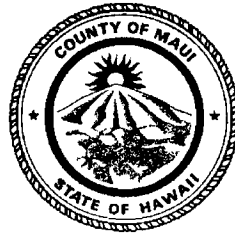


ALAN M. ARAKAWA  
Mayor



PATRICK K. WONG  
Corporation Counsel

EDWARD S. KUSHI  
First Deputy

LYDIA A. TODA  
Risk Management Officer  
Tel. No. (808) 270-7535  
Fax No. (808) 270-1761

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI  
200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR  
WAILUKU, MAUI, HAWAII 96793  
EMAIL: CORPCOUN@MAUICOUNTY.GOV  
TELEPHONE: (808) 270-7740  
FACSIMILE: (808) 270-7152

November 7, 2017

MEMO TO: Donald Guzman, Chair  
Parks, Recreation; Energy, and Legal Affairs Committee

FROM: Moana M. Lutey, Deputy Corporation Counsel *M*

SUBJECT: LITIGATION MATTERS - (PRL-1)  
IVANETTE P. BLEVINS vs. SHAWN K. MIDA;  
COUNTY OF MAUI, et al.  
Civil No.: 16-1-0191 (2)

OFFICE OF THE  
COUNTY COUNCIL

2017 NOV -7 AM 11:54

RECEIVED

Pursuant to Section 3.16.020B of the Maui County Code, our department respectfully requests authorization to discuss settlement of the aforementioned claim. It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee. There is no immediate deadline to this matter.

Copies of the Complaint and proposed resolution are enclosed. We request that the Chief of Police be in attendance during discussion of this matter. If you have any questions, or concerns, please do not hesitate to contact me.

Thank you for your attention to this matter.

MML:cs

cc: Tivoli Faaumu, Chief of Police

# Resolution

No. \_\_\_\_\_

AUTHORIZING SETTLEMENT OF  
IVANETTE P. BLEVINS, ET AL. VS. SHAWN K. MIDA;  
COUNTY OF MAUI, ET AL., CIVIL NO. 16-1-0191 (2)

WHEREAS, Plaintiff Ivanette P. Blevins filed a lawsuit in the Circuit Court of the Second Circuit in the State of Hawaii on April 14, 2016, Civil No. 16-1-0191(2), against the County of Maui, et al., alleging physical injuries and emotional distress caused by a motor vehicle accident that occurred on Makawao Avenue, Maui, Hawaii, on August 15, 2013; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of this case by way of a negotiated settlement or Offer of Judgment; and

WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

**Resolution No. \_\_\_\_\_**


1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM  
AND LEGALITY:

  
\_\_\_\_\_  
MOANA M. LUTEY  
Deputy Corporation Counsel  
County of Maui  
Lit 5725 Blevins v. COM

scrived on TWK 3/31/17

**LAW OFFICES OF JAN K. APO**

FILED

JAN K. APO 2906  
MARK D. RECK 9316  
24 North Church Street, Suite 302  
Wailuku, Maui, Hawai'i 96793  
Telephone No. (808) 244-6073  
Facsimile No. (808) 244-6244

2016 APR 14 PM 1:48

M. FERNANDO S. KAWANAKAWI, CLERK  
SECOND CIRCUIT COURT  
STATE OF HAWAII

Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

IVANETTE P. BLEVINS,

Plaintiff,

vs.

SHAWN K. MIDA; COUNTY OF MAUI;  
JOHN AND JANE DOES 1-10;  
JOHN DOE PARTNERSHIPS 1-10;  
JOHN DOE CORPORATIONS 1-10;  
and JOHN DOE GOVERNMENT ENTITIES  
1-10;

Defendants.

) Civil No.

