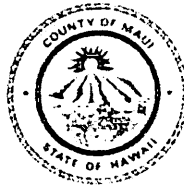


MICHAEL P. VICTORINO
Mayor

MOANA M. LUTEY
Corporation Counsel

RICHELLE M. THOMSON
First Deputy

LYDIA A. TODA
Risk Management Officer



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

October 19, 2022

Via email only at county.clerk@mauicounty.us
Honorable Alice L. Lee, Chair
and Members of the Council
County of Maui
Wailuku, Hawaii 96793

Subject: LITIGATION MATTER – Settlement Authorization (GREAT 11)
Ashley Hooks v. County of Maui, et al.,
Civil Case No. 2CCV-21-0000034

Dear Chair Lee and Council Members:

Attached, please find a proposed resolution entitled "AUTHORIZING SETTLEMENT OF ASHLEY HOOKS V. COUNTY OF MAUI, ET AL., CIVIL No. 2CCV-21-0000034".

Our Department requests the opportunity to discuss the above-referenced lawsuit with the Committee, provide an update on the status of the litigation, and discuss a settlement demand with regard to this lawsuit. We are requesting that this matter be scheduled at the earliest possible meeting.

A copy of Plaintiff's Complaint is attached for your review. Because this matter is in active litigation, it is anticipated that an executive session will be necessary to discuss County liability and settlement related matters. Should you have any questions or concerns, please do not hesitate to call me.

Respectfully,

A handwritten signature in black ink, appearing to read "Richelle K. Kawasaki".

RICHELLE K. KAWASAKI
Deputy Corporation Counsel
County of Maui

cc: Helene Kau, Director of Water Supply
attachments

OFFICE OF THE
COUNTY CLERK

2022 OCT 19 AM 10:44

RECEIVED

SHOWA LAW OFFICE, LLLC
ANDREW DAISUKE STEWART 7810-0
735 Bishop Street, Suite 318
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Tel. (808) 772-9297
Fax. 1 (866) 772-9407
Attorney for Plaintiff
ASHLEY HOOKS

Electronically Filed
SECOND CIRCUIT
2CCV-21-0000034
05-FEB-2021
11:43 AM
Dkt. 1 CMP

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

ASHLEY HOOKS,	)	Civil No. _____
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
COUNTY OF MAUI; JEFFREY T.	)	COMPLAINT; SUMMONS; DEMAND
PEARSON, IN HIS OFFICIAL	)	FOR JURY TRIAL
CAPACITY AS DIRECTOR,	)	
DEPARTMENT OF WATER SUPPLY,	)	
COUNTY OF MAUI; MICHAEL P.	)	
VICTORINO, IN HIS OFFICIAL	)	
CAPACITY AS MAYOR, COUNTY OF	)	
MAUI; DOE DEFENDANTS 1 -20;	)	
DOE CORPORATE ENTITIES 1-20;	)	
DOE GOVERNMENTAL	)	
ENTITIES 1-20,	)	
	)	
Defendants.	)	
_____	)	

COMPLAINT

Comes now Plaintiff, ASHLEY HOOKS, by and through his attorney, SHOWA LAW OFFICE, LLLC, and hereby files this Complaint, and alleges and avers the following causes of action against Defendant COUNTY OF MAUI; JEFFREY T. PEARSON, IN HIS OFFICIAL CAPACITY AS DIRECTOR, DEPARTMENT OF WATER SUPPLY, COUNTY OF MAUI; MICHAEL P. VICTORINO, IN HIS OFFICIAL CAPACITY AS MAYOR, COUNTY OF MAUI;

DOE DEFENDANTS 1 -20; DOE CORPORATE ENTITIES 1-20;DOE GOVERNMENTAL ENTITIES 1-20, (hereinafter collectively “Defendants”).

THE PARTIES

1. Plaintiff ASHLEY HOOKS (“Plaintiff”) is and was at all times relevant a resident of the County of Maui and was employed as a Water Treatment Operator II by the Department of Water Supply, County of Maui.

2. Defendant DEPARTMENT OF WATER SUPPLY, COUNTY OF MAUI, being sued through its Director, JEFFREY T. PEARSON, in his official capacity is a municipal entity belonging to the County of Maui, State of Hawaii.

3. Defendant MAUI COUNTY, being sued through its Mayer, MICHAEL T. VICTORINO, in his official capacity is a municipality located within the State of Hawaii.

4. DOE DEFENDANTS 1 – 20, DOE CORPORATIONS 1 – 20 and DOE GOVERNMENTAL ENTITIES 1 - 20 (collectively referred to herein as “DOE DEFENDANTS” or “other presently unidentified Defendants) are sued herein under fictitious names for the reason that their true names and identities are presently unknown to Plaintiff except that they are connected in some manner with Defendants or were the agents, principals, partners, officers, directors, members, servants, employees, employers, representatives, co-venturers, associates, consultants, vendors, suppliers, manufacturers, subcontractors, contractors, sureties, insurers, owners, lessees, sublessees, lessors, guarantors, assignees, assignors, licensees or licensors of Defendants or were in some manner presently unknown to Plaintiff, engaged in the activities alleged herein, or were in some manner

responsible for the injuries and damages to Plaintiff, or conducted some activity or activities in a negligent or wrongful manner which was a proximate cause of the injuries and damages to Plaintiff, and Plaintiff prays for leave to certify the true names, identities, capacities, activities, and responsibilities of DOE DEFENDANTS when the same are ascertained.

