



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

S.B. NO. 2961, S.D. 2, H.D. 1, MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, March 26, 2008 **TIME:** 11:00 AM

LOCATION: State Capitol Room 308
Deliver to: State Capitol, Room 306, 2 copies

TESTIFIER(S): Mark J. Bennett, Attorney General,
or Caron M. Inagaki, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General supports this measure.

The purpose of this bill is to appropriate funds to satisfy claims against the State, its officers, or its employees, including claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill in its present form contains twenty-one (27) claims that total \$2,349,667.16. Of this total, \$873,702.40 are general fund appropriation requests and \$1,475,964.76 are appropriation requests from departmental funds. Attachment A provides a brief description of each claim in the bill.

Since the bill was last amended, two (2) new claims have been resolved for an additional \$892,456.30. Both of these claims are general fund appropriation requests. Attachment B describes these claims. We request that the Committee amend the bill to appropriate funds to satisfy these two (2) new claims.

Including the new claims, the appropriation request totals \$3,242,123.46 allocated among twenty-nine (29) claims. Of this total \$1,766,158.70 are general fund appropriation requests and \$1,475,964.76 are appropriation requests from departmental funds.

The Department has had a long-standing policy of advising agencies as to how to avoid claims such as those in this bill. The

Department has also complied with section 37-77.5, Hawaii Revised Statutes, which requires the Attorney General to develop and implement a procedure for advising our client agencies on how to avoid future claims.

We therefore respectfully request passage of this measure.

ATTACHMENT "A"

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:

Reale v. State of Hawaii, et al. \$ 50,000.00 (General Fund)
Civil No. 06-1-0928-05, First Circuit Settlement

This is a negligence action arising out of a 2004 trip and fall in the parking lot of Aloha Stadium. Aloha Stadium is responsible for the maintenance and repair of the parking lot. Plaintiff Mary Ann Reale, then 57 years old and a visitor from Wisconsin, allegedly tripped and fell in the parking lot while attending the swap meet. The general accident area where she fell allegedly consisted of uneven, eroded asphalt with some deviations exceeding ½ inch. Plaintiff was immediately transported to and hospitalized at Pali Momi. She sustained a comminuted right elbow fracture requiring surgery, including internal fixation and rehabilitation. Plaintiff initially presented this as a tort claim seeking \$375,000.

DEPARTMENT OF EDUCATION:

In the Matter of the Arbitration \$ 25,000.00 (General Fund)
Between Hawaii State Teachers Association, Settlement
AFSME Local 152, AFL-CIO and Kihei Public
Charter High School (Grievance of John
Loomis), Case No. 03-18

This grievance concerned the termination of a teacher from his teaching position in 2002 by the then school principal for failure to perform the specific task of leveling standards for each student project in his class. The potential exposure faced by the school was approximately \$84,000, which represented the difference in wages the grievant would have earned if not terminated and what he in fact did earn during the relevant period. Before the final three witnesses testified at the arbitration hearing, the parties, with the assistance of the arbitrator, tentatively agreed to settle the case for \$50,000 conditioned on the approval of the School Board and the Department of the Attorney General. The School Board agreed to the following settlement: The first payment of \$25,000 made by the school on November 1, 2007, and the remaining balance through the 2008 legislative session. The union had no opposition to this proposal.

Huddleston, et al. v. Kamaaina Care, Inc., \$ 74,500.00 (General Fund)
et al., Civil No. 06-1-0077, Third Circuit Settlement

A girl was injured while playing dodge ball during an A+ activity being run by Kamaaina Kids at Kaumana Elementary School in Hilo. The girl's injuries allegedly were due to a backwards fall. She

allegedly had hit her head against a protruding bolt that was attached to a chain link fence gate. Stan's Construction had built the play court area. The girl has been evaluated for cognitive and neurological deficits by Plaintiffs' expert. This case proceeded to mediation, which resulted in the settlement.

