last visited May 15, 2006).

121. *Id.* See also Northern Mariana Islands, WIKIPEDIA, [http://en.wikipedia.org/wiki/Northern\\_Mariana\\_Islands](http://en.wikipedia.org/wiki/Northern_Mariana_Islands) (last visited May 15, 2006).

122. See Trust Territory of the Pacific Islands, WIKIPEDIA, *supra* note 119.

Council terminated the Trust Agreement as it applied to CNMI, as well as the Marshall Islands and the Federated States of Micronesia.<sup>123</sup> Finally, on May 25, 1994, the U.N. ended the trusteeship of Palau.<sup>124</sup>

The Compact of Free Association ("COFA") now defines the relationship that three of the four sovereign nation-states have entered into as "Associated States" with the U.S.<sup>125</sup> Under the COFA, the United States recognizes the island governments as sovereign, self-governing nation-states, and while the COFA's basic provisions are indefinite, military defense and financial assistance is only guaranteed for fifteen-year renewable periods.<sup>126</sup> The U.S. also gives freely associated nation-states access to many U.S. domestic programs, and all are dependent on U.S. financial assistance to meet both government operational and capital needs.<sup>127</sup>

In 2003, the COFAs with the Marshall Islands and FSM were renewed, providing three and a half billion dollars in funding for both nations.<sup>128</sup> In addition, American Samoa, Guam, Hawaii, and CNMI received thirty million dollars in "Compact Impact" funding.<sup>129</sup> This funding helps those governments cope with the expense of providing services to immigrants from the Marshall Islands, FSM, and Palau.<sup>130</sup> The new compacts did change certain immigration rules.<sup>131</sup> For example, Marshall Islands and FSM citizens traveling to the U.S. are now required to have passports.<sup>132</sup> The compact for Palau expires in 2009.<sup>133</sup>

### 1. *The Marshall Islands*

Lonely Planet calls the Marshall Islands "a collection of islands sparkling like diamonds on a turquoise velvet sea-rug."<sup>134</sup> Located in the Western Pacific Ocean among some 2,100 coral atolls and

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123. The Federated States of Micronesia are comprised of Chuuk, Kosrae, Pohnpei and Yap. *Id.*

124. *Id.*

125. The three states are Palau, Federated States of Micronesia, and the Marshall Islands. *See* Compact of Free Association, WIKIPEDIA, *supra* note 119.

126. *See* WIKIPEDIA, *supra* note 98.

127. *Id.*

128. *See* Compact of Free Association, WIKIPEDIA, *supra* note 119.

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. *Id.*

134. Lonely Planet, Marshall Islands, <http://www.lonelyplanet.com/worldguide/destinations/pacific/marshall-islands> (last visited May 15, 2006).

volcanic islands sits the Marshall Islands.<sup>135</sup> The Marshall Islands are in Micronesia, which means “little islands,” and it consists of twenty-nine coral atolls and five major islands.<sup>136</sup> The average annual temperature is about eighty-one degrees Fahrenheit, and the climate is generally sunny.<sup>137</sup> The capital city of the Marshall Islands is Majuro, 2,300 miles southwest of Honolulu, and is home to some 25,000 residents.<sup>138</sup>

The Marshall Islands were claimed by Spain in 1592, but were then left undisturbed for 300 years.<sup>139</sup> In 1885, Germany took control of the islands to oversee a flourishing copra (dried coconut meat) trade, but Marshallese chiefs continued to rule under the German administration.<sup>140</sup> The islands changed hands again at the beginning of World War I, when Japan assumed control of the islands under a civil and then later naval administration.<sup>141</sup> It was not until early 1944 that the United States took the islands following intense fighting by U.S. Marines and Japanese forces.<sup>142</sup> In 1947 the Marshall Islands became part of the Trust Territory of the Pacific Islands, and in 1979 the US recognized the Constitution of the Marshall Islands and the establishment of its government.<sup>143</sup> Finally, in 1986 the Compact of Free Association took effect.<sup>144</sup>

The Republic of the Marshall Islands is recognized “as a sovereign, self-governing state with the capacity to conduct foreign affairs.”<sup>145</sup> However, as with many U.S. territories, assistance from the U.S. is necessary to keep the economy afloat, and Through the COFA, U.S. aid comprises 68% of the government’s annual budget.<sup>146</sup> In fiscal year 2006, the annual budget was \$146.4 million.<sup>147</sup>

The legislative branch of the government consists of the “*Niti-jela*” (Parliament) and an advisory council of “*Iroi*” (high chiefs).<sup>148</sup>

135. Dep’t of the Interior, Office of Insular Affairs, Republic of the Marshall Islands, <http://www.doi.gov/oia/Islandpages/rmipage.htm> (last visited February 22, 2006).

136. Marshall Islands, WIKIPEDIA, [http://en.wikipedia.org/wiki/Marshall\\_Islands](http://en.wikipedia.org/wiki/Marshall_Islands) (last visited May 15, 2006).

137. See Dep’t of the Interior, *supra* note 135.

138. *Id.*

139. See *Id.*

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

146. DEPT OF STATE, BUREAU OF E. ASIAN & PACIFIC AFFAIRS, BACKGROUND NOTE: MARSHALL ISLANDS (2005), <http://www.state.gov/r/pa/ei/bgn/26551.htm> (last visited May 15, 2006).

147. *Id.*

148. See Dep’t of the Interior, *supra* note 135.

The parliament has thirty-three members from twenty-five districts who are elected for concurrent four-year terms. Members of the Nitijela bear the title of senator.<sup>149</sup> The executive branch is under the leadership of the President, who is elected by a majority vote of the Parliament.<sup>150</sup> Cabinet members are then appointed by the President.<sup>151</sup>

Article VI of the Marshall Islands Constitution governs the judiciary and provides for separation of powers among the judicial, legislative, and executive branches of government.<sup>152</sup> The highest court is the Supreme Court, followed by a High Court, a Traditional Rights Court, and several District Courts, Community Courts and other subordinate courts.<sup>153</sup> As in the U.S., trial is by jury.<sup>154</sup> Finally, appellate jurisdiction is vested in the Supreme Court, which has final authority to adjudicate cases brought before it and consists of a Chief Justice and two Associate Justices.<sup>155</sup>

An appeal lies to the Supreme Court as of right from a final decision of the High Court in the exercise of its original jurisdiction; as of right from a final decision of the High Court in the exercise of its appellate jurisdiction, but only if the case involves a substantial question of law as to the interpretation or effect of the Constitution; and at the discretion of the Supreme Court from any final decision of any court. Further, the High Court may remove to the Supreme Court questions arising as to the interpretation or effect of the Constitution.<sup>156</sup>

The High Court consists of a Chief Justice and an Associate Justice and "has original jurisdiction over all cases properly filed with it, appellate jurisdiction over cases originally filed in subordi-

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149. Marshall Islands, WIKIPEDIA *supra* note 136.

150. DEPT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS & LABOR, *Marshall Islands*, in COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 2002 (Mar. 31, 2003), available at <http://www.state.gov/g/drl/rls/hrrpt/2002/18253.htm> (last visited May 15, 2006).

151. *Id.*

152. Constitution, art. VI, § 1(1) (Marsh. Is.), available at <http://www.paclii.org/mh/courts.html>.

153. Constitution, art. VI, § 1(1) (Marsh. Is.), available at <http://www.paclii.org/mh/courts.html>.

154. See Dep't of the Interior, *supra* note 135.

155. Carl B. Ingram, *Marshall Islands Courts System Information*, in Pacific Islands Legal Information Institute, <http://www.paclii.org/mh/courts.html> (last visited May 15, 2006).

