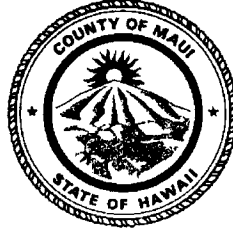


ALAN M. ARAKAWA
Mayor



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

RECEIVED
2018 FEB 23 PM 3:29
OFFICE OF THE
COUNTY COUNCIL

February 23, 2018

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

FROM: Brian A. Bilberry, Deputy Corporation Counsel

SUBJECT: *Taylor v. County of Maui, et al.*, Civil No. 18-1-0056(1) re Retention of Special Counsel for ALAN ARAKAWA, individually and in his capacity as Maui County Mayor, and COUNTY OF MAUI

Please find attached two third amended proposed resolutions entitled:

- *Authorizing the Employment of Special Counsel Kobayashi, Sugita & Goda, LLP in David Taylor v. Alan Arakawa, et al., Civil No. 18-1-0056(1)*
- *Authorizing the Employment of Special Counsel Cox Fricke LLP in David Taylor v. Alan Arakawa, et al., Civil No. 18-1-0056(1)*

If you any questions, please feel free to call me.

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF
SPECIAL COUNSEL KOBAYASHI, SUGITA & GODA, LLP
IN DAVID TAYLOR V. ALAN ARAKAWA, ET AL.,
CIVIL NO. 18-1-0056(1)

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

WHEREAS, the Council finds that, because of the potential for a conflict of interest, and to the extent consistent with the Hawaii Rules of Professional Conduct, there is a real necessity to retain the law firm of Kobayashi Sugita & Goda, LLP (“special counsel”) to represent Alan Arakawa in his individual capacity, as Defendant in David Taylor v. Alan Arakawa, et al., Civil No. 18-1-0056(1), filed in the Circuit Court of the Second Circuit; and

WHEREAS, in the opinion of the Department of the Corporation Counsel, Charter Section 8-2.3 and Rules 1.7 of the Hawaii Rules of Professional Conduct require special counsel to represent the above-named defendant; and

WHEREAS, to the extent consistent with the Hawaii Rules of Professional Conduct it appears there is a real necessity and it would be in the best interest of the County of Maui to authorize the employment of special counsel to represent the above-named defendant; and

WHEREAS, special counsel's conduct shall reflect its understanding that the County of Maui is a public entity that has obligations, concerns and interests that extend beyond those of a private litigant; and

WHEREAS, special counsel shall take all reasonable steps to minimize attorneys' fees and costs; and

WHEREAS, the Department of the Corporation Counsel may provide necessary support services to special counsel to minimize costs, if consistent with the Hawaii Rules of Professional Conduct; now, therefore,

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

1. That the Council hereby authorizes the employment of Kobayashi Sugita & Goda, LLP to represent Alan Arakawa in his individual capacity, as Defendant in David Taylor v. Alan Arakawa, et al., Civil No. 18-1-0056(1), filed in the Circuit Court of the Second Circuit; and

2. That total compensation for the employment of all special counsel employed to represent Defendant in this case, pursuant to this resolution, shall not exceed \$50,000; and

3. That partner David M. Louie, Esq. shall direct the legal services as lead counsel at an hourly rate not to exceed \$360.00; and

4. That partner Joseph A. Stewart, Esq. shall provide services at an hourly rate not to exceed \$300.00; and

5. That associate Aaron Mun, Esq. shall provide services at an hourly rate not to exceed \$190.00; and

6. That associate Nicholas R. Monlux shall provide services at an hourly rate not to exceed \$210.00; and

7. That paralegal Travis R. Yokoyama shall provide services at an hourly rate not to exceed \$100.00; and

8. That the compensability of costs shall be in general accord with the intent of 28 U.S.C. § 1920; and

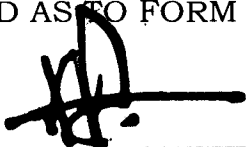
9. That the compensable costs shall include: (a) fees for printing and witnesses; (b) fees of the clerk and marshal; (c) fees of the court reporter for necessary transcripts; (d) docket fees; and (e) compensation of court-appointed experts and interpreters; and