DEPARTMENT OF HEALTH:

Enchanted Lakes Residents Association \$ 4,800.00 (General Fund)
v. Department of Health Settlement
Medication Center of the Pacific No. 2007-0939

The State of Hawaii Department of Health (DOH) and Enchanted Lakes Residents Association (ELRA) of Kailua, a nonprofit corporation, entered into a contract in 2004 (ASO Log No. 04-295). The contract provided that ELRA would support community efforts at removing invasive mangroves, trash, and debris from Kaelepulu Pond while educating the surrounding grade schools about storm water runoff pollution. At the end of the contract term in January 2006, DOH denied ELRA final payment of \$9,676 out of a total contract of \$35,300, claiming that ELRA had materially breached the contract by failing to produce several specified contract deliverables. ELRA sought payment of the full contract amount from DOH, claiming that it had substantially performed, that the mangrove removal work was more expensive than expected, and that DOH had added details to the required contract deliverables. After mediation, ELRA agreed to accept slightly less than half of the disputed amount and to provide DOH some of the missing contract deliverables.

DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT:

Walsh, et al. v. City & County of \$ 50,000.00 (General Fund)
Honolulu, et al., Settlement
Civil No. 05-00378DAE, U.S.D.C.

This class action was filed in 2005 to challenge the constitutionality of the resident-at-time of application prerequisite for public employment in section 78-1(c), Hawaii Revised Statutes, before it was repealed by Act 52, Session Laws of Hawaii 2007. The Plaintiffs asserted the requirement violated their constitutionally protected right to travel and the privileges and immunities and equal protection clauses of the federal constitution. After hearing the parties' respective motions for summary judgment, Judge Ezra agreed with the plaintiffs and entered a permanent injunction enjoining the State and the City and County of Honolulu from enforcing the residency prerequisite on July 14, 2006.

The State appealed the judgment to the Ninth Circuit Court of Appeals. After the appeal was fully briefed but before oral argument was held, the Legislature repealed the residency prerequisite by enacting Act 52, which in the State's view, rendered the plaintiffs' constitutional challenge moot. With that as its position, the State suggested that the case be settled. The Plaintiffs and the State agreed that the State would pay the American Civil Liberties Union \$50,000 as statutory fees and costs for the litigation in both the district and appellate courts by August 15, 2008.

The judgment of the District Court was vacated and the case was dismissed.

DEPARTMENT OF HUMAN SERVICES:

Aihara v. Department of Human Services, \$ 45,000.00 (General Fund)
et al., Civil No. 05-1-0514-03, Settlement
First Circuit

This action arises out of a dispute as to the meaning of the terms of the 1992 Neighbor Island Airport Settlement Agreement between the Blind Vendors, the Department of Human Services (who administers the Blind Vendors program), and the Department of Transportation (who is responsible for overseeing the airports). According to the 1992 Neighbor Island Airport Settlement Agreement, the Blind Vendors were to receive income from all of the vending machines located in the passenger terminal buildings. Beginning in 1992, the Department of Human Services construed that provision to mean all of the vending machines located in the public sections of the passenger terminal buildings. This practice continued until suit was brought in 2005, after a new blind vendor took over at the Kauai Airport. The Department of Human Services agreed to accept the interpretation of the term "all vending machines" to mean vending machines located in public and non-public areas of the passenger terminal buildings. The \$45,000 settlement represents both lost profits and attorneys' fees.

Ruiz, et al. v. State of Hawaii, et al. \$ 350,000.00 (General Fund)
Civil No. 04-1-1739-09, First Circuit Settlement

A female ward at the Hawaii Youth Correctional Facility alleged that she was sexually assaulted by a youth corrections officer in June 2003. The claims against the State were for negligent supervision and failure to protect. The case proceeded to trial, and a mistrial was declared on the second day of trial. The case settled before the second trial began.

DEPARTMENT OF PUBLIC SAFETY:

Bateman, et al. v. State of Hawaii \$ 56,873.17 (General Fund)
Civil No. 06-1-1907-11, First Circuit Judgment
Amount of judgment: \$55,573.40
4% interest from 12/13/07: \$ 1,299.77

This case is based upon the death of Antonio Prieto on April 15, 2004, while he was an inmate at Halawa Correctional Facility. He had presented with symptoms of a severe asthmatic attack and was treated in the prison's infirmary. He died four days later. His estate and surviving family members sued the State alleging that inmate Prieto died as a result of medical malpractice at the prison. This case proceeded to the Court Annexed Arbitration Program, which resulted in a judgment against the State in the amount of \$55,573.40. The requested appropriation includes interest on the judgment.

