

RICHARD T. BISSEN, JR.
Mayor

VICTORIA J. TAKAYESU
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MIMI DESJARDINS
First Deputy

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Risk Management Officer



DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
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July 30, 2024

Via email only at county.clerk@mauicounty.us

Honorable Alice L. Lee, Chair
and Members of the Council
County of Maui
Wailuku, Hawai'i 96793

SUBJECT: Litigation Matter – Settlement Authorization
ADAMS, LLOYD & AMANDA VS. FORSBERG, TIMOTHY, ET AL.
CIVIL NO. 2CC16-1-0000162 – AUTHORIZING SETTLEMENT
LLOYD ADAMS, ET AL. V. TIMOTHY FORSBERG, ET AL. V. MAUI
POLICE DEPARTMENT and ANTHONY BUCHANAN

Dear Chair Lee and Council Members:

Please find attached separately a Proposed Resolution entitled "AUTHORIZING SETTLEMENT OF LLOYD ADAMS, ET AL. V. TIMOTHY FORSBERG, ET AL. VS. MAUI POLICE DEPARTMENT and ANTHONY BUCHANAN, CIVIL NO. 2CC16-1-0000162". The purpose of the proposed resolution is to discuss settlement options with regard to the above-referenced lawsuit.

May I request that the proposed resolution be scheduled for discussion and action, or referral to the appropriate standing committee as soon as possible as this matter is set for trial on September 30, 2024. For further information, I have also attached the First Amended Complaint, filed October 10, 2019, and the Third-Party Complaint, filed March 19, 2020, on this matter.

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/or the Committee.

Honorable Alice L. Lee, Chair
July 30, 2024
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If you have any questions or concerns, please do not hesitate to contact us. Thank you for your anticipated assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glen R. Pascual', with a long horizontal flourish extending to the right.

GLEN R. PASCUAL
Deputy Corporation Counsel

cc: John Pelletier, Chief of Police

Attachments

Electronically Filed
SECOND CIRCUIT
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IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

LLOYD ADAMS and AMANDA ADAMS,) 2CC161000162(1)
)
)
Plaintiff(s),)
)
v.)
)
)
TIMOTHY FORSBERG, et al.,)
)
)
Defendant(s).)
_____)

FILED

JOHN D. YAMANE 2577-0

2019 OCT 10 PM 4:03

LEAVITT YAMANE & SOLDNER
Pacific Guardian Center, Mauka Tower
737 Bishop Street, Suite 1740
Honolulu, Hawaii 96813
Tel: (808) 521-7474
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M. FERNANDEZ-KAHAKAUWILA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

Attorney for Plaintiffs
LLOYD ADAMS and
AMANDA ADAMS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT
STATE OF HAWAII

LLOYD ADAMS and AMANDA ADAMS,	)	CIVIL NO. 16-1-0162
	)	(Motor Vehicle Tort)
)	
Plaintiff,	)	FIRST AMENDED COMPLAINT; FIRST
	)	AMENDED SUMMONS
vs.)	
)	
TIMOTHY FORSBERG; MAUI POLICE DEPARTMENT; ANTHONY BUCHANAN; JOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE "NON-PROFIT" CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; and DOE ENTITIES 1-10,)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT

COMES NOW Plaintiffs LLOYD ADAMS and AMANDA ADAMS, by and through their attorney, John D. Yamane, and for causes of action against Defendants above-named, allege and aver as follows:

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1. At all times relevant herein, Plaintiffs LLOYD ADAMS (hereinafter "Plaintiff LLOYD") and AMANDA ADAMS (hereinafter "Plaintiff AMANDA") (at times jointly referred to herein as "Plaintiffs") were residents of the County of Maui, State of Hawaii and subject to the jurisdiction of this Court.

2. At all times relevant herein, Defendant TIMOTHY FORSBERG (hereinafter "Defendant FORSBERG") was a resident of the County of Maui, State of Hawaii and subject to the jurisdiction of this Court.

3. At all times relevant herein, Defendant MAUI POLICE DEPARTMENT was and is a department of the County of Maui, a municipal corporation, duly organized under the laws of the State of Hawaii, with the power to sue and be sued.

4. At all times relevant herein, Defendant ANTHONY BUCHANAN ("Officer Buchanan") was a resident of the County of Maui, State of Hawaii, and employed by the County of Maui as a police officer.

5. All events material to the Complaint occurred within the County of Maui, State of Hawaii, and within the jurisdiction of the Circuit Court of the Second Circuit, State of Hawaii.

