

**State of Hawaii
Department of the Attorney General**



2006 Annual Report

**RECOMMENDATIONS FOR DENIAL OF
CLAIMS FOR LEGISLATIVE RELIEF**

*Submitted to
The Twenty-Fourth State Legislature
Regular Session of 2007*

AUTHORITY AND BACKGROUND

Section 37-77, Hawaii Revised Statutes, requires the Attorney General to report annually to the Legislature on the claims for which a recommendation for denial is made. This reporting requirement is contrasted with the Attorney General's obligation under the same statutory authority to submit a bill to the Legislature that contains all of the claims for which payment is recommended.

A listing and summary of each claim are provided in the report section below. All of the claims this year are filed by Department of Education (DOE) employees, either teachers or other school staff. All of the claims involve damage to or theft of employee property. The majority of the claims are for vandalism to employee vehicles parked on school property. In every case, DOE officials have recommended that the claims be denied because of the absence of DOE negligence. The Attorney General's recommendation for denying these claims is based on a determination that no state employee negligence has been found.

There are no strong policy reasons for the Legislature to appropriate funds to pay these claims. State employees, like other individuals, usually have, or may obtain, insurance to cover the risks involved. Absent compelling policy justification, state liability for damages should only attach where the negligence of a state employee has been established.

As required by section 37-77, Hawaii Revised Statutes, the data and documents supporting the claims below are maintained in the Tort Litigation Division, Department of the Attorney General, and are available for inspection by the Legislature.

Claimant: Lena Tanaka

Amount Claimed: \$27.56

Ms. Tanaka, a teacher at Waimanalo Elementary School, claims damages to her car (broken windshield wiper blades) while her car was parked at her school parking lot.

Claimant: John David Wilkinson

Amount Claimed: \$264.42

Mr. Wilkinson, a teacher at Waiakea High School, claims damages to his car (four tires slashed) while his car was parked at his school parking lot.