Branco v. State of Hawaii \$ 12,357.46 (General Fund)
Civil No. 06-1-0755-05, First Circuit Settlement

An inmate at Halawa Correctional Facility slipped and fell on a slippery area when he was entering his cell. His head hit the bunk bed as he fell, injuring his neck and eyes due to the trauma. The inmate continues to complain of neck problems and eye problems (comprising "floaters" and "photo sensitivity"), which have been corroborated through two MRI's and an outside ophthalmologist. This case proceeded to the Court Annexed Arbitration Program, and the arbitrator awarded him \$12,357.46. The case subsequently settled for \$12,357.46.

Gonsalves v. State of Hawaii \$ 24,000.00 (General Fund)
Civil No. 06-1-1843-10, First Circuit Settlement

An inmate at Halawa Correctional Facility twisted his right knee when he jumped off the top bunk bed of his cell. The same inmate also claims that he injured his second and third fingers while using a table saw at Waiawa Correctional Facility. The case proceeded to the Court Annexed Arbitration Program, and the arbitrator awarded him \$88,446.76. The case subsequently settled for \$24,000.00.

Kimberly v. State of Hawaii, et al. \$ 91,619.02 (General Fund)
Civil No. 95-0718-03, First Circuit Judgment
Amount of judgment: \$87,245.88
4% interest from 5/1/07: \$ 4,373.44

Claimant was sexually assaulted and harassed by an Adult Corrections Officer (ACO) while she was incarcerated at the Oahu Community Correctional Center as a pretrial detainee. Claimant is a transgendered individual whose self-identity and outward appearance

is female. A former employee, a social worker, was alleged to have conducted an inadequate investigation of Claimant's grievances against the ACO. This case proceeded to trial in January 2000, and judgment was entered in favor of the Claimant. The case was appealed to the Hawaii Supreme Court, and the Hawaii Supreme Court affirmed the judgment, except for the award of general damages against the State. The Hawaii Supreme Court remanded the case for a re-determination of the amount of general damages against the State. Trial was held in June 2006. Following the second trial, the trial court issued an Amended Final Judgment, awarding the total amount of \$425,833.28 against the social worker (\$415,833.28, jointly and severally with the ACO, and \$10,000 in punitive damages against the social worker). The trial court awarded the total amount of \$87,245.58 plus interest against the State.

Pregil v. State of Hawaii, et al. **\$ 10,092.80** (General Fund)
Civil No. 06-1-0772-05, First Circuit **Judgment**
Amount of Judgment: \$10,038.47
4% interest from 4/11/07: \$54.33

A deputy sheriff was transporting an inmate to be booked and he rear-ended a Honolulu Police Department vehicle. The inmate claims soft tissue injuries. This case proceeded to the Court Annexed Arbitration Program and the arbitrator awarded the claimant \$10,092.80.

Sampaio v. State of Hawaii **\$ 25,244.05** (General Fund)
Civil No. 06-1-0751-05, First Circuit **Judgment**
Amount of judgment: \$24,770.30
4% interest from 2/22/08: \$ 473.75

An inmate at Halawa Correctional Facility slipped and fell as he was walking to Module A to take a shower. He was wearing black rubber slippers when he slipped and fell on his tailbone. The case proceeded to the Court Annexed Arbitration Program, and the arbitrator found the State of Hawaii 100 percent negligent and awarded Claimant \$32,254.08. The State appealed the arbitration award, and the case went to trial. At trial, the court found the State of Hawaii 100 percent negligent and awarded Claimant \$24,770.30 plus interest.

Segawa v. State of Hawaii, et al. **\$ 50,000.00** (General Fund)
Civil No. 05-1-1562-09, First Circuit **Settlement**

Claimant is the current corrections supervisor at Kulani Correctional Facility. Claimant filed a whistleblower action against the Department of Public Safety and various employees of the Kulani Correctional Facility claiming that she was subjected to harassment and discrimination in retaliation for an investigation that she initiated of an employee in the facility. The

departmental investigation of this employee did not find misconduct. After the investigation was initiated, animosity developed between the Claimant and friends of the employee who was investigated and various other employees of the facility. This led to other charges of misconduct against the Claimant as well as other employees. The investigation into these allegations did not find misconduct by anyone. Instead, the investigation found that a very divisive work environment was allowed to have occurred where employees were separated into hostile factions. The settlement provides for steps to be taken to alleviate the problems that gave rise to the litigation.