156. *Id.*



nate courts,” and jurisdiction to review final decisions of government agencies.<sup>157</sup>

The Traditional Rights Court (“TRC”) deals with questions of legal title to land, and other legal interests that depend on customary Marshallese law and traditional practices.”<sup>158</sup> Interestingly enough, TRC decisions are “given substantial weight, but are not binding unless the certifying court concludes that justice so requires,” meaning that “the certifying court is to review and adopt the decision of the TRC unless that decision is clearly erroneous or contrary to law.”<sup>159</sup>

A presiding judge and two associate judges sit on the district court.<sup>160</sup> Generally, it “has original jurisdiction concurrently with the High Court in all civil cases where the amount claimed or the value of the property involved does not exceed \$10,000.”<sup>161</sup> However, it also has original jurisdiction concurrently with the High Court in criminal cases in which the maximum penalty does not exceed a fine of \$4,000 or a prison term of three years or less, or both.<sup>162</sup>

Continental Micronesia Airlines flies three times a week between Guam and the Marshall Islands<sup>163</sup> Service within the islands, as well as to Kiribati, Tuvalu and Fiji is available from Air Marshall Islands.<sup>164</sup> U.S. citizens traveling to the Marshall Islands must have proof of citizenship, meaning either a passport or a birth certificate.<sup>165</sup> Travel for less than 30 days does not require a U.S. citizen to seek entry permission prior to arrival.<sup>166</sup> Anyone wishing to travel longer than 30 days must obtain approval by the immigration office prior to entry.<sup>167</sup> The United States Postal Service serves the Marshall Islands under the postal code “MH.”<sup>168</sup> The currency is the US dollar.<sup>169</sup>

AAG positions are solicited through the Office of the Public Service Commission.<sup>170</sup> AAGs prepare all motions, briefs, memos,

157. *Id.*

158. *Id.*

159. *Abija v. Bwijmaron*, 2 MILR 6, 15 (Marsh. Is. Sup. Ct. 1994).

160. *Ingram*, *supra* note 155.

161. *Id.*

162. *Id.*

163. *See* Dep’t of the Interior, *supra* note 135.

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.*

168. U.S. Postal Serv., Official USPS Abbreviations, [http://www.usps.com/ncsc/lookups/usps\\_abbreviations.html](http://www.usps.com/ncsc/lookups/usps_abbreviations.html) (last visited May 15, 2006).

169. *See* Dep’t of the Interior, *supra* note 135.

170. Republic of the Marsh. Is., Office of the Pub. Serv. Comm’n, Employment Announcement, available at <http://www.yokwe.net/index.php?name=News&file=article&sid=180> (last visited February 22, 2006).

Cabinet papers, contracts and research, appearing before all courts and provide legal advice to government agencies.<sup>171</sup> The Public Service Commission's mailing address is P.O. Box 90, Majuro, MH 96960.<sup>172</sup> The salary range is \$31,000 to \$35,000, and fringe benefits include a housing allowance, group life and health insurance, and vacation and travel to and from the point of recruitment.<sup>173</sup>

## 2. *The Federated States of Micronesia*

The Federated States of Micronesia ("FSM") is a "feast of exotic experiences and underwater adventures."<sup>174</sup> FSM offers spectacular scuba diving opportunities, with clean, clear water and visibility up to 150 feet; it is "virtually an underwater museum."<sup>175</sup> With over fifty dive spots to choose from, you will see an entire Japanese fleet on the floor of the ocean, unspoiled coral reefs and dozens of manta rays.<sup>176</sup>

The FSM archipelago spreads across some 1,800 miles of the Caroline Islands.<sup>177</sup> Palikir, located on the island of Pohnpei, is the FSM capital.<sup>178</sup> It is 2,900 miles southwest of Honolulu, Hawaii.<sup>179</sup> The climate is tropical with average temperatures remaining around 80 degrees all year round.<sup>180</sup> There are four state capitals in FSM and they are: Kolonia, Pohnpei; Moen, Chuuk; Colonia, Yap; and Tofol, Kosrae. "The islands vary geologically from high mountainous islands to low coral atolls" and the weather is tropical.<sup>181</sup> "Each of the four states has its own culture and traditions, but there are common cultural and economic bonds that are centuries old."<sup>182</sup> For example, like most of the Pacific islanders, the traditional extended family and clan systems continue to be of great importance.<sup>183</sup> Additionally, the island of

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171. *Id.*

172. Telephone: 692-625-8298; Facsimile: 692-625-3382; Email: pscrmi@ntamar.net. *Id.*

173. *See id.*

174. Federated States of Micronesia Visitors Board, Visitors Center, <http://www.visit-fsm.org/visitors/index.html> (last visited May 15, 2006).

175. *Id.*

176. *Id.*

177. Dep't of the Interior, Office of Insular Affairs, Federated States of Micronesia, available at <http://www.doi.gov/oia/Islandpages/fsmpage.htm> (last visited February 22, 2006). [hereinafter DOI, Micronesia].

178. *Id.*

179. *Id.*

180. Federated States of Micronesia, in ATLPEDIA ONLINE, <http://www.atlapedia.com/online/countries/micrones.htm> (last visited May 15, 2006).

181. *See* Dep't of the Interior, *supra* note 135.

182. Federated States of Micronesia, WIKIPEDIA, [http://en.wikipedia.org/wiki/Federated\\_States\\_of\\_Micronesia](http://en.wikipedia.org/wiki/Federated_States_of_Micronesia) (last visited May 15, 2006).

183. *Id.*

Yap is home to one of the most interesting cultural artifacts in the Pacific:

The island of Yap is notable for its stone money, large disks of calcite usually up to 12 feet in diameter with a hole in the middle. The islanders know who owns which piece, but do not necessarily move them when ownership changes. There are five major types of stone money: Mmbul, Gaw, Ray, Yar, and Reng, with Reng being only 1 foot in diameter. Their value is based on both size and history, many of them having been brought from other islands, but most coming in ancient times from Palau. There are approximately 6,500 of them scattered around Yap.<sup>184</sup>

Because FSM is closely located to the Marshall Islands, it has a very similar history of colonial rule. In 1527, Portuguese navigators in search of the Spice Islands came upon two of the Caroline Islands (now a part of FSM) Yap and Ilithi, and claimed sovereignty over the entirety of the Caroline Islands until 1899.<sup>185</sup> At that time, like with the Marshall Islands, Spain withdrew from FSM and sold all the land to Germany, with the exception of Guam, which became a US territory.<sup>186</sup> During World War I, the German administration ended when Japanese naval squadrons took military possession of the Marshall, Caroline and Northern Mariana Islands.<sup>187</sup> Japan began its formal administration by a League of Nations mandate in 1920.<sup>188</sup> Sugar cane, mining, fishing, and tropical agriculture became the major industries.<sup>189</sup> In February 1944, one of the most important naval battles of World War II occurred at Truk, "in which many Japanese support vessels and aircraft were destroyed."<sup>190</sup> In 1947, the US took control of FSM as one of the TTPI.<sup>191</sup>

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184. *See id.*

185. *See* Dep't of the Interior, *supra* note 135; *See also* The Caroline Islands, WIKIPEDIA, [http://en.wikipedia.org/wiki/Caroline\\_Islands](http://en.wikipedia.org/wiki/Caroline_Islands). The Caroline Islands form a large archipelago of widely scattered islands in the Western Pacific Ocean, northeast of New Guinea. Presently, the sub-divide into FSM in the eastern part of the group and Palau in the western end. *Id.*

186. DOI, Micronesia, *supra* note 177.

187. *Id.*

188. *Id.*

189. *Id.*

190. Federated States of Micronesia, *supra* note 182.

191. *Id.*

In 1979, FSM adopted its own constitution, and in 1986 independence was attained under the COFA.<sup>192</sup> Like the U.S., the FSM constitution separates the executive, legislative, and judicial branches, and includes a bill of rights and a provision for traditional rights.<sup>193</sup> The legislature is comprised of fourteen members, four of which are elected at-large on a nationwide basis, and ten of which are elected from congressional districts apportioned by population.<sup>194</sup> Subsistence farming and fishing are the most significant economic activities in FSM, and financial assistance from the United States is FSM's largest revenue source.<sup>195</sup> In fiscal year 1993, \$101 of FSM's total operating budget of \$158 million came from the U.S.<sup>196</sup>

Under Article XI of the Constitution, the Supreme Court is the highest court in FSM.<sup>197</sup> It consists of both a Trial and Appellate division, and has original jurisdiction in cases involving disputes between states, admiralty and maritime cases, Constitutional questions and the FSM laws or treaties.<sup>198</sup>

Like the Marshall Islands, Continental Micronesia serves the FSM via Hawaii and Guam.<sup>199</sup> U.S. citizens wishing to enter the FSM need either a passport or birth certificate as proof of citizenship.<sup>200</sup> Interestingly enough, a thirty-day tourist permit for Americans can be extended an additional 330 days if necessary.<sup>201</sup> The US Postal Service serves the FSM under the postal code "FM."<sup>202</sup>

The FSM Department of Justice accepts applications on an ongoing basis to fill Assistant Attorney General ("AAG") positions.<sup>203</sup> Currently, the FSM Office of the Attorney General is a small office with seven attorneys.<sup>204</sup> Attorneys in the litigation division "are responsible for investigating allegations of violations of national law, determining which cases to prosecute and bringing civil and criminal cases on behalf of the government."<sup>205</sup> Litigation attorneys

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192. *Id.*

193. *Id.*

194. *Id.*

195. *Id.*

196. Federated States of Micronesia, *supra* note 182.

197. Constitution, art. XI, § 2 (Federated States of Micronesia).

198. Micronesia Courts System Information, *in* Pacific Islands Legal Information Institute, <http://www.pacii.org/fm/courts.html> (last visited May 15, 2006).

