

COUNCIL OF THE COUNTY OF MAUI

# GOVERNMENT RELATIONS, ETHICS, AND TRANSPARENCY COMMITTEE

September 13, 2024

**Committee  
Report No.** \_\_\_\_\_

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Government Relations, Ethics, and Transparency Committee, having met on August 20, 2024, makes reference to Resolution 24-105, entitled, "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS, INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUA-NANI EVANS-DUMARAN, DECEASED, vs. SCOTT MARTIN, CIVIL NO. 2CCV-24-0000034."

Resolution 24-105's purpose is to ratify and authorize the retention of ES&A, Inc., A Law Corporation, as special counsel for the representation of Scott Martin and the Department of Fire and Public Safety, in Chelsie Evans, individually and as the Personal Representative of the Estate of Tre' Pu'uwaila'ahiaolopakaamelehuanani Evans-Dumaran, Deceased, v. Scott Martin, et al., Case 2CCV-24-0000034, for a total compensation not to exceed \$50,000.

By correspondence dated May 28, 2024, the Department of the Corporation Counsel transmitted a copy of the claim filed on February 5, 2024.

Your Committee notes that the Council alone is authorized to retain or employ special counsel by resolution adopted by two-thirds vote in accordance with Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended.

Your Committee is in receipt of a proposed CD1 version of Resolution 24-105, entitled, "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS,

COUNCIL OF THE COUNTY OF MAUI

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INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUANANI EVANS-DUMARAN, DECEASED, vs. SCOTT MARTIN, CIVIL NO. 2CCV-24-0000034", attached to correspondence dated August 19, 2024, approved as to form and legality by the Department of the Corporation Counsel. The proposed CD1 version incorporates several revisions, which include: an update to the title, a citation to the legal basis for special counsel authorization, clarification that the necessity for special counsel appointment is to avoid the presence or appearance of a conflict of interest related to representation of the defendant, and clarifying several provisions related to the responsibilities of special counsel.

The Corporation Counsel provided an overview of the case in open session.

The Corporation Counsel requested an executive meeting to discuss confidential information related to the claims and to explain the nature of the conflict of interest requiring the necessity for special counsel appointment.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel under Section 92-5(a)(4), Hawaii Revised Statutes, and to deliberate upon a matter that requires the consideration of confidential information under Section 92-5(a)(8), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Based on the information received in the executive meeting and the recommendation of the Corporation Counsel, your Committee voted 8-0 to recommend adoption of Resolution 24-105, CD1. Committee Chair U'u-Hodgins, Vice-Chair Paltin, and members Cook, Johnson, Kama, Lee, Sinenci, and Sugimura voted "aye." Committee member Rawlins-Fernandez was excused.

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Your Committee is in receipt of Resolution 24-105, CD1, entitled, "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS, INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUANANI EVANS-DUMARAN, DECEASED, V. SCOTT MARTIN, ET AL., CIVIL 2CCV-24-000034", approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's nonsubstantive revisions.

Your Government Relations, Ethics, and Transparency Committee RECOMMENDS that Resolution 24-105, CD1, as revised herein and attached hereto, entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS, INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUANANI EVANS-DUMARAN, DECEASED, V. SCOTT MARTIN, ET AL., CIVIL 2CCV-24-000034," be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
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NOHELANI U'U-HODGINS, Chair

# Resolution

**No. 24-105, CD1**

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN CHELSIE EVANS, INDIVIDUALLY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF TRE' PU'UWAILA'AHIAOLOPAKAAMELEHUANANI EVANS-DUMARAN, DECEASED, V. SCOTT MARTIN, ET AL., CIVIL 2CCV-24-0000034

WHEREAS, the Council alone is authorized to retain or employ special counsel by resolution adopted by two-thirds vote under Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended; and

WHEREAS, the Council finds that, to avoid the presence or appearance of a conflict of interest, and to the extent consistent with the Hawai'i Rules of Professional Conduct, there is a real necessity and it would be in the best interest of the County of Maui to retain ES&A, Inc., A Law Corporation ("Firm"), as special counsel to represent defendant Scott Martin, an employee of the Department of Fire and Public Safety, in Chelsie Evans, Individually and as the Personal Representative of the Estate of Tre' Pu'uwaila'ahiaolopakaamelehuanani Evans-Dumaran, Deceased, v. Scott Martin, et al., Civil 2CCV-24-0000034; and

WHEREAS, the Firm as special counsel must take all possible steps to minimize attorney's fees and costs; and

WHEREAS, the Firm's conduct in this matter must reflect the understanding that the County of Maui is a public entity that has obligations, concerns, and interests that may extend beyond those of a similarly situated private litigant; now therefore,

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

1. That it ratifies and authorizes the employment of ES&A, Inc., A Law Corporation, as special counsel to represent defendant Scott Martin, an employee of the Department of Fire and Public Safety, in Chelsie Evans, Individually and as the Personal Representative of the Estate of Tre' Pu'uwaila'ahiaolopakaamelehuanani Evans-Dumaran, Deceased, v. Scott Martin, et al., Civil 2CCV-24-0000034;

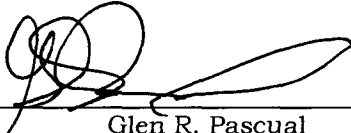
## **Resolution No. 24-105, CD1**

2. That total compensation for the employment of ES&A, Inc., A Law Corporation, as special counsel must not exceed \$50,000;
3. That partner Anna Elento-Sneed, Esq. must provide the bulk of the legal services in this matter;
4. That the hourly rate for partners must not exceed \$375;
5. That the hourly rate for associates must not exceed \$300;
6. That the hourly rate for paralegal staff must not exceed \$140;
7. That the compensability of costs must be in a general accord with the intent of 28 U.S.C. § 1920;
8. That ES&A, Inc. must initially prepare and present to Council following approval of this Resolution, an initial case assessment and litigation-costs assessment to include settlement options;
9. That all invoices presented by ES&A, Inc., to the County of Maui for payment in this matter must identify each task performed, by whom, when, and over what duration of time without any block-billing entries;
10. That compensable costs include: (a) fees for printing and witnesses; (b) fees of the clerk and marshal; (c) fees of the court reporter for necessary transcripts; (d) docket fees; (e) compensation of court-appointed experts and interpreters; and (f) travel-related expenses when pre-approved by the Department of the Corporation Counsel;
11. That non-compensable costs include: (a) telephone calls; (b) facsimile charges; (c) postal charges; (d) messenger charges; (e) fees for computerized legal research; (f) travel-related expenses not pre-approved by the Department of the Corporation Counsel, (g) investigative expenses; and (h) all other costs reasonably considered part of a law firm's overhead;

**Resolution No. 24-105, CD1**

12. That in instances of travel, both inter-island and out-of-state travel includes travel on regular coach economy fare and must be pre-approved by the Department of the Corporation Counsel;
13. That the expenditures of additional funds or substantial changes to the responsibilities of the parties must require Council approval;
14. That the expenditures of additional funds or substantial changes to the ES&A, Inc. staff assigned to this matter in accordance with this Resolution require prior Council approval; and
15. That certified copies of this Resolution be transmitted to the Mayor, the Corporation Counsel, the Director of Finance, and ES&A, Inc., A Law Corporation.

APPROVED AS TO FORM AND LEGALITY:



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Glen R. Pascual  
Deputy Corporation Counsel  
County of Maui

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INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Sheri Lee". The signature is written in black ink and is positioned above a horizontal line.

Upon the request of the Mayor.