MISCELLANEOUS CLAIMS:

Estate of Audrey Marie Au \$ 500.00 (General Fund)

Claimant requests reissuance of an outdated check that was misplaced. The check when found was outdated and could no longer be cashed. Although the claim was not filed within six years from the date on which the claim for payment matured, as required by section 37-77, Hawaii Revised Statutes, there is sufficient reason the delay was caused by circumstances beyond the claimant's control and, therefore, good cause exists to pay the claim.

Dennis Donovan \$ 2,975.20 (General Fund)

Claimant requests reissuance of an outdated check that was misplaced. The check when found was outdated and could no longer be cashed. Although the claim was not filed within six years from the date on which the claim for payment matured required by section 37-77, Hawaii Revised Statutes, there is sufficient reason the delay was caused by circumstances beyond the claimant's control and, therefore, good cause exists to pay the claim.

Mitsue T. Kimata \$ 131.40 (General Fund)

Claimant requests reissuance of an outdated check that was misplaced. The check when found was outdated and could no longer be cashed. Although the claim was not filed within six years from the date on which the claim for payment matured required by section 37-77, Hawaii Revised Statutes, there is sufficient reason the delay was caused by circumstances beyond the claimant's control and, therefore, good cause exists to pay the claim.

Cynthia C. Matsumura \$ 125.00 (General Fund)

Claimant requests reissuance of an outdated check that was misplaced. The check when found was outdated and could no longer

be cashed. Although the claim was not filed within six years from the date on which the claim for payment matured, as required by section 37-77, Hawaii Revised Statutes, there is sufficient reason the delay was caused by circumstances beyond the claimant's control and, therefore, good cause exists to pay the claim.

Karen Y. Nakamura \$ **484.00** (General Fund)

Claimant requests reissuance of an outdated check that was misplaced. The check when found was outdated and could no longer be cashed. Although the claim was not filed within six years from the date on which the claim for payment matured, as required by section 37-77, Hawaii Revised Statutes, there is sufficient reason the delay was caused by circumstances beyond the claimant's control and, therefore, good cause exists to pay the claim.

DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:

Antonio v. State of Hawaii \$ **30,000.00** (Department
Civil No. 06-1-0131-01, First Circuit Settlement Appropriation)

Plaintiff was riding his motorcycle on the eastbound merge from Fort Weaver Road onto H-1 freeway when his motorcycle struck a pothole. According to Plaintiff, he was in the left lane when he struck the pothole. He was driving at approximately 30-40 miles per hour when he lost control of his motorcycle. He did not get ejected from his motorcycle and did not lose consciousness at any time. Plaintiff was able to drive himself to the hospital following the accident. As a result of the incident, he sustained an injury to his right shoulder, which required surgery. Plaintiff continues to feel pain and is contemplating undergoing another surgery to his right shoulder. Plaintiff appealed the arbitration award in favor of the State. The case then settled for \$30,000.

Carvalho v. State of Hawaii \$ **30,000.00** (Department
Civil No. 05-1-2155-12, First Circuit Settlement Appropriation)
and
Carvalho v. State of Hawaii
Civil No. 06-00667, USDC

During a storm in December 2003, a significant volume of water flooded from Camp Smith across the road and down on to the Plaintiffs' home. An estimated 80 tons of mud and debris were hauled away. The large retaining wall was cracked, and the mud covered the Plaintiffs' pickup truck, three 5-ton AC units, and entered the home. The Plaintiffs alleged that the State was liable because in an earlier re-surfacing project on the road, rather than raising the storm drain so that the opening would remain at the designed height in order to handle the volume of water for which it was designed, the State simply poured the asphalt, leaving the

opening narrower than it should have been. In addition, they alleged that the State was liable since, by not having removed an old utility pole and chunks of asphalt dumped on the State's right of way adjoining the retaining wall, the State increased the velocity of the run-off of the water and put additional pressure on the retaining wall due to the greater weight of material in the right of way. They alleged that the federal government was liable because yellow plastic security barriers were not filled with water or sand and were not lashed together, such that the flooding water pushed them together, creating a funnel of water directed toward the Plaintiffs' property. The Plaintiffs obtained estimates from contractors for the repairs. The original tort claim submitted was for \$278,854, which included the removal of mud and debris and clean-up (\$32,000), earthwork and demolition (\$134,200), damage to personal property (\$15,000), and replacement of the retaining wall (\$72,860).