199. Getting to the Federated States of Micronesia (Hawaii.com 2006) <http://micronesia.hawaii.com/fsm/flights/index.php> (last visited May 15, 2006).

200. DOI, Micronesia, *supra* note 177.

201. *Id.*

202. U.S. Postal Serv., Official USPS Abbreviations, *supra* note 168.

203. Gov't of the Federated States of Micronesia, Position for Assistant Attorney General, available at <http://www.fsmgov.org/press/an011606.htm> (last visited May 15, 2006).

204. *Id.*

205. *Id.*

may also be called upon to defend claims brought against the government.<sup>206</sup> An AAG will be exposed to various areas of law that may ultimately be the subject of litigation, including fisheries, elections, use of public funds and contract matters, among others.<sup>207</sup> Conversely, attorneys in the "Division of Law" are responsible for legislative, transactional, and advisory activities, including drafting bills and regulations, negotiating international treaties, drafting agreements and conventions, and the providing legal advice on a wide variety of matters to the executive branch."<sup>208</sup> AAGs in the Division of Law also serve as counsel to various agencies and boards of the national government.<sup>209</sup> FSM requires a degree in law and a bar license in any U.S. jurisdiction.<sup>210</sup> FSM requires execution of a two-year contract, and the salary range is between \$38,000 to \$39,999 per year (U.S. tax exempt), depending on experience.<sup>211</sup> Additional benefits will likely include a housing allowance, round trip airfare to and from FSM and a shipping allowance for shipment of household goods.<sup>212</sup> Positions may involve domestic and international travel.<sup>213</sup> The FSM Office of the Attorney General can be contacted at Secretary of Justice, FSM Department of Justice, P.O. Box PS 105, Palikir, Pohnpei, FM 96941.

### 3. *The Republic of Palau*

Palau is considered "one of the top [scuba] dive meccas in the world."<sup>214</sup> It is one of the few places in the world where one can perform "a wall dive, a [ship]wreck dive, [and] a coral garden dive all in one day."<sup>215</sup> The Ngemelis Wall, also called "Big Drop-off," is widely considered by scuba aficionados to be the best wall dive in the world.<sup>216</sup> "From knee-deep water, the wall drops vertically nearly 305 meters," where "divers free float past a brilliant rainbow of sponges and soft corals, and giant black coral trees."<sup>217</sup>

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206. *Id.*

207. *Id.*

208. *Id.*

209. Gov't of the Federated States of Micronesia, Position for Assistant Attorney General, *supra* note 203.

210. *Id.*

211. *Id.*

212. *Id.*

213. *Id.*

214. Sam's Tours; Scuba Diving, <http://www.samstours.com/scuba.html> (last visited May 15, 2006).

215. *Id.*

216. Lonely Planet, Palau, <http://www.lonelyplanet.com/worldguide/destinations/pacific/palau?poi=106644> (last visited May 15, 2006).

217. *Id.*

Located in the westernmost part of the Caroline Islands, Palau is approximately 4,000 miles west/southwest of Honolulu.<sup>218</sup> It consists of more than 200 islands and is home to just 19,000 people, making it one of the smallest nation-states in the world.<sup>219</sup> Palau enjoys a tropical climate all year round with a median temperature of 82 degrees.<sup>220</sup> Palauans place a heavy emphasis on family and clan, and from the moment of birth each individual has “a defined rank in the village, clan and family.”<sup>221</sup>

Spain originally controlled Palau from 1686 to 1889.<sup>222</sup> “In 1899, Spain sold Palau, along with the rest of the Caroline and Northern Mariana Islands, to Germany following its defeat in the Spanish-American War.”<sup>223</sup> Germany occupied Palau until 1914, increasing the islands’ “economic potential by introducing coconut planting and phosphate mining.”<sup>224</sup> Japanese forces took control of the islands during World War I and continued the development of economic growth until World War II, where significant fighting occurred between U.S. and Japanese troops.<sup>225</sup> In 1947, Palau joined the TTPI.<sup>226</sup> It was not until October 1, 1994 that Palau was recognized as a sovereign state under the COFA, making it one of the youngest nations in the world.<sup>227</sup> Palau’s total budget in fiscal year 1999 was \$71 million, with tourism and construction being the two main private sector industries.<sup>228</sup> While steadily growing, the number of tourists in fiscal year 2001 was just 50,000.<sup>229</sup>

Like the United States, the government of Palau is divided into three branches: executive, legislative and judicial.<sup>230</sup> Both the President and Vice President are elected by a popular vote of the people every four years.<sup>231</sup> The legislature is bicameral, consisting of a House of Delegates (sixteen elected members, one from each of Palau’s states) and a Senate (fourteen elected members).<sup>232</sup> The Judicial Branch, whose members are appointed for life, consists of

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218. Dep’t of the Interior, Office of Insular Affairs, Palau page, <http://www.doi.gov/oia/Islandpages/palauupage.htm> [hereinafter DOI, Palau].

219. Palau, WIKIPEDIA, <http://en.wikipedia.org/wiki/Palau>; See also DOI, Palau, *supra* note 218.

220. *Id.*

221. See DOI, Palau, *supra* note 218.

222. See Palau WIKIPEDIA, *supra* note 219.

223. See DOI, Palau, *supra* note 218.

224. *Id.*

225. See *id.*

226. See *id.*

227. DOI, Palau, *supra* note 218.

228. See *id.*

229. Palau, WIKIPEDIA, *supra* note 219.

230. See DOI, Palau, *supra* note 218.

231. *Id.*

232. *Id.*

a Supreme Court, National Court, and a lower Court of Common Pleas.<sup>233</sup> Palau has sixteen states, and each has its own elected state government.<sup>234</sup>

Article X, Section 1 of the Palau Constitution vests judicial power to the Supreme Court, the National Court, and such inferior courts of limited jurisdiction as may be established by law. The Supreme Court consists of an appellate division and a trial division and is composed of a Chief Justice and not less than three or more than six Associate Justices.<sup>235</sup> The Supreme Court “has original and exclusive jurisdiction over all matters affecting Ambassadors, other Public Ministers and Consuls, admiralty and maritime cases, and those matters in which the national government or a state government is a party.” “In all other cases, the National Court original and concurrent jurisdiction with the trial division of the Supreme Court.”<sup>236</sup>

“Continental Micronesia serves Palau with daily flights to and from Guam.”<sup>237</sup> There are also direct flights to and from Manila and the Philippines.<sup>238</sup> In 2004, Palau Micronesian Air was launched with service from Palau to Guam, Saipan and Australia, among others.<sup>239</sup> US citizens traveling to Palau need either a passport or a birth certificate.<sup>240</sup> The US Postal Service serves Palau under the postal code “PW.”<sup>241</sup>

The Palau “Office of the Attorney General represents and defends the legal interest of the people of Palau” as well as represents and defends Palau as a sovereign nation.<sup>242</sup> The Office is responsible for the prosecution of criminal cases and appeals, and the Office prosecutes about 500 criminal cases annually, including murder, theft, assault, sex crimes, and misdemeanors.<sup>243</sup> The Office of the Attorney General acts as the legal counsel to the executive branch and provides legal services to the President and all of the Ministers in the Republic of Palau, as well as bureaus and other agencies.<sup>244</sup> The civil division defends Palau against civil claims and cases filed against Palau and its agencies as well as

233. *Id.*

234. *Id.*

235. Constitution, art. X, § 2 (Palau).

236. *Id.*

237. *Id.*

238. *Id.*

239. Palau, WIKIPEDIA, *supra* note 219.

240. See DOI, Palau, *supra* note 218.

241. U.S. Postal Serv., Official USPS Abbreviations, *supra* note 168.

242. Ministry of Justice: Office of the Attorney General (Palau), <http://www.palau.gov.net/minjustice/attrgeneral.html> (last visited May 15, 2006).

