

**COUNCIL OF THE COUNTY OF MAUI**  
**PARKS, RECREATION, ENERGY, AND**  
**LEGAL AFFAIRS COMMITTEE**

August 8, 2017

**Committee**  
**Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Parks, Recreation, Energy, and Legal Affairs Committee, having met on July 5, 2017, makes reference to County Communication 17-6, from Council Chair Mike White, relating to litigation matters.

By correspondence dated June 1, 2017, the Department of the Corporation Counsel requested consideration of the possible settlement of Jason Griego and James Sanchez v. County of Maui, et al., Civil 15-00122 SOM-KJM. Attached to the request is a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF JASON GRIEGO AND JAMES SANCHEZ VS. COUNTY OF MAUI, ET AL., CIVIL NO. 15-00122 SOM-KJM," and a copy of the Second Amended Complaint. The purpose of the proposed resolution is to authorize the Department to settle the case.

By correspondence dated June 16, 2017, the Department of the Corporation Counsel also requested consideration of a proposed resolution, entitled "INDEMNIFYING MYLES S. WON IN JASON GRIEGO AND JAMES SANCHEZ V. COUNTY OF MAUI, ET AL., CIVIL NO. 15-00122 SOM KJM," and transmitted a copy of the Second Amended Complaint and correspondence dated August 17, 2016, from the Chair of the Police Commission, stating the Commission had voted to approve legal representation for Sergeant Myles S. Won. The purpose of the proposed resolution is to indemnify Myles S. Won in the case.

Your Committee subsequently received a revised proposed indemnification resolution incorporating nonsubstantive revisions. The revised proposed resolution states the Council adopted Resolution 16-37 on March 18, 2016, indemnifying the other named Defendants in the case.

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The Plaintiffs' Second Amended Complaint filed on July 22, 2016, removed Defendant Myrna Sabas-Ryder and named Myles S. Won as a defendant in the case.

The Second Amended Complaint alleges Plaintiffs Jason Griego and James Sanchez suffered violations of their rights under the Fourth, Fifth, Eighth, Ninth, and Fourteenth Amendments to the United States Constitution, and Article I of the Constitution of the State of Hawaii, on or about July 14, 2013, as a result of actions by Anselm Yazaki, Aly Miyashiro, and Myles S. Won, employees of the Department of Police. The Complaint also alleges false imprisonment, false arrest, intentional infliction of emotional distress, and negligence claims.

Your Committee notes Section 3.16.020(B), Maui County Code, requires Council authorization for any settlement in excess of \$7,500.

A Deputy Corporation Counsel provided a brief overview of the case. The Deputy said the portions of the lawsuit that remain are the Fourth Amendment claims relating to the manner of arrest, negligence claims, respondeat superior claims against the County, and intentional infliction of emotional distress claims. The remainder of the lawsuit has been dismissed by order of the Court following the County's motion for summary judgment. The Deputy further informed your Committee that a settlement demand had been received from Plaintiffs' counsel.

Because the case involves ongoing litigation and confidential medical information, the Deputy requested the opportunity to convene an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel pursuant to Section 92-5(a)(4), Hawaii Revised Statutes; and Section 92-5(a)(8), Hawaii Revised Statutes, to deliberate or make a decision upon a matter that requires the consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

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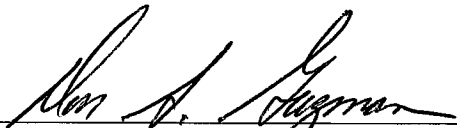
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Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department, your Committee voted 6-0 to recommend adoption of the revised proposed resolution to indemnify Defendant Myles S. Won in the case and to recommend filing of the correspondence transmitting the proposed resolution to authorize settlement. Committee Chair Guzman and members Atay, Carroll, Crivello, Hokama, and Sugimura voted "aye." Committee Vice-Chair King and members Cochran and White were excused.

Your Parks, Recreation, Energy, and Legal Affairs Committee RECOMMENDS the following:

1. That Resolution \_\_\_\_\_, attached hereto, entitled "INDEMNIFYING MYLES S. WON IN JASON GRIEGO AND JAMES SANCHEZ V. COUNTY OF MAUI, ET AL., CIVIL NO. 15-00122 SOM KJM," be ADOPTED; and
2. That the correspondence dated June 1, 2017, transmitting a proposed resolution, entitled "AUTHORIZING SETTLEMENT OF JASON GRIEGO AND JAMES SANCHEZ VS. COUNTY OF MAUI, ET AL., CIVIL NO. 15-00122 SOM-KJM," be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
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DON S. GUZMAN, Chair

# Resolution

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

INDEMNIFYING MYLES S. WON IN JASON GRIEGO AND JAMES  
SANCHEZ V. COUNTY OF MAUI, ET AL., CIVIL NO. 15-00122 SOM KJM

WHEREAS, Myles S. Won ("Defendant"), who was an employee of the Department of Police on July 14, 2013, has been named as a defendant in his individual capacity, in the case of Jason Griego and James Sanchez v. County of Maui, et al., Civil No. 15-00122 SOM KJM; and

WHEREAS, Plaintiffs Jason Griego and James Sanchez allege that Defendant violated their rights under the Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution as well as Article I of the Constitution of the State of Hawaii and that they suffered damages and injuries as a result of an incident on July 14, 2013; and

WHEREAS, on March 18, 2016, the Council adopted Resolution 16-37, indemnifying Anselm Yazaki, Aly Miyashiro, and Myrna Sabas-Ryder in the case; and

WHEREAS, Plaintiffs filed a Second Amended Complaint on July 22, 2016, removing Myrna Sabas-Ryder as a defendant and naming Myles S. Won as a defendant in the case; and

WHEREAS, the County of Maui filed its Answer to the Second Amended Complaint on August 4, 2016; and

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

WHEREAS, the Police Commission has reviewed this matter under its statutory authority and determined that this Defendant is entitled to legal representation; and

WHEREAS, based upon an investigation of this matter, the Department of the Corporation Counsel believes there to be a good faith basis for indemnification and has recommended that the Council indemnify this Defendant for any damages that may be assessed against him in this case; and

WHEREAS, Plaintiffs seek general, special, and punitive damages, and interest and costs of suit; and

WHEREAS, based upon the recommendation of the Department of the Corporation Counsel, it appears at this time that it would be in the best interest of the County of Maui to indemnify Defendant in this case; now, therefore,

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

1. That Myles S. Won is indemnified by the County of Maui for any damages that may be assessed against him in this case; and

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

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

APPROVED AS TO FORM AND LEGALITY:

  
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KRISTIN K. TARNSTROM  
Deputy Corporation Counsel  
County of Maui  
Lit 5482 – Griego v COM