State of Hawaii Department of the Attorney General



2008 Annual Report

RECOMMENDATIONS FOR DENIAL OF CLAIMS FOR LEGISLATIVE RELIEF

Submitted to The Twenty-Fifth State Legislature Regular Session of 2009

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) teachers. 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.

SUMMARY OF CLAIMS DURING 2008 FOR WHICH DENIAL IS RECOMMENDED

Claimant: Joshua D. Abner Amount Claimed: \$838.55

Mr. Abner, a teacher at Honokaa High School, claims his car was scratched while it was parked on the school campus.

Claimant: Lauren Arvidson Amount Claimed: \$2,844.61

Ms. Arvidson, a teacher at Kailua High School, claims her car was keyed while it was parked on the school campus.

Claimant: Joseph Demarco Amount Claimed: \$110.57

Mr. Demarco, a teacher at Waianae Intermediate School, claims his passenger side mirror was cracked and broken while his car was parked on school campus.

Claimant: Jamie Rapoza Amount Claimed: \$318.32

Ms. Rapoza, a teacher at Waianae Elementary School, claims her back window of her car was shot with a BB gun and broken while her car was parked in the school parking lot.

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