



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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Hawaii Prevails in Important Case Against the Federal Emergency Management Agency

Today the State of Hawaii won an important case against the Federal Emergency Management Agency in the federal court of appeals for the Ninth Circuit.

After Hurricane Iniki, the State of Hawaii entered into a settlement with its property damage insurers for the damage to buildings owned by the State. The settlement was based on detailed independent surveys of the reasonable cost of repair. The State of Hawaii was obligated to and did reimburse FEMA the portion of the overall settlement proceeds attributable to repair work performed by FEMA.

Years after the settlement, FEMA changed its interpretation of the relevant federal statute and demanded reimbursement from the State beyond the actual amount of insurance money received. FEMA's theory was that the State "should have" settled for an amount greater than the reasonable amount of the FEMA repairs because FEMA, without notifying the State, had spent more than a reasonable amount. The core amount in dispute was \$4.7 million. With accumulated interest since 1994, FEMA was seeking more than \$10 million from the State.

A unanimous panel of the Ninth Circuit held that the State Hawaii does not owe FEMA any additional money. The court held that the State of Hawaii acted in a commercially reasonable manner in settling with its insurers and properly reimbursed FEMA only for the insurance proceeds actually received.

Today's decision is the first appeals court interpretation nationwide of the "duplicate benefits" provision of the FEMA statute. The decision will benefit numerous other states in addition to Hawaii.

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