

SUPREME COURT OF HAWAI‘I

Kienker v. Bauer, 110 Haw. 97

129 P.3d 1125 (2006) · No. No. 25856 · Decided March 14, 2006

SUMMARY

The Supreme Court of Hawai‘i held that Hawai‘i Revised Statutes § 663-10.5, abolishing joint and several liability for government entities, did not supersede the highway-accident exception in § 663-10.9(4). The court affirmed joint and several liability for noneconomic damages against the State and Danielle Bauer, upheld the allocation of fault at 20% to the State and 80% to Bauer, and ordered that economic damages be awarded against the State according to § 663-10.9(1).

CASE DETAILS

COURT	Supreme Court of Hawai‘i
WRITING FOR THE COURT	Acoba, J.; Moon, C.J.; Levinson, J.; Nakayama, J.; Duffy, J.
JURISDICTION	Hawaii
DECIDED	March 14, 2006
DOCKET	No. 25856
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed and Bauer cross-appealed from the circuit court's final judgment in a jury-waived negligence action arising from a motor vehicle accident. The appeal challenged the State's joint and several liability for noneconomic damages, the apportionment of fault, the circuit court's Rule 60 relief from judgment, and the failure to impose joint and several liability for economic damages.
STANDARD OF REVIEW	Conclusions of law, including statutory interpretation, are reviewed de novo under the right-or-wrong standard. Findings of fact are reviewed for clear error. A trial court's decision on a motion to amend findings under HRCP Rule 52(b), a Rule 60 motion, and a motion for reconsideration is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Hawai‘i; precedential.
PARTIES	State of Hawai‘i v. Jeffrey Lloyd Kienker, Janet Lee Kienker

TOPICS

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QUESTIONS PRESENTED

1. Whether HRS § 663-10.5, which generally limits a government entity's liability to its percentage share of damages, superseded or impliedly repealed HRS § 663-10.9(4)'s exception preserving joint and several liability for noneconomic damages in highway-design and maintenance cases when the government had reasonable prior notice of a similar occurrence.
2. Whether the circuit court abused its discretion by amending its findings to increase the State's allocation of fault from 15 percent to 20 percent.
3. Whether the circuit court had jurisdiction and properly exercised its authority under HRCP Rule 60 to correct the final judgment after the State's first appeal had been dismissed.
4. Whether HRS § 663-10.5 superseded or impliedly repealed HRS § 663-10.9(1)'s exception preserving joint and several liability for economic damages in actions involving injury or death to persons.

HOLDINGS

1. HRS § 663-10.5 did not supersede or impliedly repeal HRS § 663-10.9(4). The State therefore remained jointly and severally liable for noneconomic damages because the case involved highway design and maintenance and the State had reasonable prior notice of a similar occurrence.
2. The circuit court did not abuse its discretion by increasing the State's allocation of fault from 15 percent to 20 percent.
3. The circuit court had jurisdiction to grant the State's Rule 60 motion after the State's appeal had been dismissed, and it properly corrected the judgment to conform to the amended findings and conclusions.
4. HRS § 663-10.5 did not supersede or impliedly repeal HRS § 663-10.9(1). Because the State and Bauer were joint tortfeasors in an action involving injury to a person, the State was jointly and severally liable for the Kienkers' stipulated \$200,000 in economic damages.

KEY QUOTATIONS

“We hold that Hawai`i Revised Statutes (HRS) § 663-10.5 (Supp.2005),[1] which abolishes joint and several liability for government entities, did not supercede or impliedly repeal (1) HRS § 663-10.9(4) (Supp.2005),[2] which expressly allows for recovery of noneconomic damages in motor vehicle accidents involving the maintenance and design of highways, or (2) HRS § 663-10.9(1), that provides for the recovery of economic damages against joint tortfeasors in actions involving injury or death to persons.” (110 Haw. at 97-98)

“Like HRS § 663-10.9(4), HRS § 663-10.9(1) sets forth an exception to the elimination of joint and several liability by allowing “recovery of economic damages against joint tortfeasors in actions involving injury or death to persons[.]” (110 Haw. at 159-60)

“In light of the court's findings and conclusions and the stipulation among the parties as to economic damages, we conclude the State is jointly and severally liable for the Kienkers' economic damages of \$200,000, pursuant to HRS § 663-10.9(1).” (110 Haw. at 161)

FACTUAL BACKGROUND

On July 5, 1997, Jeffrey Kienker was driving northbound on Queen Ka‘ahumanu Highway when Danielle Bauer, traveling southbound, swerved across the centerline and struck his vehicle head-on. Bauer had been traveling behind vehicles stopped for a left turn, and the highway shoulder was blocked, while the intersection lacked a left-turn lane or other appropriate channelization. The circuit court found that increasing traffic, development near the access road, prior similar accidents, and warnings from the Kona Traffic Safety Committee gave the State notice of the dangerous intersection and that both Bauer's negligence and the State's failure to correct the condition legally caused the Kienkers' injuries.