243. *Id.*

244. *Id.*

drafts and reviews contracts, drafts legislation and regulations, provides legal advice regarding international treaties, and drafts legal opinions when requested by the executive branch.<sup>245</sup> The Office of the Attorney General can be reached at P.O. Box 1365, Koror, Palau 96940.<sup>246</sup>

#### *D. The Commonwealths*

A commonwealth is an organized insular area that has established with the United States a more highly developed relationship, usually embodied in a written mutual agreement.<sup>247</sup> There are currently two United States insular areas holding the status of commonwealth, The Commonwealth of the Northern Mariana Islands and Puerto Rico.<sup>248</sup> The term as used with respect to insular areas must be distinguished from its usage in the names of the states of Virginia, Massachusetts, Pennsylvania, and Kentucky, which officially describe themselves as "commonwealths" but hold the same legal and political status as other states of the Union.<sup>249</sup>

The term was first used by Puerto Rico in 1952 as its formal name in English ("Commonwealth of Puerto Rico") since a strict translation of its name in Spanish would have been unacceptable to the U.S. Congress.<sup>250</sup> The formal name in Spanish for Puerto Rico is "Estado Libre Asociado de Puerto Rico," which translates exactly into "Associated Free State of Puerto Rico."<sup>251</sup> As will be discussed below, many Puerto Ricans wish to maintain and even improve their relationship with the US, albeit with greater autonomy and perhaps even sovereignty.<sup>252</sup> Generally speaking, U.S. commonwealths share common citizenship with US citizens, common defense and common currency.<sup>253</sup>

##### *1. The Commonwealth of the Northern Mariana Islands*

CNMI is "a tropical paradise offering the relaxing shores of magnificent beaches and crystal clear blue waters, as well as the

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245. *Id.*

246. Telephone: (680) 488-2481; Facsimile: (680) 488-3329; email: agoffice@palaunet.com. *Id.*

247. Commonwealth (United States Insular Area), WIKIPEDIA, [http://en.wikipedia.org/wiki/Commonwealth\\_%28U.S.\\_insular\\_area%29](http://en.wikipedia.org/wiki/Commonwealth_%28U.S._insular_area%29) (last visited May 17, 2006).

248. *Id.*

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.*

253. *Id.*



lively bustle of night life, shopping, a wide range of ethnic restaurants, and a multitude of outdoor activities."<sup>254</sup>

CNMI is a 300-mile archipelago located in the Northern Pacific Ocean, just north of Guam.<sup>255</sup> The capital of CNMI, Saipan, is 3,300 miles from Honolulu, but only 1,272 miles from Tokyo.<sup>256</sup> CNMI is located in a tropical climate with an average temperature of eighty-five degrees Fahrenheit.<sup>257</sup>

In 1521, Ferdinand Magellan made the first European contact with the area by coming ashore in Guam and claiming the archipelago in the name of Spain.<sup>258</sup> Spain ruled the islands for over 300 years, but finally ceded Guam to the U.S. following the Spanish-American War and selling CNMI to Germany in 1899.<sup>259</sup> Japan took control of the islands during the first year of World War I, 1914, turning them into a military garrison.<sup>260</sup> Between 1914 and 1944, nearly 30,000 Japanese nationals migrated to Saipan.<sup>261</sup> On June 15, 1944, the US Marines landed on the islands and eventually won the three-week Battle of Saipan.<sup>262</sup> The U.S. Congress approved the *Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States* in 1976.<sup>263</sup> A year later, CNMI adopted its own constitution and the government took office one year after that.<sup>264</sup>

Generally speaking, federal law applies to CNMI, and legally qualified CNMI residents enjoy full United States citizenship.<sup>265</sup> However, CNMI is outside the jurisdiction of the United States Customs and Border Protection. While the Internal Revenue Code does apply, the income tax system is largely locally determined.<sup>266</sup> The CNMI constitution provides for a governor, a lieutenant governor, a bicameral legislature (eighteen members in the House of Representatives and nine members in the Senate), and a local court system including Superior and Supreme Courts.<sup>267</sup> The U.S.

254. Marianas Visitors Authority, *The Northern Mariana Islands: Our Islands*, <http://www.mymarianas.com/html/display.cfm?sid=1009> (last visited May 15, 2006).

255. Dep't of the Interior, Office of Insular Affairs, CNMI, <http://www.doi.gov/oia/IslandPages/cnmipage.htm> (last visited May 15, 2006).

256. *Id.*

257. Commonwealth Development Authority, *Investing in the Marianas*, [http://www.cda.gov.mp/cnmi\\_pro.htm](http://www.cda.gov.mp/cnmi_pro.htm) (last visited May 15, 2006).

258. Northern Mariana Islands, WIKIPEDIA, [http://en.wikipedia.org/wiki/Northern\\_Mariana\\_Islands](http://en.wikipedia.org/wiki/Northern_Mariana_Islands) (last visited May 15, 2006).

259. Dep't of the Interior, Office of Interior Affairs, CNMI, *supra* note 255.

260. *Id.*

261. *See id.*

262. *Id.*

263. *Id.*

264. *Id.*

265. Dep't of the Interior, Office of Interior Affairs, CNMI, *supra* note 255.

266. *Id.*

267. *Id.*

District Court for the District of the Northern Mariana Islands is located in CNMI as well.<sup>268</sup>

Over the past ten years, CNMI has seen dramatic growth.<sup>269</sup> In fiscal year 1997, the government spent \$268 million, going over its annual revenue by \$20 million.<sup>270</sup> Tourism drives the economy of CNMI, attracting between 500,000 and 700,000 people annually, mostly from Japan.<sup>271</sup> Recently, however, economic resources have shifted to garment manufacturing because the United States' minimum wage and immigration laws do not apply.<sup>272</sup> In fact, the value of garment shipments from CNMI to the United States increased from under \$200 million in 1990 to over \$1 billion in just under a decade.<sup>273</sup>

A modern and well-maintained international airport is located in Saipan, offering flights to Guam and Hawaii via Continental Micronesia.<sup>274</sup> A passport is not necessary for U.S. citizens to enter CNMI, but proof of citizenship is required.<sup>275</sup> Thirty day tourist visas are granted upon entering.<sup>276</sup>

The CNMI Office of the Attorney General accepts applications on a continuous basis until positions are filled, and salary is commensurate with experience.<sup>277</sup> The AG's Office can be reached at The Office of the Governor, Hon. Juan A. Sablan Memorial Bldg., Caller Box 10007, Capitol Hill, Saipan, MP 96950.<sup>278</sup> Available employment opportunities can be found at <http://www.cnmiago.gov.mp>.

## 2. Puerto Rico

Lonely Planet says that "Puerto Rico is where four centuries of Spanish Caribbean culture comes face to face with the American convenience store."<sup>279</sup>

Puerto Rico is located in the northeastern Caribbean and consists of the main island of Puerto Rico as well as various smaller

268. *Id.*

269. *Id.*

270. *Id.*

271. Dep't of the Interior, Office of Interior Affairs, CNMI, *supra* note 255.

272. Northern Mariana Islands, WIKIPEDIA, *supra* note 258.

273. Dep't of the Interior, Office of Insular Affairs, CNMI, *supra* note 258.

274. *See* Micronesia, Getting to the Mariana Islands, <http://micronesia.hawaii.com/marianas/flights/index.php> (last visited May 17, 2006).