6. Defendants JOHN DOES 1-10, JANE DOES 1-10; DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10, DOE "NON-PROFIT" CORPORATIONS 1-10; and DOE GOVERNMENTAL ENTITIES 1-10, are sued herein under fictitious names for the reason that after diligent and good faith efforts to ascertain their names and identities through review of applicable records and through interviews,

their true names and identities are presently unknown to Plaintiffs except that they are connected in some manner with Defendants, and/or are agents, servants, employees, employers, representatives, co-venturers, associates, or independent contractors of Defendants and/or were in some manner presently unknown to Plaintiffs engaged in the activities alleged herein and/or were in some manner responsible for the injuries or damages to Plaintiffs and that their true names, identities, capacities, activities and/or responsibilities are presently unknown to Plaintiffs or their attorneys.

COUNT I

7. On or about March 26, 2015, Plaintiff LLOYD was working in the shoulder lane of Maunaloa Highway, near the intersection of Maunaloa Highway and Keonelele Road.

8. Officer Buchanan, in his official capacity as a police officer, was directing traffic and had blocked one lane of the two lane Maunaloa Highway to allow Plaintiff LLOYD to complete his work.

9. To redirect traffic, Officer BUCHANAN negligently parked his police vehicle facing west bound in the east bound lane of Maunaloa Highway to block off the area where Plaintiff LLOYD was working.

10. As Plaintiff LLOYD was standing on the inside of the blocked off area, Defendant FORSBERG operated his vehicle, travelling east bound in the east bound lane of Maunaloa Highway, in a negligent manner when he failed to yield to emergency vehicles and/or police directive and/or otherwise negligently struck Plaintiff LLOYD.

11. The negligence of Defendant FORSBERG and Officer BUCHANAN was a substantial factor in causing Plaintiff LLOYD to suffer serious and permanent injuries.

12. The negligence of Defendant FORSBERG and Officer BUCHANAN was a substantial factor in causing Plaintiff LLOYD to incur medical, therapeutic expenses and such other damages as will be proven at trial.

13. As a result of the subject incident, the workman's compensation medical payments incurred by Plaintiff LLOYD exceed \$5,000.00. Plaintiff LLOYD has satisfied Section 431:10C-306(b)(4) of the Hawaii Revised Statutes.

14. The negligence of Defendant FORSBERG and Officer BUCHANAN, and each of them, was a substantial factor in causing Plaintiff LLOYD to suffer pain, emotional distress, mental anguish, loss of enjoyment of life and loss of earnings. Plaintiff LLOYD will continue to suffer pain, emotional distress, mental anguish, loss of enjoyment of life and loss of earnings in the future, all as a result of the injuries described herein.

COUNT II

15. Plaintiffs reallege and incorporate herein by reference all of the allegations set forth in paragraphs 1 through 14 hereof.

16. The police vehicle, license plate MPD627, operated by Officer BUCHANAN was owned and utilized in the business of Defendant MAUI POLICE DEPARTMENT.

17. At the time of the collision, Officer BUCHANAN was acting within the course and scope of his employment and/or as an agent for and/or was on a

mission for the benefit of Defendant MAUI POLICE DEPARTMENT.

18. Therefore, Defendant MAUI POLICE DEPARTMENT is vicariously liable to Plaintiff LLOYD for the misconduct of Officer BUCHANAN under the doctrine of *respondeat superior*.

COUNT III

19. Plaintiffs reallege and incorporate herein by reference all of the allegations set forth in paragraphs 1 through 18 hereof.

20. Defendant MAUI POLICE DEPARTMENT negligently hired, trained, supervised, and retained Officer BUCHANAN as a police officer.

21. Defendant MAUI POLICE DEPARTMENT's actions and/or failures to act were a substantial factor in Plaintiff LLOYD sustaining damages as set forth herein.

COUNT IV

22. Plaintiffs reallege and incorporate herein by reference all of the allegations set forth in paragraphs 1 through 21 hereof.

23. Defendant FORSBERG acted willfully, wantonly and in callous disregard for the safety of others when he drove at a high rate of speed and/or recklessly and/or failed to adhere to police directive.

24. As a result of the willful, wanton and callous actions of Defendant FORSBERG, punitive damages should be assessed against them.

COUNT V

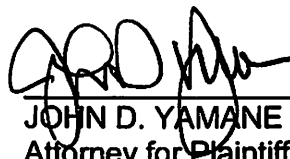
25. Plaintiffs reallege and incorporate herein by reference all of the allegations set forth in paragraphs 1 through 24 hereof.