) (Motor Vehicle Tort)

) COMPLAINT; DEMAND FOR JURY  
) TRIAL; SUMMONS

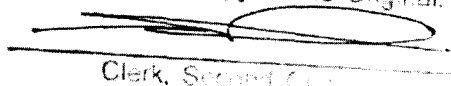
16-1-0191 (a)

COMPLAINT

COMES NOW Plaintiff IVANETTE P. BLEVINS, by and through her counsel, the **Law Offices of Jan K. Apo**, and for her claims for relief against Defendants above-named alleges and avers as follows:

1. Plaintiff IVANETTE P. BLEVINS ("Plaintiff") was a resident of the County of Maui, State of Hawai'i at all relevant times herein.

I hereby certify that this is a full, true and correct copy of the Original.



Clerk, Second Circuit

2. Upon information and belief, Defendant SHAWN K. MIDA ("Defendant Mida") was a resident of the County of Maui, State of Hawai'i, and was employed by Defendant County of Maui at all relevant times herein.

3. Defendant County of Maui ("Defendant County") is a governmental entity in the State of Hawai'i.

4. Defendants John and Jane Does 1-10, John Doe Partnerships 1-10, John Doe Corporations 1-10, and John Doe Government Entities 1-10 are sued herein under fictitious names for the reason that their true names and identities are presently unknown to Plaintiff, except that they were connected in some manner with named Defendant and/or are persons, corporations, entities, agents, representatives, business entities, associations, employers, employees, or governmental entities or agencies responsible for the manufacture, operation, maintenance, and purchase of the motor vehicle involved herein, or were in some other manner presently unknown to Plaintiff engaged in the activities alleged herein, and/or were in some manner responsible for the injuries and damages to Plaintiff. Plaintiff will identify the true names and capacities, activities and/or responsibilities when the same are ascertained. Plaintiff has made diligent and good-faith efforts to ascertain the identities of those responsible, including a review of material generated in the investigation of the incident which forms the basis of this action.

5. The circumstances that give rise to this action involve a motor vehicle accident that occurred on August 15, 2013 in the County of Maui, State of Hawai'i, within the jurisdiction of this Court.

FACTS APPLICABLE TO ALL COUNTS

6. Plaintiff restates the allegations of Paragraphs 1 through 5 and incorporates those paragraphs by reference as if the same were again repeated in full.

7. On August 15, 2013, Plaintiff was a passenger in a vehicle stopped at the intersection of Makawao Ave. and Koehana Place, Maui, Hawai'i.

8. Defendant Mida was operating a motor vehicle owned by Defendant County and/or its agents.

9. Defendant Mida, an employee of Defendant County, was performing his duties on Makawao Ave. on August 15, 2013.

10. Defendant Mida was driving the county vehicle and drove the vehicle into the rear end of another county vehicle causing that vehicle to collide with the rear end of the vehicle in which Plaintiff was a passenger.

COUNT I  
NEGLIGENCE OF DEFENDANT MIDA

11. Plaintiff restates the allegations of Paragraphs 1 through 10 and incorporates those paragraphs by reference as if the same were again repeated in full.

12. Defendant Mida violated his duty of due care to operate the county vehicle in a safe, reasonable and proper manner.

13. Defendant Mida breached his duty to Plaintiff by engaging in the negligent acts and/or omissions which include, but are not limited to the following:

- a. Failing to maintain a proper lookout;
- b. Being inattentive to driving;
- c. Failing to direct proper and reasonable attention to the circumstances ahead;

- d. Colliding into the vehicle behind Plaintiff's vehicle; and
- e. Failing to maintain control of the county vehicle.

14. As a direct and proximate result of the negligent conduct of the Defendant Mida, Plaintiff incurred physical pain and suffering, medical expenses and emotional distress.

COUNT II  
VICARIOUS LIABILITY OF DEFENDANT COUNTY OF MAUI

15. Plaintiff restates the allegations of Paragraphs 1 through 14 and incorporates those paragraphs by reference.

16. At all relevant times, Defendant Mida was an employee or agent of Defendant County.

17. At all relevant times, the conduct and actions of Defendant Mida were within the course and scope of his employment or agency with Defendant County.

18. Defendant County is vicariously liable for the conduct and actions of Defendant Mida based upon the legal doctrine of respondeat superior.