275. *See* Dep't of the Interior, *supra* note 273.

276. *Id.*

277. Commonwealth of the Northern Mariana Islands, Office of the Attorney General, <http://www.cnmiago.gov.mp> (last visited May 15, 2006).

278. Telephone: (670) 664-2341; Facsimile: (670) 664-2349. *Id.*

279. Lonely Planet, Puerto Rico, <http://www.lonelyplanet.com/worldguide/destinations/caribbean/puerto-rico> (last visited May 15, 2006).

outlying islands.<sup>280</sup> The mainland, measuring approximately 105 miles long by thirty-five miles wide, is largely mountainous terrain, with some nice beaches on the northern and southern coasts.<sup>281</sup> Puerto Rico has the largest population of all the insular areas with almost four million people.<sup>282</sup> The capital city of San Juan is also Puerto Rico's largest city.<sup>283</sup> With a population of 443,733, it is the forty-second largest city in the United States.<sup>284</sup> It is one of the most densely populated islands in the world, with nearly 1,000 people per square mile.<sup>285</sup> The climate is tropical with a temperature range from 71-85 degrees.<sup>286</sup>

"The first European contact was made by Christopher Columbus, on November 19, 1493."<sup>287</sup> Columbus originally named it "San Juan Bautista," after Saint John the Baptist, but ultimately it took the name "Puerto Rico," meaning "rich port," with Columbus' chosen name delegated to the capital city.<sup>288</sup> Soon after Columbus's discovery, the island was colonized by Spanish and African slave labor.<sup>289</sup> It was briefly an important military stronghold, during which time a number of forts and walls were built to protect the port of San Juan, but lost its importance as colonialism's emphasis changed to the mainland territories.<sup>290</sup> The US invaded Puerto Rico at the outset of the Spanish-American War, forcing Spain to cede the territory.<sup>291</sup> In 1917, the U.S. granted Puerto Ricans U.S. citizenship in order to recruit them as soldiers for WWI.<sup>292</sup> In 1952, Puerto Rico adopted its own constitution, adopting the name "commonwealth."<sup>293</sup> Present-day Puerto Rico struggles to define its political status, with movements toward independence and statehood equally strong in numbers.<sup>294</sup> On December 22, 2005, a task force originally created by President Clinton called on Congress to hold the first federally-authorized vote for Puerto Ricans

280. Puerto Rico, WIKIPEDIA, [http://en.wikipedia.org/wiki/Puerto\\_Rico](http://en.wikipedia.org/wiki/Puerto_Rico) (last visited May 15, 2006).

281. *Id.*

282. *Id.*

283. San Juan, WIKIPEDIA, [http://en.wikipedia.org/wiki/San\\_Juan%2C\\_Puerto\\_Rico](http://en.wikipedia.org/wiki/San_Juan%2C_Puerto_Rico) (last visited May 15, 2006).

284. *Id.*

285. Welcome to Puerto Rico, Puerto Rico People (Magaly Rivera, 2006) <http://welcome.topuertorico.org/people.shtml> (last visited May 15, 2006).

286. Puerto Rico, ATLPEDIA, <http://www.atlapedia.com/online/countries/puertori.htm> (last visited May 12, 2006).

287. Puerto Rico, WIKIPEDIA, *supra* note 280.

288. *Id.*

289. *Id.*

290. *Id.*

291. *Id.*

292. *Id.*

293. *Id.*

294. *See id.*

to decide the fate of the island, namely whether to continue the status quo or to push for statehood or independence.<sup>295</sup>

Like the United States, the government of Puerto Rico consists of the executive, legislative, and the judicial branch.<sup>296</sup> The governor and legislators are elected by popular vote every four years.<sup>297</sup> Puerto Rico is divided into 78 municipalities, each of which elect a mayor and a municipal legislature.<sup>298</sup>

Since the 1970s, US firms have heavily invested in the Puerto Rican economy, making it one of the most dynamic economies in the Caribbean region.<sup>299</sup> Local industries consist of pharmaceuticals, electronics, textiles and petrochemicals, as well as the mainstay, tourism, which supplies close to \$1.8 billion annually.<sup>300</sup>

Puerto Rico is similar to a state in the union, however, it does not have voting representation in the U.S. Congress nor does it have any electors in the U.S. Electoral College.<sup>301</sup> Puerto Ricans do not pay federal income tax on income gained from island sources, but they do pay social security taxes.<sup>302</sup> As U.S. citizens, Puerto Ricans are subject to military service and most federal laws<sup>303</sup>

The Puerto Rican legal system is a combination of common law and civil law.<sup>304</sup> Article V, Section 1 of the Constitution of Puerto Rico establishes the judicial power in a Supreme Court.<sup>305</sup> The Supreme Court, which cannot be abolished<sup>306</sup> and is the court of last resort, consists of a Chief Justice and four Associate Justices.<sup>307</sup> In addition to the Supreme Court, Puerto Rico also has an Appellate Court and a Court of First Instance, which is divided into a Superior Court and a Municipal Court.<sup>308</sup>

US citizens traveling to Puerto Rico are not required to obtain a passport or immunizations for entry.<sup>309</sup> However, proof of US

295. *Id.*

296. *Id.*

297. *Id.*

298. *Id.*

299. Dep't of Interior, Office of Insular Affairs, Puerto Rico [hereinafter DOI, Puerto Rico], <http://www.doi.gov/oia/Islandpages/prpage.htm> (last visited May 15, 2006).

300. Puerto Rico, WIKIPEDIA, *supra* note 280.

301. *Id.*

302. *Id.*

303. *Id.*

304. *Id.*

305. Puerto Rico Const. art. V, § 1.

306. *Id.* at § 2.

307. *Id.* at § 3.

308. CENT. INTELLIGENCE AGENCY, *Field Listings-Judicial Branch*, in CIA WORLD FACTBOOK (2006), available at <http://www.cia.gov/cia/publications/factbook/fields/2094.html> (last visited May 15, 2006).

309. See DOI, Puerto Rico, *supra* note 299.

citizenship is required, which ultimately means persons must have a certified copy of their birth certificate or their passport with them.<sup>310</sup>

The Puerto Rico Office of the Attorney General can be reached at P.O. Box 192, San Juan, PR 00902.<sup>311</sup>

### *E. The Territories*

A U.S. territory is defined as “any extent of region under the jurisdiction of the federal government of the United States, including all waters.”<sup>312</sup> Technically speaking, many of the insular areas described above would also qualify as territories, however, it is used in this section to distinguish three particular territories that fall under no other classification system: American Samoa, Guam and the U.S. Virgin Islands. The United Nations does not consider any of these three territories to be self-governing.<sup>313</sup> For a territory to be deemed self-governing, the United Nations requires four things be present: (1) “representation without discrimination in the central legislative [process],” (2) “effective participation of the population in the government,” (3) “citizenship without discrimination, and (4) eligibility of all individuals to run or be appointed to public office.”<sup>314</sup> Currently, none of these three territories meets these criteria.

#### *1. American Samoa*

The English poet Rupert Brooke once wrote that Samoans are “the loveliest people in the world, moving and dancing like gods and goddesses, very quietly and mysteriously, and utterly content. It is sheer beauty, so pure that it’s difficult to breathe it in.”<sup>315</sup> Robert Louis Stevenson, perhaps Samoa’s most famous expatriate, bestowed upon them the moniker “the happy people”<sup>316</sup> and called them “God’s best, at least sweetest work.”<sup>317</sup>

310. *Id.*

311. Telephone: (809) 721-7700. U.S. State and Territory Attorneys General, [http://www.oag.state.ny.us/links/other\\_ag.html](http://www.oag.state.ny.us/links/other_ag.html) (last visited May 15, 2006).

312. United States Territory, WIKIPEDIA, [http://en.wikipedia.org/wiki/United\\_States\\_territory](http://en.wikipedia.org/wiki/United_States_territory) (last visited May 15, 2006).

313. Non-Self-Governing Territories, <http://www.un.org/Depts/dpi/decolonization/trust3.htm> (last visited May 15, 2006).

