

REQUEST FOR LEGAL SERVICES RECEIVED

2019 AUG 20 AM 11:47

Date: August 14, 2019
From: Michael J. Molina, Chair
Governance, Ethics, and Transparency Committee

OFFICE OF THE COUNTY COUNCIL

MEMORANDUM
Memo to: DEPARTMENT OF THE CORPORATION COUNSEL
Attention: Moana Lutey, Esq.

Subject: LITIGATION MATTERS (SETTLEMENT AUTHORIZATION: TOMMY RUSSO V. COUNTY OF MAUI, ET AL.; CIVIL 14-00515 JMS-KSC) (GET-11(19))

Background Data: Please revise the proposed resolution as reflected in the attached markup. A hard copy of the revised proposed resolution, approved as to form and legality, is requested with your response.

Work Requested: [X] FOR APPROVAL AS TO FORM AND LEGALITY
[] OTHER:

Table with 2 columns: Requestor's signature (Michael J. Molina) and Contact Person (Carla Nakata or David Raatz).

[] ROUTINE (WITHIN 15 WORKING DAYS) [] RUSH (WITHIN 5 WORKING DAYS)
[X] PRIORITY (WITHIN 10 WORKING DAYS) [] URGENT (WITHIN 3 WORKING DAYS)

[] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES):
REASON:

FOR CORPORATION COUNSEL'S RESPONSE

Table with 3 columns: ASSIGNED TO: MML, ASSIGNMENT NO. Lit 5447, BY: CLB

TO REQUESTOR: [X] APPROVED [] DISAPPROVED [] OTHER (SEE COMMENTS BELOW)
[] RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE):

DEPARTMENT OF THE CORPORATION COUNSEL
Date: 8/19/19 By: [Signature]

get:ltr:011(19)acc01:cmn

Attachment

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
TOMMY RUSSO VS. COUNTY OF MAUI, ET AL.,
CIVIL NO. 14-00515 JMS-KSC

WHEREAS, Plaintiff Tommy Russo filed a lawsuit in the United States District Court for the District of Hawaii on November 17, 2014, Civil No. 14-00515 JMS-KSC, against the County of Maui, et al., claiming unlawful seizure, unlawful arrest, violation of his rights under the First Amendment, false arrest, battery, assault, and gross negligence, among other claims, and seeking special, general, and punitive damages; and

WHEREAS, the County of Maui filed its Answer on March 24, 2015; and

WHEREAS, this case was stayed on June 3, 2015, pending an appeal in the underlying criminal case; and

WHEREAS, on March 31, 2017, an order on the underlying criminal appeal was issued; and

WHEREAS, on June 7, 2019, a settlement conference was held in this case; and

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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, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; 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:

1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and

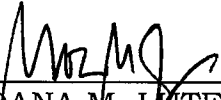
2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case; and

3. That it hereby authorizes the Director of Finance to satisfy said settlement of this case; 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.

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APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Corporation Counsel
County of Maui
Lit 5447