19. Therefore, Defendant County is liable for all injuries and damages to which the Plaintiff is entitled to under Hawai'i law.

DAMAGES

20. Plaintiff restates the allegations of Paragraphs 1 through 19 and incorporates those paragraphs by reference as if the same were again repeated in full.

21. As a direct and proximate result of the negligence of the Defendants, Plaintiff suffered severe and permanent injuries and damages which include medical expenses in excess of the appropriate tort threshold.

22. As a direct and proximate result of the negligence of the Defendants, Plaintiff has incurred medical expenses and will continue to incur medical expenses in the future.

23. As a direct and proximate result of the negligence of the Defendants, Plaintiff sustained conscious pain and suffering and emotional distress and will continue to experience conscious pain and suffering, including emotional distress, in the future.

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally as follows:

a. That Defendants pay to Plaintiff special damages in an amount to be determined at trial;

b. That Defendants pay to Plaintiff general damages in an amount to be determined at trial; and

c. That Defendants pay to Plaintiff such other legal and/or equitable damages sufficient to meet the jurisdiction of this Court, including such fees and costs as allowed by law, and which this Court deems appropriate in light of the evidence adduced at trial.

DATED: Wailuku, Hawai'i, April 13, 2016.

  
\_\_\_\_\_  
JAN K. APO  
MARK D. RECK

Attorneys for Plaintiff



IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

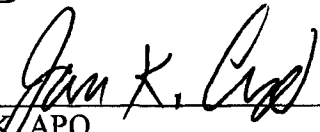
IVANETTE P. BLEVINS,	)	Civil No.
	)	
Plaintiff,	)	(Motor Vehicle Tort)
	)	
vs.	)	DEMAND FOR JURY TRIAL
	)	
SHAWN K. MIDA; COUNTY OF MAUI;	)	
JOHN AND JANE DOES 1-10;	)	
JOHN DOE PARTNERSHIPS 1-10;	)	
JOHN DOE CORPORATIONS 1-10;	)	
and JOHN DOE GOVERNMENT ENTITIES	)	
1-10;	)	
	)	
Defendants.	)	
	)	

---

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, IVANETTE BLEVINS (“Plaintiff”), by and through her counsel, the Law Offices of Jan K. Apo, and hereby demands a jury trial on all issues so triable herein.

DATED: Wailuku, Hawai’i, April 13, 2016.


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 JAN K. APO  
 MARK D. RECK  
 Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAI'I

IVANETTE P. BLEVINS, ) Civil No.  
 )  
Plaintiff, ) (Motor Vehicle Tort)  
 )  
vs. ) SUMMONS  
 )  
SHAWN K. MIDA; COUNTY OF MAUI; )  
JOHN AND JANE DOES 1-10; )  
JOHN DOE PARTNERSHIPS 1-10; )  
JOHN DOE CORPORATIONS 1-10; )  
and JOHN DOE GOVERNMENT ENTITIES )  
1-10; )  
 )  
Defendants. )  
\_\_\_\_\_ )

SUMMONS

STATE OF HAWAI'I

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby summoned and required to file with the Court and serve upon the **Law Offices of Jan K. Apo**, Plaintiff's counsel, whose address is Wailuku Executive Center, 24 North Church Street, Suite 302, Wailuku, Maui, Hawai'i 96793, an answer to Plaintiff's Complaint which is hereby served upon you, within twenty (20) days after the date of service, exclusive of the day of service. If you fail to make your answer within the twenty (20) day time limit, judgment by default will be taken against you for the relief demanded in the Complaint. If you fail to obey this summons, it may result in an entry of default and default judgment.

Pursuant to Rule 4(b) of the Hawai'i Rules of Civil Procedure, this Summons shall not be delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a judge of the District or Circuit Courts permits, in writing on the Summons, personal delivery during those hours.

DATED: Wailuku, Maui, Hawai'i, APR 14 2016.

/sgd/ M. FERNANDEZ-KAHAKAUWILA (seal)  
Clerk of the above-entitled Court