

# REQUEST FOR LEGAL SERVICES

**Date:** August 28, 2020  
**From:** Mike Molina, Chair  
Governance, Ethics, and Transparency Committee

**TRANSMITTAL**

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Brian Bilberry, Esq.

**Subject:** AUTHORIZING SETTLEMENT OF WITTMER, et al. v. MAUI POLICE DEPARTMENT, COUNTY OF MAUI ET AL., CIVIL NO. 19-1-0198(1) (GET-11(41))

**Background Data:** Please submit a revised resolution: The proposed resolution needs to be revised to correct the spelling of WITTNER to "WITTMER" in the first paragraph (second sentence) of the resolution. In the title, the first "et al." should be capitalized. Also, the title's reference to the defendants doesn't match the complaint. It should be: "COUNTY OF MAUI; COUNTY OF MAUI POLICE DEPARTMENT; ET AL." Also, our style preference would be to delete "NO." from the title and first paragraph. We don't think it's necessary to precede a number with "No." or "Number." In the resolution's first paragraph, we would change "Case No." to "Civil." Also in the first paragraph, we wouldn't use ALL CAPS for the parties, and we would re-order the party references to be consistent with the complaint. So, the defendants would be referenced as "County of Maui" and "County of Maui Police Department." In the BE IT RESOLVED clauses, paragraphs shouldn't be followed by "and" except immediately before the last paragraph. Finally, we like to use official Charter titles. So, in the last paragraph, we'd prefer "Chief of Police" instead of "Chief of the Maui Police Department."

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

Requestor's signature <u>Michael J Molina</u> Mike Molina	Contact Person <u>James Forrest, Legislative Attorney</u> (Telephone Extension: <u>3615</u> )
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☐ [ ] ROUTINE (WITHIN 15 WORKING DAYS) ☐ [ ] RUSH (WITHIN 5 WORKING DAYS)  
☐ [ ] PRIORITY (WITHIN 10 WORKING DAYS) ☒ [x] URGENT (WITHIN 3 WORKING DAYS)  
☐ [ ] SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): \_\_\_\_\_  
REASON: \_\_\_\_\_

**FOR CORPORATION COUNSEL'S RESPONSE**

ASSIGNED TO: <u>Brian A. Bilberry</u>	ASSIGNMENT NO. <u>LT-6066</u>	BY: <u>NAS</u>
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TO REQUESTOR: ☐ [ ] 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 AUG 31 2020

By [Signature] (Rev. 7/03)

get:ltr:011(41)acc01:jbf

Attachment

# Resolution

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

AUTHORIZING SETTLEMENT OF WITTMER, ET AL.  
v. COUNTY OF MAUI; COUNTY OF MAUI POLICE DEPARTMENT, ET AL.,  
CIVIL 19-1-0198 (1)

WHEREAS, Geoffrey E. Wittmer, as the Special Administrator for the Estate of Eric G. Wittmer, filed a lawsuit in the Second Circuit in the State of Hawaii on April 9, 2020, Civil 19-1-0198 (1), against the County of Maui and County of Maui Police Department, for alleged Wrongful Death; 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, 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

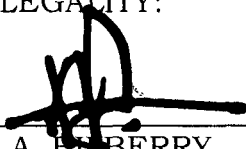
WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

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

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

1. That it approves settlement of this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee;
2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case;
3. That it 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.

APPROVED AS TO FORM  
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'Bilberry', is written over a horizontal line.

BRIAN A. BILBERRY  
Deputy Corporation Counsel  
County of Maui  
LIT-6066