314. G.A. RES. 742 (VIII), at 23, U.N. Doc. A/2428 (Nov. 27, 1953).

315. MICHELLE BENNETT, DORINDA TALBOT, & DEANNA SWEANEY, SAMOAN ISLANDS 10 (Lonely Planet Publications 2003).

316. Polynesian Cultural Center, Experience Samo, <http://www.polynesia.com/islands/samoa.html#> (last visited May 15, 2006).

317. Miller, *supra* note 25.

Nestled in the heart of the Polynesian Triangle in the South Pacific Ocean lies American Samoa, a tropical paradise of six islands and one coral atoll.<sup>318</sup> The territory is a vastly interesting dichotomy of ancient Samoan traditions and pure United States capitalism. The island of Tutuila is American Samoa's economic and political center and plays host to the most renowned harbor in the South Pacific: Pago Pago Harbor.<sup>319</sup> The island is approximately 19 miles long and never more than four miles wide, yet it is home to more than 95% of American Samoa's 63,000 inhabitants.<sup>320</sup> Fast food, expensive sport utility vehicles, full size pickups, cable television and NFL football all feature prominently in an island lifestyle traditionally accustomed to subsistence living and a slower pace of life.<sup>321</sup> In addition to the hustle and bustle of downtown Pago Pago, American Samoa has all the trappings of a tropical island lifestyle: palm-fringed white sand beaches, jungle waterfalls, colorful coral reefs and sleepy villages complete with thatched roof homes.<sup>322</sup> American Samoa also consists of the islands of Aunu'u, Ta'u, Ofu, Olosega and Swains Island and Rose Atoll.<sup>323</sup> The climate is tropical, with a year round temperature of 80 degrees.<sup>324</sup> Annual average rainfall is a whopping 200 inches.<sup>325</sup>

The traditional Samoan culture, commonly referred to as "fa'a Samoa" ("the Samoan Way"), is ancient, with evidence of human occupation in the Samoan islands as early as 1000 B.C.<sup>326</sup> At the center of the system is the extended family, or "aiga", and it includes as many relatives as can legitimately be claimed.<sup>327</sup> Although materialism is rapidly encroaching upon American Samoa, most of the wealth and property is owned communally by the extended family. This is in direct contrast to the European form of property ownership and sometimes quite literally clashes with the "everybody for himself" American attitude. Perhaps the most important aspect of traditional Samoan life, and certainly the most

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318. See BENNETT, *supra* note 315 at 10, 149, 150. American Samoa is comprised of Tutuila, Aunu'u, Ofu, Olosega, Tau and Swains Island, as well as Rose Atoll. The "Polynesian Triangle" is an imaginary triangle delineating the geographic region known as Polynesia. The triangle is drawn from New Zealand to Hawaii, from Hawaii to Easter Island, and from Easter Island to New Zealand. *Id.*

319. *Id.* at 129.

320. *Id.*

321. *Id.* at 10.

322. *Id.* at 130. The locals simply refer to the capital city of Pago Pago as "Pago."

323. American Samoa, WIKIPEDIA, [http://en.wikipedia.org/wiki/American\\_Samoa](http://en.wikipedia.org/wiki/American_Samoa) (last visited May 15, 2006).

324. Env. Protection Agency, Territory of American Samoa, [http://www.epa.gov/Region9/cross\\_pr/islands/samoa.html](http://www.epa.gov/Region9/cross_pr/islands/samoa.html) (last visited May 15, 2006).

325. *Id.*

326. See BENNETT *supra* note 315 at 12.

327. *Id.* at 25.

immediately noticed by a “*palagi*,”<sup>328</sup> is respect for those higher than oneself.<sup>329</sup> The most respected individuals on the island are doctors, politicians, ministers, attorneys and priests.<sup>330</sup> As legal counsel for the government, you will undoubtedly encounter situations reminding you why you became a lawyer. More often than not, you will be referred to by locals as “counselor,” doors will be held open for you, and as word travels across the island of your position you will experience a greater amount of ease in accomplishing everyday tasks. It harkens back to a day before ambulance chasers gave lawyers a bad name, when law schools focused on quality and not quantity, and I assure you that it will surprise and delight. The Samoan Way also places strong emphasis upon personal discipline and pride, which can be adhered to almost to a fault.<sup>331</sup>

Under the American Samoa Constitution, the governor of American Samoa is chosen by popular election every four years.<sup>332</sup> Laws are passed by a bicameral legislature known as the Fono, and it consists of a House of Representatives and a Senate.<sup>333</sup> Representatives are elected by popular vote, and all adult U.S. nationals who are at least twenty-five years old and have lived in American Samoa for five or more years are eligible for election to the House.<sup>334</sup> The Senate, on the other hand, is a chamber of chiefs.<sup>335</sup> Senators must be registered *matais* of Samoan families, and are “elected in accordance with Samoan custom by the county councils of the counties they are to represent.”<sup>336</sup>

In addition to laws created by the Fono, village councils “may enact village regulations concerning the cleanliness of the village, planting of the lands, making and cleaning of the roads, and any other matters of a strictly local nature.”<sup>337</sup> The Office of Samoan Affairs must approve all regulations of the village councils in order for them to be effective.<sup>338</sup> Violations of village regulations may be punished with fines not to exceed \$25.00 and village work not to

328. A “*palagi*” (pronounced pahlahngi) means “one who bursts from the sky” and is the word for white person. *Id.* at 160.

329. *Id.* at 25.

330. *Id.* at 25.

331. Personal pride is one of the most important values of Samoan culture, and disrespect causes such anger among some individuals that excessive levels of violence are sometimes relied upon to protect one’s pride from damage. *Id.*

332. American Samoa Const. art. IV, § 2.

333. *Id.* at art. II, § 1.

334. *Id.* at art. II, § 3.

335. *Id.*

336. *Id.* at art. II, § 4.

337. AM. SAMOA CODE § 5.0305(a).

338. AM. SAMOA CODE § 5.0305(b).

exceed 25 hours, with all other forms of punishment imposed by a court of law.<sup>339</sup>

The judicial branch is comprised of a High Court, district court, "and such other courts as may from time to time be created by law."<sup>340</sup> The Secretary of the Interior appoints the Chief Justice and the Associate Justice of the High Court.<sup>341</sup> The Associate Judges of the High Court are Samoan leaders with knowledge of Samoan custom.<sup>342</sup> The independence of American Samoan courts has been questioned because the appointment and removal power of the Chief Justice and Associate Justice lies with the Secretary of the Interior and because the Secretary also possesses the authority to reverse or amend the decisions of the courts; however, this authority has not been exercised in recent memory.<sup>343</sup>

American Samoa represents the only void of federal district court jurisdiction in the world.<sup>344</sup> The High Court is not a federal district court, nor has it been given the authority to act as a federal district court.<sup>345</sup> Further no current federal district court claims jurisdiction over American Samoa.<sup>346</sup> The only exception to this rule occurs when a specific act of Congress explicitly bestows the High Court with federal district court jurisdiction.<sup>347</sup> I recently encountered this problem within the Consumer Protection Bureau when attempting to enforce the Federal Alcohol Administration Act.<sup>348</sup> While the Act applies to "the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, and Johnston Island,"<sup>349</sup> the Act vests jurisdiction for enforcement actions in "[t]he several district courts of the United States," making no mention of American Samoa.<sup>350</sup> Thus, Congress created a statute that applies to American Samoa but is

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339. AM. SAMOA CODE § 5.0305(c) & (e).

340. American Samoa Const., art. III, § 1.

341. *Id.* at art. III, § 3.

342. *Presiding Bishop v. Hodel*, 830 F.2d 374, 377 (D.C. Cir. 1987).

343. Hall, *supra* note 36, at 75.

344. *Alamoana Recipe, Inc. v. ASG*, 25 Am. Samoa 2d 97 (1993); *See also* Dep't of the Interior, ASG Main Page, <http://www.doi.gov/oia/Islandpages/asgmain.htm>.

345. *Alamoana Recipe, Inc.*, *supra* note 344, at 100.

