

Heirs Win Damages Over Grave Removals

By Harriet Gee
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Kawaiahao Church must pay four heirs \$10,000 in

damages for the mental distress they suffered in the disinterment of their relatives' remains from Kamo-

iliili Cemetery in Moiliili. Circuit Judge Allen R. Hawkins said each heir was entitled to \$500 in special damages for pain and suffering, and \$2,000 in punitive damages.

Three other defendants in the case — Rainbow Plaza Development Inc., Thomas K. H. Wong and Richard

Uyehara — were held liable for nominal damages of \$1 each.

THE HEIRS are Mrs. Edith Kidder, Mrs. Hannah Kam, Mrs. Rebecca Kalama and Mrs. Emily Moriyama.

There were 11 heirs bringing suit originally, but two of them have died and the others failed to appear in court to testify. They were all represented by attorney Richard Ing.

Kawaiahao owner of the 120-year-old cemetery, had the remains disinterred in 1968 and then reburied at the church so that the land could be leased to Rainbow Plaza.

The development company then built the 37-story Contessa condominium apartment on the land.

WONG AND UYEHARA were responsible for the disinterment and reburial.

Judge Hawkins ruled the company, Wong and Uyehara were not negligent but liable for going on land which was a dedicated cemetery.

The four heirs remaining in the case claimed they suffered mental and physical distress because of the manner in which Albert Bingham, hired by Kawaiahao, handled the project.

They said Bingham told them that if they would not sign consents to remove the remains, the church would dig them up anyway and move them. All of them did not give their approval.

THE HEIRS also said the very fact of removing the remains to another location brought on mental suffering and in some cases physical distress.

Judge Hawkins found certain heirs "were greatly disturbed by the fact that the remains were to be interred in a common concrete vault, and refused to go to Kawaiahao Church to see for themselves what had happened to the remains of their relatives."

Hawkins further found that "under the principles of common law, when an area of land is once dedicated as a cemetery, it is perpetually devoted" to that purpose.

Kawaiahao Church was represented by attorney Alexander Marrack; Rainbow Plaza by Wallace Fujiyama and Wilfred Watanabe, and Wong and Uyehara by David Fairbanks.

Hawkins' decision may affect the City's plan to widen South King Street, across from the Straub Clinic, by disinterring and removing a certain number of burial plots in the cemetery.