JURISDICTIONAL STATEMENT

5. At all times relevant, Defendants were governmental entities located within the County of Maui, State of Hawaii and subject to the Court's jurisdiction pursuant to Hawaii Revised Statute § 634-35.

6. Venue is proper because the claims for relief arose in the County of Maui, State of Hawaii, and all incidents described herein took place within the jurisdiction of the Circuit Court of the Second Circuit, State of Hawaii.

7. This Court has jurisdiction pursuant to Hawaii Revised Statutes § 603-21.5(a)(3) and venue is proper pursuant to Hawaii Revised Statutes § 603-36(5).

8. This Court has subject matter jurisdiction over this dispute pursuant to Hawaii Revised Statute § 378-62.

FACTUAL ALLEGATIONS

9. Plaintiff was employed as a Water Treatment Operator II for Department of Water Supply, County of Maui.

10. On June 17, 2020, Plaintiff emailed Jennifer Nikaido at the State of Hawaii Department of Health's Safe Drinking Water Branch informing her that on May 16, 2020, a filter cleaning solution had contaminated the water supply for the County of Maui but that employees

for the Department of Water Supply Water Supply and were afraid of retribution by their supervisors based on past incidents of retaliation.

11. On July 8, 2020, Jennifer Nikkado responded to Plaintiff's email, stating: "The Safe Drinking Water Branch has investigated the operation of the Kamole Water Treatment Facility on May 16, 2020 and determined that an uncertain amount of citric acid entered the Clearwell and caused a turbidity spike at the Kamole Water Treatment Facility. A violation letter was issued to the County of Maui, Department of Water Supply on July 7, 2020, which required public notification within 30 days to all Makawao water system customers and further corrective actions to prevent a repeat of the events."

12. In July 2020, the Department of Water Supply distributed a letter entitled "IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER Makawao Water System Failed to Provide Appropriate Level of Treatment May 2020," which stated in relevant part, as follows: "Water samples were taken on May 16, 2020, exceeded the standard of 1.0 NTU for approximately 11 minutes. The elevated levels of turbidity were caused by a small amount of filter cleaning solution inadvertently entering the system."

13. Defendants terminated Plaintiff's employment on or about July 10, 2020.

COUNT I – VIOLATION OF HRS SECTION 378-62

(HAWAII WHISTLE-BLOWER PROTECTION STATUTE)

14. Plaintiff repeats and realleges and by reference incorporates the allegations contained in the above paragraphs.

15. On or about May 16, 2020, an uncertain amount of citric acid entered the Clearwell and caused a turbidity spike at the Kamole Water Treatment Facility in violation of federal regulations and guidelines issued by the U.S. Environmental Protection Agency, including but not limited to, 40 Code of Federal Regulations Part 9 and Part 141, as well as, Hawaii Administrative Rules Title 11, Chapter 20.

16. On June 17, 2020, Plaintiff emailed Jennifer Nikaido at the State of Hawaii Department of Health's Safe Drinking Water Branch informing her that on May 16, 2020, a filter cleaning solution had contaminated the water supply for the County of Maui and that employees for the Department of Water Supply were afraid of retribution by their supervisors based on past incidents of retaliation.

17. On or about July 10, 2020, Defendants terminated Plaintiff's employment in retaliation for reporting the water contamination to the Department of Health's Clean Water Division.

18. As a result of the above-described unlawful discharge and/or discrimination Plaintiff was subjected to, Plaintiff has incurred damages in amounts to be proven at trial.

**COUNT II - UNLAWFUL TERMINATION IN CONTRAVENTION OF PUBLIC
POLICY**

19. Plaintiff repeats and realleges and by reference incorporates the allegations contained in the above paragraphs.

20. Employer's termination of Plaintiff as retaliation for Plaintiff reporting the water contamination of the Makawao water system, violated

public policy in favor of ensuring a safe water supply for the County of Maui and the State Hawaii, as well as, violated the public policy to ensure transparency in government.

21. As a result of the unlawful discharge described above, Plaintiff Plaintiff has incurred damages in amounts to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered in its favor against all Defendants as follows:

A. For judgment in its favor on each and every count as alleged against the Defendants claimed herein, and presently unidentified Defendants, jointly and severally, in the type of relief or amount of damage set forth therein of for such amount as may be proven at trial.

B. For special damages against Defendants and presently unidentified Defendants, and each of them, jointly and severally, in an amount to be proven at trial.

C. Plaintiff be awarded further special, general, and/or consequential damages.

D. Punitive damages as may be proven at trial.

E. Plaintiff be awarded all costs of suit, including reasonable attorney's fees and costs, interest, all costs of investigation, and such other and further relief as the Court deems equitable in the premises, including but not limited to reinstatement of Plaintiff to his former position with the County of Maui.

DATED: Honolulu, Hawaii, February 5, 2021.

/s/ Andrew D. Stewart

ANDREW DAISUKE STEWART
SHOWA LAW OFFICE, LLC

Attorney for Plaintiff
ASHLEY HOOKS