346. *Id.*

347. For purposes of foreclosing a ship's preferred mortgage lien, the High Court is considered a federal district court. *See United Airlines Employees' Credit Union v. The MV Sans End*, 15 Am. Samoa 2d 95, 100 (1990). Congress intended to incorporate the High Court as a federal district court for purposes of enforcing the Ocean Dumping Act and the Marine Mammal Protection Act. *The Vessel Pacific Princess v. Trial Division of the High Court of American Samoa*, 2 Am. Samoa 2d 21, 23 (1984).

348. 27 U.S.C. § 213 (2005).

349. 27 U.S.C. § 214(12) (2005).

350. 27 U.S.C. § 219(a) (2005).



completely unenforceable! My frustration is shared by others. It is probably best and most comically embodied in the concurring opinion of Justice Gardner in *Pacific Princess*.<sup>351</sup> In voicing his frustration over the lack of access by residents to a court with federal jurisdiction, he says that, "a resident of American Samoa can rob a federally insured bank in American Samoa and not worry about the F.B.I. On the other hand, he can't go into bankruptcy."<sup>352</sup>

American Samoa "is a traditional Polynesian economy in which more than 90% of the land is communally owned."<sup>353</sup> Tuna fishing and tuna processing is the single biggest industry, with roughly one-third of the workforce employed by one of the two tuna canneries on the island.<sup>354</sup> Another one-third of the workforce is employed by the government.<sup>355</sup> The final third is employed in various retail and service jobs, many of which provide goods and services to government, its employees and the canneries.<sup>356</sup> American Samoa is home to the only U.S. national park south of the equator, featuring some 9,000 acres of rain forest and coral reef.<sup>357</sup> The American Samoa government has plans to boost the economy and capitalize on this opportunity by developing and implementing an eco-tourism plan.<sup>358</sup>

American Samoa is one of the few insular areas where the U.S. Immigration and Naturalization Service does not have jurisdiction, and therefore, U.S. citizens wishing to enter the territory must comply with certain American Samoa immigration laws.<sup>359</sup> In order to gain entry, a U.S. citizen must have in his or her possession a valid U.S. passport and either a ticket for onward passage out of American Samoa or proof of employment in the territory.<sup>360</sup> Tourists or business people may stay in American Samoa for up to thirty days, at which time they must acquire the approval of the Attorney General to extend their visa an additional thirty days.<sup>361</sup>

351. *Pacific Princess*, 2 Am. Samoa 2d at 25.

352. *Id.*

353. Economy of American Samoa, WIKIPEDIA, [http://en.wikipedia.org/wiki/Economy\\_of\\_American\\_Samoa](http://en.wikipedia.org/wiki/Economy_of_American_Samoa) (last visited May 15, 2006).

354. The two tuna canneries are Starkist and Chicken of the Sea Samoa Packing. *Id.*

355. *Id.*

356. *Id.*

357. National Park Service, National Park of American Samoa, <http://www.nps.gov/npsa> (last visited May 15, 2006).

358. Funealii Lumaava Sooaemalelagi, Steve Brown, & John Wasco, *Ecotourism Plan Proposal for American Samoa*, ECOCLUB.com, E-Paper Series, (Jan. 2003), <http://ecoclub.com/library/epapers/5.pdf>.

359. Dep't of the Interior, Office of Insular Affairs, American Samoa, <http://www.doi.gov/oia/Islandpages/asgpage.htm> (last visited May 15, 2006).

360. *Id.*

361. *Id.*

## 2. *The US Virgin Islands*

Lonely Planet says that “[i]f people are going to persist with an American dream, they may as well wake up to some of this . . . some of the most magnificent coast on earth” and “a taste of paradise.”<sup>362</sup>

The U.S. Virgin Islands are a group of islands in the Caribbean Sea that are geographically part of the greater Virgin Islands.<sup>363</sup> They are principally made up of four main islands - St. Thomas, St. Croix, St. John and Water Island, and are the only U.S. territory where traffic drives on the left side of the road.<sup>364</sup> The U.S. Virgin Islands are located approximately 1,000 miles south of Miami, Florida and 50 miles east of Puerto Rico.<sup>365</sup> The most recent population estimate is 120,000, with a majority living on St. Croix and St. Thomas.<sup>366</sup> The climate is tropical with the temperature ranging from 70 to 90 degrees year-round, with relatively low humidity for a US insular area.<sup>367</sup>

The Virgin Islands were named by Christopher Columbus on his second voyage in 1493, after Saint Ursula and her virgin followers.<sup>368</sup> Over the next 300 years, the islands were held by many European powers, including Spain, England, the Netherlands and France.<sup>369</sup> During World War I, the United States offered to purchase the islands from Denmark, fearing that the Germans might

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362. Lonely Planet, U.S. Virgin Islands, <http://www.lonelyplanet.com/worldguide/destinations/caribbean/us-virgin-islands> (last visited May 15, 2006).

363. United States Virgin Islands, WIKIPEDIA, [http://en.wikipedia.org/wiki/U.S.\\_Virgin\\_Islands](http://en.wikipedia.org/wiki/U.S._Virgin_Islands) (last visited May 15, 2006).

364. *Id.*

365. *Id.*

366. Estimate from 1999. Dep't of the Interior, Office of Insular Affairs, Virgin Islands, <http://www.doi.gov/oia/Islandpages/vipage.htm> (last visited May 15, 2006) [hereinafter DOI, Virgin Islands].

367. *Id.*

368. *See supra* note 363.

Saint Ursula is a Christian saint whose legend, probably unhistorical, is that she was a British princess who, at the request of her father King Donaut, set sail along with 11,000 virgin handmaidens to join her future husband, the pagan Governor Conan Meriadoc of Armorica (Brittany). However, a storm brought them over the sea in a single day to a Gaulish port, where Ursula declared that before her marriage she would undertake a pan-European pilgrimage. She headed for Rome, with her followers, and persuaded the Pope, Cyriacus (unknown in the pontifical records), and Bishop of Ravenna, Sulpicius, to join them. After setting out for Cologne, which was being besieged by Huns, all the virgins were beheaded in a massacre. The Huns' leader shot Ursula dead, supposedly in 383.

Saint Ursula, WIKIPEDIA, [http://en.wikipedia.org/wiki/Saint\\_Ursula](http://en.wikipedia.org/wiki/Saint_Ursula) (last visited May 15, 2006).

369. *See supra* note 363.

seize them for use as a submarine base.<sup>370</sup> On January 17, 1917, under pressure to sell the islands for fear the U.S. would invade Denmark sold what were then known as the Danish West Indies to the U.S. for \$25 million.<sup>371</sup> Ten years later, the U.S. granted citizenship to all the inhabitants of the islands.<sup>372</sup>

The U.S. Virgin Islands are an organized, unincorporated territory, meaning that while Congress has passed an organic act for the territory, not all protections of the US Constitution apply.<sup>373</sup> Like Puerto Ricans, U.S. Virgin Islanders are U.S. citizens, but they are not allowed to vote in presidential elections.<sup>374</sup> The territory elects a delegate to Congress; however, while the delegate is able to vote in committee, he cannot participate in floor votes.<sup>375</sup> At the territorial level, fifteen senators are elected for two-year terms to the unicameral Virgin Islands legislature, and the governor is elected every four years by a vote of the people.<sup>376</sup> The territory has both a district court and a superior court, and judges are appointed by the President of the United States and the Governor.<sup>377</sup>

In recent history, the U.S. Congress has organized several local referenda to aid in the territory's self-determination.<sup>378</sup> Like Puerto Ricans, U.S. Virgin Island residents have been given the choice of independence, status quo, or statehood; however, these measures have failed to attract sufficient civic interest or voter turn-out to produce even a noteworthy plurality, much less a majority, and thus the islands will retain their current territorial status for the foreseeable future.<sup>379</sup>

In fiscal year 1995, the government's annual operating budget was \$500 million, of which \$158 million were federal grants.<sup>380</sup> Tourism is the primary economic driver of the territory, with the islands hosting close to 2 million visitors per year — many of whom visit on cruise ships.<sup>381</sup> As such, the territory spends approximately \$800 million annually towards tourism.<sup>382</sup> Being a

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370. *Id.*

371. Convention Between the United States and Denmark, Cession of the Danish West Indies, Jan. 25, 1917; 39 Stat. 1706, January 25, 1917, available at <http://www.doi.gov/oia/pdf/vitreaty.pdf>.

