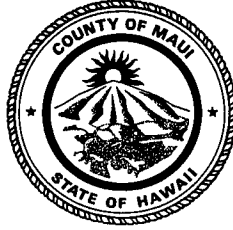


ALAN M. ARAKAWA
Mayor

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2018 OCT 22 AM 10:23

OFFICE OF THE
COUNTY COUNCIL



PRL-1 (48)

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, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793

EMAIL: CORPCOUN@MAUICOUNTY.GOV
TELEPHONE: (808) 270-7740
FACSIMILE: (808) 270-7152

October 22, 2018

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

F R O M: Moana M. Lutey, Deputy Corporation Counsel

SUBJECT: Litigation Matters (PRL-1)
Settlement Claim: Zita Mendoza Morales
Claim No. 30154560286-0001

Pursuant to Section 3.16.020 B of the Maui County Code, our Department respectfully requests the opportunity to discuss settlement of the above-referenced 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 claim and proposed resolution are enclosed. Our department would also like to request that a representative of the Maui Police Department be in attendance during discussion of this matter.

If you have any questions, please do not hesitate to contact me.

MML:tlq

Enclosures

cc: Tivoli Faaumu, Chief of Police

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 30154560286-0001
OF ZITA MENDOZA MORALES

WHEREAS, Zita Mendoza Morales filed Claim No. 30154560286-0001 on September 8, 2015, against the County of Maui for bodily injuries she sustained from a collision involving a Maui County fleet vehicle on August 8, 2015; and

WHEREAS, the County of Maui and Zita Mendoza Morales, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, have reached a proposed resolution of this claim by way of a negotiated settlement; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

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

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

1. That it hereby approves settlement of Claim No. 30154560286-0001 under the terms set forth in an executive meeting before the Parks, Recreation, Energy, and Legal Affairs Committee; and

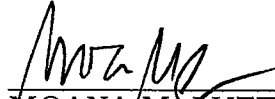
Resolution No. _____

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release and Indemnity Agreement" by Zita Mendoza Morales; and

3. That it hereby authorizes the Director of Finance to satisfy said settlement of this claim, 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
RISK 2015-0381

DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
Deputy County Clerk
RECEIVED
CORPORATION COUNSEL

2015 SEP 10 PM 2: 56 Jk email 9-24
to ML 9-24-1

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

September 8, 2015

Sedgwick Claims Management Services, Inc.
Via email: 6395CountyofMaui@sedgwickcms.com

Attn: Unit Code 99

Respectfully transmitted is a copy of a claim against the County of Maui filed by Zita Mendoza Morales of 708 Hopena Place, Kahului, which was received by our office on August 31, 2015.

Respectfully,

A handwritten signature in black ink that reads "Danny A. Mateo".

DANNY A. MATEO
County Clerk

Attachment

cc: Mayor
✓ Corporation Counsel
Council Chair

/djy

COUNTY OF MAUI
CLAIM FOR DAMAGE OR INJURY

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2015 AUG 31 PM 3:24

PLEASE PRINT CLEARLY

OFFICE OF THE
COUNTY CLERK

- 1. Claimant: Mr. Mrs. Ms. ZITA MENDOZA MORALES
- 2. Address: 708 HOPENA PLACE, KAHULUI, HAWAII 96732
- 3. Telephone No.: Business /Mobile: 808-385-2687 Residence 808-871-0608
- 4. Date of Accident: 8/8/2015
- 5. Location of Accident: KAAHUMANU AVE KAHULUI, HI 96732
- 6. Amount of Claim: Property Damage \$ _____ Personal Injury \$ _____

7. Describe the accident in detail. Indicate all the facts, causes, persons involved, witnesses, extent of damage, etc., and why you think the County is responsible. You may write on the back if needed.

I am coming from a stop sign waiting for the green light arrow to light, as the green light arrow lights, i proceeded to turn left crossing Kaahumanu ave with a speed of 15-20mph but i noticed that the police car coming from the other side of Kaahumano ave. was speeding and seemed not to stop so i speeded so i won't be hit by the police car who don't have a siren and lights on that would indicate he is on emergency. Unluckily the police car didn't stop so he hit my van at the back that damaged it so badly where the back bumper almost fall apart and the right back passenger side had damage including the tire. I am on my right of way because i am on green arrow light and the police car side is on red light. After the police hit my van he immediately approached me and ask me how i am doing then he apologized.

8. If you carry insurance applicable to this claim, please provide the name and address of the insurance company and your policy number.

FIRST INSURANCE COMPANY OF HAWAII

Policy No. PPA 0034270-00

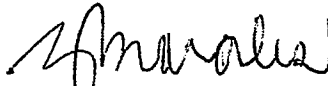
A. Did you file a claim with your insurance company? YES

If yes, amount claimed \$ 34,192 Deductible amount \$ 250.00

B. If a claim was filed with your insurance company, what action do they intend to take?

THEY WILL SHOULDER THE EXPENSES FOR THE REPAIR OF MY CAR /VAN THEN WILL REIMBURSE FROM THE INSURANCE OF THE POLICE OFFICER WHO HIT MY VAN.

I HEREBY DECLARE THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.


(Signature of Claimant)

8/8/15
(Date)

(Rev. 05/11/95)
NOTE: MEDICAL EXPENSES TO BE SUBMITTED BY MY CAR INSURANCE WHEN BILLED BY MY MEDICAL PROVIDERS.

CONTINUATION OF REPORT FOR ZITA MENDOZA MORALES

I asked officer Kirk Payland , driver of the police car that hit my van " Sir it is not my fault yeah, your lights were not on and that your siren is not on as well?" Police officer said "yes, absolutely not your fault, it is my fault and I am sorry. I will call my sergeant to do the report because I am involved with the accident."

Here comes Sergeant F. Abreu asking me some questions of what happened. I told him what happened and asked him " Sir so who will be responsible to the damages and what will happen to the police officer who hit my car?" Sgtt F. Abrue stated " he admitted that he is at fault so the police dep't has our insurance so it will take care of the damages, so call your insurance then your insurance will talk to our insurance". He handed me the police report number. They contacted the D and D towing company , they arrived and I asked the D and D staff who will pay their services and he said the police dep't insurance.

Residents on the South Wakea Ave stated that they saw the police car hit me and my van. Maui Watch posted a photo of the accident and the lady who was following me commented how the accident happened.