Dunn, et al. v. Department of Transportation, et al., Civil No. 04-1-1330-07, First Circuit	\$ 930,964.85	<i>(Department Appropriation)</i>
	Judgment	
Amount of judgment:	\$911,051.16	
4% interest from 1/14/08:	\$ 19,913.69	

The case arises out of a bicycle accident that occurred on August 16, 2003. At approximately 5:30-5:45 a.m., Plaintiff and his friend were bicycling east toward Waimanalo along Kalaniana'ole Highway. There is a series of white plastic delineators installed along the shoulder of the highway opposite of the Olomana Golf Course. The paved shoulder on which the delineators are installed is a designated bicycle route. It was very dark at the time of the accident. Plaintiff's bicycle struck the black base of a missing delineator and flew off his bicycle onto the highway shoulder. The impact from the fall caused his helmet to split and Plaintiff sustained a severe head injury. Before trial, the parties participated in mediation and settlement conferences; however, Plaintiffs refused settlement for any amount less than \$1,000,000. The case proceeded to trial, which resulted in a judgment against the State for \$930,964.85.

Hashimoto v. Liftee, et al. Civil No. 99-2462-06, First Circuit	\$ 250,000.00	<i>(Department Appropriation)</i>
	Settlement	

Plaintiff was riding a moped and collided broad-side into a car making a left-turn across his path at the intersection of Nuuanu Avenue and Vineyard Boulevard. Plaintiff alleged that the State of Hawaii negligently designed the intersection by failing to install a left-turn arrow there prior to the accident. Although there was a left-turn lane at the intersection at the time of the accident, there was no left-turn arrow. Plaintiff sustained severe internal injuries, including a ruptured spleen, liver lacerations, and

pulmonary contusion/laceration. Plaintiff suffered significant blood loss. Plaintiff's spleen was removed. A part of Plaintiff's stomach and his large and small intestines were also removed.

This case proceeded to the Court Annexed Arbitration Program, and the arbitrator found the driver of the left-turning vehicle 100 percent negligent. Both the Plaintiff and the driver appealed. The trial court granted the State's motion for summary judgment based on the discretionary function defense, but the Hawaii Supreme Court reversed and remanded the case for trial. The case subsequently settled for \$250,000.000.

Hoffelt, et al. v. Tesoro, et al. **\$ 150,000.00** (Department
Civil No. 05-1-0480(3), Second Circuit **Settlement** Appropriation)

The case arises out of a motor vehicle-pedestrian accident that occurred on March 24, 2004. The decedent, 74-year old pedestrian Barbara Hoffelt, and her husband, John Hoffelt, were tourists from Chicago, Illinois, and on vacation in Maui. They had spent the morning shopping in the Front Street-wharf area in Lahaina and were planning to meet their son Michael and his wife, who were waiting for them at the West Maui Center shopping mall on the northeast side of the Honoapiilani Highway. The decedent and her husband crossed the highway from the west side of the intersection where there had previously been a marked and signalized crosswalk. Barbara Hoffelt had nearly made it to the mall side of the highway when she was struck by a vehicle owned and driven by Lamberto Tesoro. The impact was witnessed by her husband. Michael Hoffelt arrived soon after and saw his father standing on the sidewalk and two bystanders performing cardiopulmonary resuscitation ("CPR") on his mother who was lying on the highway. Because he is an emergency medical technician in Chicago, Michael then assisted the bystanders with the CPR. The point of impact was in the rightmost westbound lane and the removed crosswalk area. The case proceeded to mediation, which resulted in settlement.

Madriaga, et al. v. Baldwin, et al. **\$ 25,000.00** (Department
Civil No. 04-1-0327(3), Second Circuit **Settlement** Appropriation)

Claimant was the driver of a pickup truck that was rear-ended by another pickup truck owned by the State of Hawaii and operated by a Department of Transportation employee, on December 5, 1996, on Honoapiilani Highway. The employee was acting within the scope of his employment at the time of the accident. Claimant sustained neck, thoracic and low back strains or sprains. This case proceeded to the Court Annexed Arbitration Program, and the arbitrator awarded the Claimant \$29,984.00. The case subsequently settled for \$25,000.00.