26. Due to the serious injuries suffered by Plaintiff LLOYD as a result of the subject incident, Plaintiff AMANDA has suffered a loss of consortium.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- a. For such special damages as will be proven at trial;
- b. For general damages as will be proven at trial;
- c. For general relief within the minimum jurisdictional limits of this Court.
- d. For prejudgment interest at the statutory rate from March 26, 2015, until judgment is entered herein;
- e. For attorneys' fees and costs of suit;
- f. For punitive damages; and
- g. For such other relief as this Court may deem just and equitable in the premises.

DATED: Honolulu, Hawaii, October 9, 2019.



JOHN D. YAMANE
Attorney for Plaintiffs
LLOYD ADAMS and
AMANDA ADAMS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT
STATE OF HAWAII

LLOYD ADAMS and AMANDA ADAMS,	)	CIVIL NO.
	)	(Motor Vehicle Tort)
)	
Plaintiff,	)	FIRST AMENDED SUMMONS
)	
vs.)	
)	
TIMOTHY FORSBERG; MAUI POLICE DEPARTMENT; ANTHONY BUCHANANJOHN DOES 1-10; JANE DOES 1-10; DOE CORPORATIONS 1-10; DOE "NON-PROFIT" CORPORATIONS 1-10; DOE PARTNERSHIPS 1-10; and DOE ENTITIES 1-10,)	
)	
Defendants.)	
)	

FIRST AMENDED SUMMONS

THE STATE OF HAWAII

To the Above-Named Defendants:

You are hereby summoned and required to file with the Court and serve upon Leavitt, Yamane & Soldner, Pacific Guardian Center, Mauka Tower, 737 Bishop Street, Suite 1740, Honolulu, Hawaii 96813, an answer to the First Amended Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the First Amended

MAUI POLICE DEPARTMENT
and ANTHONY BUCHANAN,

Third-Party Defendants.

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THIRD-PARTY COMPLAINT

Defendant and Third-Party Plaintiff TIMOTHY FORSBERG ("FORSBERG"),
by and through his undersigned counsel, and for Third-Party Complaint against Third-Party
Defendants MAUI POLICE DEPARTMENT and ANTHONY BUCHANAN, hereby asserts and
avers as follows:

1. At all times herein, Defendant and Third-Party Plaintiff TIMOTHY FORSBERG
was a resident of the County of Maui, State of Hawaii;
2. At all times relevant herein, Plaintiffs LLOYD ADAMS and AMANDA ADAMS
("Plaintiffs") were residents of the County of Maui, State of Hawaii;
3. At all times relevant herein, Defendant and Third-Party Defendant MAUI
POLICE DEPARTMENT was and is a department of the County of Maui, a municipal
corporation, duly organized under the laws of the State of Hawaii, with the power to sue and be
sued;
4. At all times relevant herein, Third-Party Defendant ANTHONY BUCHANAN
was a resident of the County of Maui, State of Hawaii, and employed by the County of Maui as a
police officer;

5. All events material to the First Amended Complaint occurred within the County of Maui, State of Hawaii, and within the jurisdiction of the Circuit Court of the Second Circuit, State of Hawaii;

6. On or about March 26, 2015, Plaintiff LLOYD ADAMS and Defendant and Third-Party Plaintiff FORSBERG were involved in a pedestrian/motor vehicle collision (hereafter "the incident") at or near the shoulder of Maunaloa Highway, near the intersection of Keonelele Road, in the County of Maui;

7. As a result of the incident, Plaintiff LLOYD ADAMS filed a First Amended Complaint on October 10, 2019, against Defendant and Third-Party Plaintiff FORSBERG, the Maui Police Department and Anthony Buchanan.

COUNT I
NEGLIGENCE OF ANTHONY BUCHANAN

8. Third-Party Plaintiff FORSBERG repeats and realleges the allegations contained in paragraphs 1 through 7 above.

9. On the date of the incident, Third-Party Defendant ANTHONY BUCHANAN, in his official capacity as a police officer, was directing traffic and had blocked one lane of the two lane Maunaloa Highway to allow Plaintiff LLOYD ADAMS to complete his work.

10. To redirect traffic, Third-Party Defendant ANTHONY BUCHANAN negligently parked his police vehicle facing west bound in the east bound lane of Maunaloa Highway to block off the area where Plaintiff LLOYD ADAMS was working.

11. The negligent acts of Third-Party Defendant ANTHONY BUCHANAN created a hazard and ultimately caused the incident.

12. The negligence of Third-Party Defendant ANTHONY BUCHANAN was a substantial factor in causing Plaintiff LLOYD ADAMS to suffer injuries.

13. The negligence of Third-Party Defendant ANTHONY BUCHANAN was a substantial factor in causing Plaintiff LLOYD ADAMS to incur other damages as set forth in the First Amended Complaint.

