

Resolution

No. 26-132

AUTHORIZING ADDITIONAL COMPENSATION FOR THE
EMPLOYMENT OF SPECIAL COUNSEL KOBAYASHI SUGITA &
GODA, LLP, IN *CHRISTOPHER SALEM V. COUNTY OF MAUI, ET*
AL., CIVIL 2CCV-21-0000048, UNDER CHARTER SECTION 3-6(6)

WHEREAS, by Resolution 23-187, the Council authorized the employment of special counsel Kobayashi Sugita & Goda, LLP, to represent the County of Maui, and Michael P. Victorino in his official capacity as Mayor, and Michelle C. McLean in her official capacity as the Director of the Department of Planning, in *Christopher Salem v. County of Maui, et al.*, Civil 2CCV-21-0000048; and

WHEREAS, the Second Circuit Court, by order dated November 8, 2023, substituted Richard T. Bissen, Jr., in his official capacity as Mayor, for Michael P. Victorino, and Kathleen Aoki, in her official capacity as Director of the Department of Planning, for Michelle C. McLean; and

WHEREAS, the Court, by order dated March 6, 2024, substituted Kate Blystone, in her official capacity, as Director of the Department of Planning for Kathleen Aoki; and

WHEREAS, by Resolution 24-13, the Council authorized an increase in compensation for the employment of special counsel Kobayashi Sugita & Goda, LLP, by an additional \$75,000, for a total compensation not exceeding \$125,000; and

WHEREAS, by Resolution 24-71 the Council authorized an increase in compensation for the employment of special counsel Kobayashi Sugita & Goda, LLP, by an additional \$325,000, for a total compensation not exceeding \$450,000; and

WHEREAS, by Resolution 25-75, the Council authorized an increase in compensation for the employment of special counsel Kobayashi Sugita & Goda, LLP, by an additional \$475,000, for a total compensation not exceeding \$925,000; and

WHEREAS, on June 18, 2025, the Court continued the jury trial scheduled for June 23, 2025; and

WHEREAS, the Court by order dated November 3, 2025, reset the jury trial for February 7, 2028, and reopened any parties' ability to file a dispositive motion on any claim or defense on or before December 31, 2025. The Court also set a January 30, 2026, deadline for opposition submissions and a February 27, 2026, deadline for reply submissions; and

WHEREAS, the County timely served and filed dispositive motions on all of Plaintiff Christopher Salem's remaining claims which Plaintiff Salem opposed and to which the County filed replies. Plaintiff Salem also served and filed dispositive motions to which the County served and filed opposition submissions; and

WHEREAS, the Court, after oral arguments held on March 27, 2026, issued written orders dated April 21, 2026, granting the County's dispositive motions dismissing Count V, VIII, and Count IX of Plaintiff Salem's First Amended Complaint and denying Plaintiff Salem's dispositive motions on these counts. The Court reserved ruling on the only remaining count of Plaintiff Salem's First Amended Complaint, Count VII, and set a hearing for August 14, 2026; and

WHEREAS, on June 23, 2026, the Court issued written orders granting the County's dispositive motion dismissing Count VII of Plaintiff Salem's First Amended Complaint and denying Plaintiff Salem's dispositive motions on this last remaining Count. The Court entered final judgment on July 13, 2026; and

WHEREAS, Plaintiff Salem has filed additional motions including reconsideration of the orders dismissing Plaintiff's claims. Special counsel anticipates Plaintiff Salem will engage in additional motions and even an appeal to the Hawaii Intermediate Court of Appeals; and

WHEREAS, special counsel anticipates it will be required to perform additional work, including responding to further post-judgment and reconsideration motions, prosecuting a motion to recover the County's taxable costs as the prevailing party, and defending any appeal to the Hawaii Intermediate Court of Appeals, such that the current compensation limit is expected to be insufficient to complete the representation; and

WHEREAS, the Department of the Corporation Counsel has now requested authorization to raise the compensation limit for the employment of special counsel Kobayashi Sugita & Goda, LLP by an additional \$75,000, for a total compensation not exceeding \$1,000,000 for the ongoing motions, responses, other Court filings, and appeal to the Hawaii appellate courts; and

WHEREAS, in accordance with Section 3-6(6) of the Revised Charter of the County of Maui (1983), as amended, the Council alone is authorized to retain or employ special counsel adopted by a two-thirds vote; now, therefore,

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

1. That the Council hereby approves and authorizes an increase in compensation for the employment of special counsel Kobayashi Sugita & Goda, LLP in *Salem v. County of Maui, et al.*, Civil 2CCV-21-0000048, under Charter Section 3-6(6);
2. That Council authorizes an increase of \$75,000, for a total compensation not exceeding \$1,000,000; and
3. That certified copies of this Resolution be transmitted to the Mayor, Corporation Counsel, Director of Finance, and Kobayashi Sugita & Goda, LLP.

APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to read "John J. Gores", is written over a horizontal line.

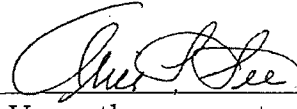
JOHN J. GORES

Deputy Corporation Counsel

County of Maui

LIT 6247

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Mr. R. Lee", is written over a horizontal line.

Upon the request of the Mayor.