PROCEDURAL HISTORY

The Kienkers sued Bauer and the State after Bauer crossed the centerline and collided with Jeffrey Kienker's vehicle, alleging that the State negligently failed to design and maintain a safe highway intersection. After a jury-waived liability trial, the circuit court found the State 20 percent at fault and Bauer 80 percent at fault, and held the State jointly and severally liable for noneconomic damages under HRS § 663-10.9(4). The court later corrected the judgment under HRCP Rule 60 to remove joint and several liability for economic damages, entering a final judgment on May 12, 2003. The Supreme Court affirmed the fault allocation and noneconomic-damages ruling, but held that the State was also jointly and severally liable for the stipulated economic damages and remanded for amendment of the judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Amend the May 12, 2003 final judgment to provide that the State is jointly and severally liable to the Kienkers for \$200,000 in economic damages. The judgment was affirmed insofar as it allocated 20 percent fault to the State and imposed joint and several liability for noneconomic damages. The August 9, 2002 order denying Bauer's motion for reconsideration or clarification was vacated.

CASES CITED

- Roxas v. Marcos, 89 Hawai‘i 91, 969 P.2d 1209 (1998)
- State v. Camara, 81 Hawai‘i 324, 916 P.2d 1225 (1996)
- Child Support Enforcement Agency v. Roe, 96 Hawai‘i 1, 25 P.3d 60 (2001)
- In re Water Use Permit Applications, 94 Hawai‘i 97, 9 P.3d 409 (2000)
- Doe Parents No. 1 v. State Department of Education, 100 Hawai‘i 34, 58 P.3d 545 (2002)
- Petersen v. City & County of Honolulu, 51 Haw. 484, 462 P.2d 1007 (1969)

- Reefshare, Ltd. v. Nagata, 70 Haw. 93, 762 P.2d 169 (1988)
- Marsland v. Pang, 5 Haw. App. 463, 701 P.2d 175 (1985)
- First Insurance Co. of Hawaii v. Lawrence, 77 Hawai'i 2, 881 P.2d 489 (1994)
- Doi v. Hawaiian Insurance & Guaranty Co., 6 Haw. App. 456, 727 P.2d 884 (1986)
- Hill v. Halmhuber, 225 Ky. 394, 9 S.W.2d 55 (1928)
- State v. Rice, 66 Haw. 101, 657 P.2d 1026 (1983)
- Richardson v. City & County of Honolulu, 76 Hawai'i 46, 868 P.2d 1193 (1994)
- Littleton v. State, 6 Haw. App. 70, 708 P.2d 829 (1985)
- Spears v. Honda, 51 Haw. 1, 449 P.2d 130 (1968)
- Food & Drug Administration v. Brown & Williamson Tobacco Corp., 529 U.S. 120, 120 S. Ct. 1291, 146 L. Ed. 2d 121 (2000)
- Taylor-Rice v. State, 91 Hawai'i 60, 979 P.2d 1086 (1999)
- Heatherly v. Hilton Hawaiian Village Joint Venture, 78 Hawai'i 351, 893 P.2d 779 (1995)
- State v. Davia, 87 Hawai'i 249, 953 P.2d 1347 (1998)
- Collins v. Southern Seas Jeep Eagle, 87 Hawai'i 86, 952 P.2d 374 (1997)
- Shaw v. North American Title Co., 76 Hawai'i 323, 876 P.2d 1291 (1994)
- Lyons v. Jefferson Bank & Trust, 793 F. Supp. 989 (D. Colo. 1992)
- National Metal Finishing Co. v. Barclays American/Commercial, Inc., 899 F.2d 119 (1st Cir. 1990)
- Beneficial Hawaii, Inc. v. Casey, 98 Hawai'i 159, 45 P.3d 359 (2002)
- Amantiad v. Odum, 90 Hawai'i 152, 977 P.2d 160 (1999)
- Whitman v. Whitman, 91 Hawai'i 468, 985 P.2d 659 (1999)
- Donnelly v. Donnelly, 98 Hawai'i 280, 47 P.3d 747 (App. 2002), cert. denied, 98 Hawai'i 497, 50 P.3d 973 (2002)
- Davis v. Wholesale Motors, Inc., 86 Hawai'i 405, 949 P.2d 1026 (App. 1997)
- Association of Apartment Owners of Wailea Elua v. Wailea Resort Co., 100 Hawai'i 97, 58 P.3d 608 (2002)
- Gregg Kendall & Associates, Inc. v. Kauhi, 53 Haw. 88, 488 P.2d 136 (1971)
- Lanai Co., Inc. v. Land Use Commission, 105 Hawai'i 296, 97 P.3d 372 (2004)
- State v. Moses, 102 Hawai'i 449, 77 P.3d 940 (2003)