COUNT II
NEGLIGENCE OF COUNTY OF MAUI (VICARIOUS LIABILITY)

14. Third-Party Plaintiff FORSBERG repeats and realleges the allegations contained in paragraphs 1 through 14 above.

15. At the time of the incident, Third-Party Defendant ANTHONY BUCHANAN was acting within the course and scope of his employment and/or as an agent for and/or was on a mission for the benefit of Third-Party Defendant MAUI POLICE DEPARTMENT.

16. Third-Party Defendant MAUI POLICE DEPARTMENT is vicariously liable for the misconduct or negligence under the doctrine of respondeat superior.

COUNT III
NEGLIGENCE OF COUNTY OF MAUI (NEGLIGENT TRAINING)

17. Third-Party Plaintiff FORSBERG repeats and realleges the allegations contained in paragraphs 1 through 16 above.

18. Third-Party Defendant MAUI POLICE DEPARTMENT negligently hired, trained, supervised and retained Third-Party Defendant ANTHONY BUCHANAN as a police officer.

19. Third-Party Defendant MAUI POLICE DEPARTMENT's actions and/or failure to act were a substantial factor in causing the incident.

WHEREFORE, Third-Party Plaintiff FORSBERG prays as follows:

a. That judgment be entered against Third-Party Defendants MAUI POLICE DEPARTMENT and ANTHONY BUCHANAN.

b. That if judgment be entered in favor of Plaintiffs against any party to this action, that judgment be entered against Third-Party Defendants MAUI POLICE DEPARTMENT and ANTHONY BUCHANAN and not against Third-Party Plaintiff FORSBERG.

c. That if judgment be entered in favor of Plaintiffs against Third-Party Plaintiff FORSBERG, that Third-Party Plaintiff FORSBERG have judgment against Third-Party Defendants MAUI POLICE DEPARTMENT and ANTHONY BUCHANAN in the amount of any judgment against Third-Party Plaintiff FORSBERG, plus interest, costs and attorneys' fees.

d. That if it should be determined that Third-Party Plaintiff FORSBERG and any other party to this action are joint tortfeasors with respect to the damages of Plaintiffs, that the respective degree of liability of each joint tortfeasor be determined and that Third-Party Plaintiff FORSBERG have judgment against Third-Party Defendants MAUI POLICE DEPARTMENT and ANTHONY BUCHANAN for any amount which Third-Party Plaintiff FORSBERG may pay over and above his pro rata share of any judgment in favor of Plaintiffs.

e. That Third-Party Plaintiff FORSBERG be awarded his costs and reasonable attorneys' fees.

f. That this Court grant such other and further relief that is just and proper under the premises.

DATED: Honolulu, Hawaii, March 19, 2020.

/s/ Jonathan L. Ortiz
JONATHAN L. ORTIZ
CATHY S. JUHN
Attorneys for Defendant
TIMOTHY FORSBERG

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

LLOYD ADAMS and AMANDA ADAMS,	)	CIVIL NO. 2CC161000162
	)	(Motor Vehicle Tort)
Plaintiffs,)	
	)	SUMMONS
vs.)	
)	
TIMOTHY FORSBERG; MAUI POLICE)	
DEPARTMENT; ANTHONY)	
BUCHANAN; JOHN DOES)	
1-10; JANE DOES 1-10; DOE	)	Trial: September 22, 2020
CORPORATIONS 1-10; DOE	)	Judge: Honorable Peter T. Cahill
PARTNERSHIPS 1-10; DOE NON-)	
PROFIT ENTITIES 1-10; and DOE)	
GOVERNMENTAL ENTITIES 1-10,)	
)	
Defendants)	
_____)	
TIMOTHY FORSBERG,)	
)	
Defendant and)	
Third-Party Plaintiff,)	
)	
vs.)	
)	
MAUI POLICE DEPARTMENT)	
and ANTHONY BUCHANAN,)	
)	
Third-Party Defendants.)	
_____)	

SUMMONS

To: Third-Party Defendants:

MAUI POLICE DEPARTMENT
-and-
ANTHONY BUCHANAN

TO THE ABOVE-NAMED THIRD-PARTY DEFENDANTS:

You are hereby summoned and required to file with the court and serve upon Jonathan L. Ortiz, Ortiz & Associates, whose address is 841 Bishop Street, Suite 2121, Honolulu, Hawaii 96813, Third-Party Plaintiff's attorney, an answer to the Third-Party Complaint which is herewith served upon you, within 20 days after service of this Summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Third-Party Complaint.

THIS SUMMONS SHALL BE NOT PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.

A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.

DATED: Wailuku, Hawaii, _____.

CIRCUIT COURT CLERK