



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

LINDA LINGLE
GOVERNOR

Mark J. Bennett, Attorney General
Phone: (808) 586-1500
Fax: (808) 586-1239

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RULING VINDICATES HAWAII CHILD SUPPORT ENFORCEMENT AGENCY

(HONOLULU) On August 21, 2006, the Hawaii Supreme Court unanimously reversed a \$500,000 circuit court judgment against the Hawaii Child Support Enforcement Agency (CSEA).

In *Kemp v. CSEA*, Haw. Sup. Ct. No. 26084, the facts demonstrated that the CSEA timely issued all child support checks and mailed them to the custodial parent's reported address. The circuit court nonetheless held that the CSEA breached fiduciary and constitutional duties to custodial parents who failed to cash their child support checks or who failed to notify CSEA of their current mailing addresses.

In yesterday's ruling, the Hawaii Supreme Court held that the class action plaintiff Ann Kemp, who failed to prove her own claim for interest on untimely payments, could not adequately represent the custodial parents who had different claims at different time periods relating to uncashed checks and unreported address changes. The Court further reasoned that "the CSEA cannot compel a custodial parent to redeem the child support check or to submit the necessary information informing the CSEA of a current address for the custodial parent." Therefore, the CSEA did not breach its fiduciary duty to the obligees in the "uncashed check" and "bad address" categories. The Court ruled in favor of the CSEA, ordered the case dismissed, and ruled that the CSEA would not be required to pay any judgment.

Attorney General Mark Bennett said, "We are pleased with the decision of the Hawaii Supreme Court. We believe that the CSEA mails child support checks to the custodial parents in an efficient and timely manner, and that the circuit court's monetary judgment was factually and legally inappropriate."

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For more information, contact:

Dana Viola
Special Assistant to the Attorney General
(808) 586-1284
hawaiiag@hawaii.gov
www.hawaii.gov/ag