372. See *supra* note 363.

373. *Id.*

374. *Id.*

375. *Id.*

376. *Id.*

377. *Id.*

378. *Id.*

379. *Id.*

380. *Id.*

381. *Id.*

382. See DOI, Virgin Islands, *supra* note 366.

top tourist destination, United, U.S. Airways, Delta, Continental Airlines and American Airlines serve the U.S. Virgin Islands.<sup>383</sup> The U.S. Postal code for the territory is VI.

The Office of the Attorney General can be reached at The Department of Justice, G.E.R.S. Complex, 48B-50C Kronprinsdens Gade, St. Thomas, VI 00802.<sup>384</sup>

### 3. *Guam*

You will not find a postcard in Guam depicting it as a typical tropical paradise. While there “is sun, sand and wilderness,” it is also “all about the duty free shopping.”<sup>385</sup> In fact, Lonely Planet describes it this way: “Think palm trees, white beaches, coral reefs — and the world’s biggest K-Mart.”<sup>386</sup>

Like the U.S. Virgin Islands, Guam is an organized unincorporated territory of the United States.<sup>387</sup> It is located in the Western Pacific Ocean at the southernmost tip of the Marianas Islands.<sup>388</sup> Guam is located in a tropical climate and temperatures range between 75 and 86 degrees.<sup>389</sup>

Guam was originally occupied by the Chamorros, who first populated the island almost 3,500 years ago.<sup>390</sup> Its first contact with western civilization occurred in 1521, when Ferdinand Magellan reached the island during his circumnavigation of the globe.<sup>391</sup> In 1565, Spain claimed the island and thereafter commenced colonization, making it one of the most important resting stops along the Spanish trade route between the Philippines and Mexico.<sup>392</sup> The US took possession of Guam in 1898 during the Spanish-American War.<sup>393</sup> During World War II, Guam was attacked and invaded by Japanese armed forces who already had control over the Northern Marianas Islands.<sup>394</sup> In 1944, the U.S. reclaimed Guam at the Battle of Guam, and in 1950, an organic act was

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383. *Id.*

384. Office of N.Y. Attorney General Elliot Spitzer, U.S. State & Territory Attorneys General, [http://www.oag.state.ny.us/links/other\\_ag.html](http://www.oag.state.ny.us/links/other_ag.html) (last visited May 15, 2006).

385. Guam, Lonely Planet, <http://www.lonelyplanet.com/worldguide/destinations/pacific/guam> (last visited May 15, 2006).

386. *Id.*

387. Guam, WIKIPEDIA, <http://en.wikipedia.org/wiki/Guam> (last visited May 15, 2006).

388. *Id.*

389. Dep’t of the Interior, Office of Insular Affairs, Guam, <http://www.doi.gov/oia/Islandpages/gumpage.htm> (last visited May 15, 2006).

390. *See* Guam, Lonely Planet, *supra* note 387.

391. *Id.*

392. *Id.*

393. *Id.*

394. *Id.*

passed providing for the structure of the island's government and allowing for U.S. citizenship.<sup>395</sup>

Guam in recent years has pushed for commonwealth status through the Guam Commonwealth Act, promulgated by the Guam Commission on Self-Determination.<sup>396</sup> The government's structure is very much like a state government with a governor, legislature, and local judiciary.<sup>397</sup> The executive branch is comprised of a popularly elected governor and lieutenant governor, each serving a four-year term.<sup>398</sup> The legislative branch is a fifteen member unicameral legislature whose members are elected every two years.<sup>399</sup> The judicial system includes a territorial court called the Superior Court, a Supreme Court and a US District Court.<sup>400</sup> The U.S. District Court handles federal constitutional questions and other federal cases.<sup>401</sup> Appeals are channeled through the Ninth Circuit Court of Appeals in San Francisco and from there to the U.S. Supreme Court.<sup>402</sup> Finally, like most territories, Guam has a non-voting representative in the U.S. Congress.<sup>403</sup>

The Guam economy is supported by Japanese tourists and the U.S. military, the latter of which occupies one-third of the island's land mass.<sup>404</sup> Guam is a much shorter flight from Japan than is Hawaii and tourist hotels and golf courses were built to accommodate the demand.<sup>405</sup>

Guam is known throughout the world as one of the worst cases of bioinvasion.<sup>406</sup> The brown tree snake, which is slightly venomous, came to Guam aboard a U.S. military transport during the second World War and killed almost the entire native bird population on a previously snake-free island.<sup>407</sup> Without any natural predators, the snake population flourished and Guam now claims the dubious distinction of an area with one of the greatest snake densities in the world.<sup>408</sup> Although nocturnal and therefore largely unseen, they are popularly known for being prodigious tree and power pole climbers, regularly shorting out the electricity to areas

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395. *Id.*

396. *See* Guam, WIKIPEDIA, *supra* note 389.

397. *Id.*

398. *Id.*

399. *Id.*

400. *Id.*

401. *Id.*

402. *Id.*

403. *Id.*

404. *See* Guam, Lonely Planet, *supra* note 387.

405. *Id.*

406. *Id.*

407. *Id.*

408. Estimated snake density of 2,000 snakes per square kilometer. *Id.*

of the island.<sup>409</sup> The disappearance of Guam's bird and fruit bat population may have an impact on plants, which rely on them to spread their seeds. Guam is perhaps one of the most well-traveled U.S. territories, with an international airport serving six air carriers and providing more than one-hundred flights per week to Hawaii and the U.S. mainland.<sup>410</sup>

The U.S. Congress, together with the government of Guam, recently empowered Guam's voters to elect their first Attorney General.<sup>411</sup> The current Attorney General was inaugurated on January 6, 2003, for a four-year term.<sup>412</sup> The office is comprised of five divisions, including both civil and criminal, all empowered with prosecutorial authority.<sup>413</sup> The five divisions are: (1) general crimes, (2) government corruption, (3) child support enforcement, (4) civil, and (5) the compiler of laws.<sup>414</sup> The Office of the Attorney General can be reached at The Guam Judicial Center, Suite 2-200E, 120 West O'Brien Drive, Hagatna, GU 96910.<sup>415</sup>

## V. FORTUNE FAVORS THE BOLD

If I have been successful, this article has peaked your interest in a legal opportunity that you never knew existed. I freely admit that this career path is not for everyone, and that a large majority of attorneys, by nature, would not be able to handle such a transition, let alone daily life in the tropics. I paint this picture with a rosy glow, in large part because it was the best decision I ever made. In a relatively short period of time, I have made life-long friends, expanded my perception of the world, gained an incredible amount of practical experience and visited foreign countries most Americans never see. My decision was not without some level of discomfort, and yours won't be either. My wife and I were forced to sell our house, sell both of our cars and place the lion's share of our possessions in storage. Nor is life on a tropical island entirely pristine; you will from time to time encounter cockroaches, centipedes, and strikingly hot and unbearably humid temperatures. I hope you will find, as I have, that such unpleasantness are offset by the extraordinary natural beauty of the islands.

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409. *Id.*

410. See Guam, WIKIPEDIA, *supra* note 389.

411. See The Office of the Attorney General of Guam website, <http://www.guamattorneygeneral.com> (last visited May 15, 2006).

412. *Id.*

413. *Id.*

414. *Id.*

415. Telephone: 671-475-3324; Facsimile: 671-472-2493; Email: [law@mail.justice.gov.gu](mailto:law@mail.justice.gov.gu).  
*Id.*

I leave you with these parting words: whether you are in your third year of law school or twenty years into your practice, the opportunity is now before you. The fancy car, the big house and the golden parachute are not going anywhere. Do you want a position that could bring you depression, alcoholism, drug abuse, divorce and suicide, or do you want peace, happiness and palm trees?<sup>416</sup> It could be the best decision you ever made. You won't know until you try it.<sup>417</sup>

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416. See Schiltz, *supra* note 11 at 874-889.

417. Congratulations on making it this far. You have taken the first step in your journey. For further questions or comments, you can contact the author at keysermike@gmail.com. Hope to see you in paradise.