10. That the non-compensable costs shall include: (a) telephone calls; (b) facsimile charges; (c) postal charges; (d) messenger charges; (e) fees for computerized legal research; (f) travel, unless justified by extraordinary or compelling circumstances; (g) investigative expenses; and (h) other costs reasonably considered part of a law firm's overhead; and

11. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require prior Council approval; and

12. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

APPROVED AS TO FORM AND LEGALITY



Brian A. Bilberry
Deputy Corporation Counsel, County of
Maui

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF
SPECIAL COUNSEL COX FRICKE LLP IN
DAVID TAYLOR V. ALAN ARAKAWA, ET AL.,
CIVIL NO. 18-1-0056(1)

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

WHEREAS, the Council finds that, because of a conflict of interest, and to the extent consistent with the Hawaii Rules of Professional Conduct, there is a real necessity to retain the law firm of Cox Fricke LLP (“special counsel”) to advise and represent the Maui County Council and its members, as material witnesses who will be deposed by the Plaintiff in David Taylor v. Alan Arakawa, et al., Civil No. 18-1-0056(1), filed in the Circuit Court of the Second Circuit; and

WHEREAS, in the opinion of the Department of the Corporation Counsel, Charter Section 8-2.3 and Rule 1.7 of the Hawaii Rules of Professional Conduct require special counsel to represent the above-named anticipated witnesses; and

WHEREAS, to the extent consistent with the Hawaii Rules of Professional Conduct it appears there is a real necessity and it would be in the best interest of the County of Maui to authorize the employment of special counsel to represent the above-named anticipated witnesses; and

WHEREAS, special counsel’s conduct shall reflect its understanding that the Maui County Council and its members are a part of municipal public entity

that has obligations, concerns and interests that extend beyond those of a private litigant; and

WHEREAS, special counsel shall take all reasonable steps to minimize attorneys' fees and costs; and

WHEREAS, the Department of the Corporation Counsel may provide necessary support services to special counsel to minimize costs, if consistent with the Hawaii Rules of Professional Conduct; now, therefore,

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

1. That the Council hereby authorizes the employment of Cox Fricke LLP to advise and represent the Maui County Council and its members, as interested third-parties and material witnesses in David Taylor v. Alan Arakawa, et al., Civil No. 18-1-0056(1), filed in the Circuit Court of the Second Circuit; and

2. That total compensation for the employment of all special counsel employed to represent the Maui County Council and its members as anticipated witnesses in this case, pursuant to this resolution, shall not exceed \$25,000; and

3. That partner Joachim Cox, Esq. shall provide services at an hourly rate not to exceed \$360.00; and

4. That partner Robert Fricke, Esq. shall provide services at an hourly rate not to exceed \$360.00; and

5. That associate Kamala S. Haake, Esq. shall provide services at an hourly rate not to exceed \$220.00; and

7. That paralegal services shall be provided at an hourly rate not to exceed \$100.00; and

8. That the compensability of costs shall be in general accord with the intent of 28 U.S.C. § 1920; and


9. That the compensable costs shall include: (a) fees for printing and witnesses; (b) fees for copies necessarily obtained for use in the case; (c) fees of the clerk and marshal; (d) fees of the court reporter for necessary transcripts; (e) docket fees; and (f) compensation of court-appointed experts and interpreters; and

10. That the non-compensable costs shall include: (a) telephone calls; (b) facsimile charges; (c) postal charges; (d) messenger charges; (e) fees for computerized legal research; (f) travel, unless justified by extraordinary or compelling circumstances; (g) investigative expenses; and (h) other costs reasonably considered part of a law firm's overhead; and

11. That the expenditures of additional funds or substantial changes to the responsibilities of the parties shall require prior Council approval; and

12. That certified copies of this resolution be transmitted to the Mayor, the Corporation Counsel, and the Director of Finance.

APPROVED AS TO FORM AND LEGALITY



Brian A. Bilberry
Deputy Corporation Counsel, County of
Maui