

**COUNCIL OF THE COUNTY OF MAUI**  
**GOVERNANCE, ETHICS, AND**  
**TRANSPARENCY COMMITTEE**

September 11, 2020

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

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

Chair and Members:

Your Governance, Ethics, and Transparency Committee, having met on August 25, 2020, makes reference to County Communication 19-29, from Council Chair Kelly T. King, relating to litigation matters.

By correspondence dated July 30, 2020, the Department of the Corporation Counsel transmitted a proposed resolution entitled "AUTHORIZING SETTLEMENT OF WITTMER, et al. v. MAUI POLICE DEPARTMENT, COUNTY OF MAUI ET AL., CIVIL NO. 19-1-0198(1)."

The purpose of the proposed resolution is to authorize the Department to settle the case.

The Department also transmitted a copy of the claim and documentation relating to damages associated with the claim.

Your Committee notes the claim alleges negligence by the County while Eric G. Wittmer was in custody on or about June 12, 2017, resulting in Mr. Wittmer's wrongful death.

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

A Deputy Corporation Counsel provided a brief overview of the case.

The Deputy requested an executive meeting to discuss confidential information related to the case.

COUNCIL OF THE COUNTY OF MAUI

# GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Page 2

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

Your Committee voted to convene an executive meeting, closed to the public, to consult with legal counsel in accordance with Section 92-5(a)(4), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session.

Based on the information received and the recommendation of the Department, your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Molina, Vice-Chair Rawlins-Fernandez, and members, Kama, King, Lee, Paltin, Sinenci, and Sugimura voted "aye." Committee member Hokama was excused.

Your Committee is in receipt of a revised proposed resolution, entitled "AUTHORIZING SETTLEMENT OF WITTMER, ET AL. v. COUNTY OF MAUI; COUNTY OF MAUI POLICE DEPARTMENT, ET AL., CIVIL 19-1-0198(1)," incorporating nonsubstantive revisions.

Your Governance, Ethics, and Transparency Committee RECOMMENDS that Resolution \_\_\_\_\_, attached hereto, entitled "AUTHORIZING SETTLEMENT OF WITTMER, ET AL. v. COUNTY OF MAUI; COUNTY OF MAUI POLICE DEPARTMENT, ET AL., CIVIL 19-1-0198(1)," be ADOPTED.

COUNCIL OF THE COUNTY OF MAUI

# GOVERNANCE, ETHICS, AND TRANSPARENCY COMMITTEE

Page 3

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

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



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MICHAEL J. MOLINA, Chair

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# Resolution

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

AUTHORIZING SETTLEMENT OF WITTMER, ET AL.  
v. COUNTY OF MAUI; COUNTY OF MAUI POLICE DEPARTMENT, ET AL.,  
CIVIL 19-1-0198 (1)

WHEREAS, Geoffrey E. Wittmer, as the Special Administrator for the Estate of Eric G. Wittmer, filed a lawsuit in the Second Circuit in the State of Hawaii on April 9, 2020, Civil 19-1-0198 (1), against the County of Maui and County of Maui Police Department, for alleged Wrongful Death; and

WHEREAS, the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, will attempt to reach a resolution of this case by way of a negotiated settlement or Offer of Judgment; and

WHEREAS, the Department of the Corporation Counsel has requested authority to settle this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee; and


WHEREAS, having reviewed the facts and circumstances regarding this case and being advised of attempts to reach resolution of this case by way of a negotiated settlement or Offer of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

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

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

1. That it approves settlement of this case under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee;
2. That it authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case;
3. That it authorizes the Director of Finance to satisfy said settlement of this case; and
4. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Chief of Police, and the Corporation Counsel.

APPROVED AS TO FORM  
AND LEGALITY:

  
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BRIAN A. BABBERRY  
Deputy Corporation Counsel  
County of Maui  
LIT-6066