

DANNY A. MATEO
County Clerk



JOSIAH K. NISHITA
Deputy County Clerk

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

October 23, 2015

2015 OCT 23 PM 2:21
OFFICE OF THE
COUNTY COUNCIL

RECEIVED

Honorable Don Guzman, Chair
Committee of the Whole
Council of the County of Maui
Wailuku, Hawaii 96793

Dear Chair Guzman:

Respectfully transmitted is a copy of COUNTY COMMUNICATION NO. 15-257, from Deputy Corporation Counsel Brian A. Bilberry, that was referred to your Committee by the Council of the County of Maui at its meeting of October 16, 2015.

Please note that the resolution attached to Committee Report No. 15-146, was amended and substituted with the resolution attached to County Communication No. 15-257. Attached is a copy of Resolution No. 15-135.

Respectfully,

A handwritten signature in black ink, appearing to read "Danny A. Mateo".

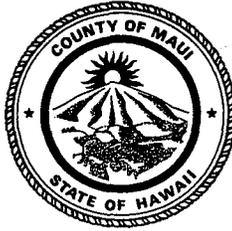
DANNY A. MATEO
County Clerk

/jym

Enclosure

cc: Director of Council Services

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

RECEIVED
2015 OCT -8 PM 12:09
OFFICE OF THE
COUNTY CLERK

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

October 8, 2015

Mike White
Council Chair
Maui County Council
County of Maui
200 S. High Street
Wailuku, Hawaii 96793

RECEIVED
2015 OCT -8 PM 10:54
OFFICE OF THE
COUNTY COUNCIL

Re: Christopher Salem v. Alan Arakawa, et al.
Civil No. 15-00384 LEK-KSC

Dear Chair White:

Our department respectfully requests a further opportunity before the Maui County Council to discuss the above-referenced case, and specifically the retention of special counsel to represent Defendants identified "individually" in the above-captioned lawsuit. As the matter is time sensitive, we request it be taken up at the next Council meeting.

I have attached hereto a further revised and completed draft of the proposed *Resolution Authorizing the Employment of Special Counsel in Christopher Salem v. Alan Arakawa, et al. Civil No. 15-00384 LEK-KSC.*

Thank you for your anticipated assistance on this matter.

Very truly yours,

BRIAN A. BILBERRY
Deputy Corporation Counsel

BAB:ma

COUNTY COMMUNICATION NO. 15-257

Resolution

No. _____

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN
CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL.,
CIVIL No. 15-00384 LEK-KSC

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 conflicts and potential conflicts of interests, and to the extent consistent with the Hawaii Rules of Professional Conduct, there is a real necessity and it would be in the best interest of the County of Maui to retain the law firm of Kobayashi Sugita & Goda to represent Alan Arakawa, Patrick Wong, Keith Regan, David Goode, Milton Arakawa, William Spence, John Min, Jeffrey Hunt, to the extent they have been identified "individually" as defendants in Christopher Salem v. Alan Arakawa, et al., Civil No. 15-00384 LEK-KSC ("Defendants"); and

WHEREAS, based upon a preliminary reading of the Complaint filed in Civil No. 15-1-0496(3) on September 18, 2015, and removed to Federal Court as Civil No. 15-00384 LEK-KSC on September 28, 2015, it appears the allegations against the "individually" named Defendants are questionable; and

Resolution No. _____

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 may require special counsel to represent the “individually” named Defendants in this case; and

WHEREAS, special counsel shall take all possible steps to minimize attorneys’ fees and costs; and

WHEREAS, the Department of the Corporation Counsel may provide necessary support services to special counsel and, if consistent with the Hawaii Rules of Professional Conduct, joint legal representation, along with special counsel; 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 to represent the Defendants who have been identified “individually” in Christopher Salem v. Alan Arakawa, et al., Civil No. 15-00384 LEK-KSC; and

2. That total compensation for the employment of all special counsel employed to represent Defendants in this case, pursuant to this resolution, shall not exceed \$75,000; and

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

4. That associate Thao T. Tran, Esq. shall provide services at an hourly rate not to exceed \$235.00; and

Resolution No. _____

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

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

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

8. 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

9. 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

10. That the expenditures of additional funds or substantial changes to the responsibilities of special counsel shall require prior Council approval; and

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

Resolution No. _____

APPROVED AS TO FORM AND LEGALITY

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

Brian A. Bilberry
Deputy Corporation Counsel,
County of Maui

cow:misc:005areso03

Resolution

No. 15-135

AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL IN
CHRISTOPHER SALEM V. ALAN ARAKAWA, ET AL.,
CIVIL NO. 15-00384 LEK-KSC

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 conflicts and potential conflicts of interests, and to the extent consistent with the Hawaii Rules of Professional Conduct, there is a real necessity and it would be in the best interest of the County of Maui to retain the law firm of Kobayashi Sugita & Goda to represent Alan Arakawa, Patrick Wong, Keith Regan, David Goode, Milton Arakawa, William Spence, John Min, Jeffrey Hunt, to the extent they have been identified "individually" as defendants in Christopher Salem v. Alan Arakawa, et al., Civil No. 15-00384 LEK-KSC ("Defendants"); and

WHEREAS, based upon a preliminary reading of the Complaint filed in Civil No. 15-1-0496(3) on September 18, 2015, and removed to Federal Court as Civil No. 15-00384 LEK-KSC on September 28, 2015, it appears the allegations against the "individually" named Defendants are questionable; and

Resolution No. 15-135

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 may require special counsel to represent the "individually" named Defendants in this case; and

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

WHEREAS, the Department of the Corporation Counsel may provide necessary support services to special counsel and, if consistent with the Hawaii Rules of Professional Conduct, joint legal representation, along with special counsel; 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 to represent the Defendants who have been identified "individually" in Christopher Salem v. Alan Arakawa, et al.; Civil No. 15-00384 LEK-KSC; and

2. That total compensation for the employment of all special counsel employed to represent Defendants 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 for the "individually" named Defendants at an hourly rate not to exceed \$360.00; and

4. That associate Thao T. Tran, Esq. shall provide services at an hourly rate not to exceed \$235.00; and

Resolution No. 15-135

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

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

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

8. 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

9. 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

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

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

Resolution No. 15-135

APPROVED AS TO FORM AND LEGALITY

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

Brian A. Bilberry
Deputy Corporation Counsel,
County of Maui

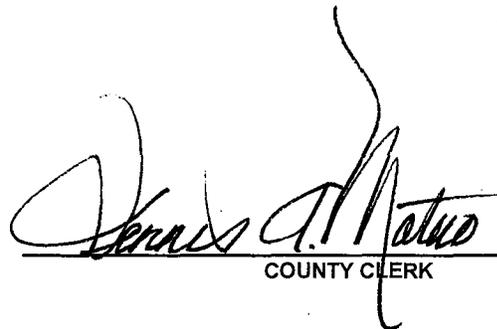
COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is **HEREBY CERTIFIED** that **RESOLUTION NO. 15-135** was adopted by the Council of the County of Maui, State of Hawaii, on the 16th day of October, 2015, by the following vote:

MEMBERS	Michael B. WHITE Chair	Donald S. GUZMAN Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	S. Stacy CRIVELLO	G. Riki HOKAMA	Michael P. VICTORINO
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused



COUNTY CLERK