Scharsch v. State of Hawaii, et al.
Civil No. 05-1-0435-03, First Circuit

\$ 20,000.00 (Department
Settlement Appropriation)

This case arises out of flood and landslide damage at the end of 2003 and the first few days of 2004, from Likelike Highway onto and into the Plaintiff's home at 3128 Numana Road in Kalihi Valley from a very old (reputedly 50 years) Department of Transportation drainage pipe that failed.

Schlosser v. Lat, et al.
Civil No. 05-1-0474(3), Second Circuit

\$ 40,000.00 (Department
Settlement Appropriation)

This case arises from an accident that occurred on April 9, 2005, at Honoapiilani Highway and Halelo Street, the main intersection into the Kaanapali resort area, when Defendant Jose Lat ran a red light and hit the Decedent, Rolf Schlosser, 68, of Lahaina, who was riding his motorcycle in a makai direction through the intersection. Mr. Schlosser died shortly after the accident. He was survived by his wife (the Plaintiff), and a son and grandson. The Plaintiff settled her claim against Defendant Lat for his maximum insurance coverage of \$20,000. The Plaintiff sued the State on the theory that the limit line that the Department of Transportation had painted on Halelo Street (private property owned by Kaanapali Development Corp., as it was known then), made the intersection dangerous because the sight distance from the limit line was inadequate. This case proceeded to mediation, which resulted in settlement.

ATTACHMENT "B"

DEPARTMENT OF AGRICULTURE:

Viela v. State of Hawaii, et al. \$ 60,000.00 (General Fund)
Civil No. 06-1-0268-02, First Circuit Settlement

On March 24, 2005, at approximately 8:00 p.m., a man stepped onto an unsecured "irrigation valve cover" on property located in the vicinity of the Department of Agriculture at 1428 S. King Street. The irrigation valve cover was allegedly hidden by leaves. The man heard a snap and later learned that he suffered a broken ankle. Later that evening, the man was seen at the emergency room for a right ankle fracture that required an open reduction internal fixation procedure. This case proceeded to the Court Annexed Arbitration Program, and the arbitrator found the Claimant 15 percent negligent and the State 85 percent negligent. The arbitrator awarded the Claimant \$234,390.68. The State appealed the arbitration award, and the case later settled for \$60,000.00.

DEPARTMENT OF HUMAN SERVICES:

Kahoohanohano, et al. v. Department of \$ 832,456.30 (General Fund)
Human Services, et al., Second Circuit Judgment
Civil No. 03-1-0012(1)

and

Kahoohanohano, et al. v. Drelich, et al.
Civil No. 03-1-0257(1), Second Circuit

Amount of judgment: \$820,441.10
4% interest from 3/20/08: \$ 12,015.20

This case arises out of an informal investigation of possible child abuse by the Child Welfare Services branch of the Department of Human Services on Maui. A woman brought a 1½-year-old girl to the emergency room on February 14, 2001, with a suspicious fracture of her femur. Child abuse was suspected and reported to the Department of Human Services. An experienced DHS social worker investigated the event and put into place safeguards for the child's safety so that she would not have to be removed from the joint custody of her unmarried parents. On April 16, 2001, the child was presented to the emergency room again with life-threatening abdominal injuries. The Plaintiffs sued DHS on the grounds that the investigation was inadequate and that DHS had not taken proper steps to safeguard the child.

After the medical providers in Civil No. 03-1-0257(1) settled under Act 300, Session Laws of Hawaii 2001, the case was tried without a jury in 2006 resulting in a verdict for the Plaintiffs. The child's mother and boyfriend were each found 20 percent negligent and DHS was found 60 percent liable. The trial court held that all

defendants were jointly and severally liable and the State appealed. The Supreme Court of Hawaii affirmed the trial court in all respects per opinion filed March 20, 2008. The judgment as affirmed was for \$1,120,441.10; after deducting the Act 300 settlement amounts, the net judgment is \$820,441.10.