

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

June 1, 2001

**Committee
Report No.**

01-97

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

Chair and Members:

Your Committee of the Whole, having met on May 15, 2001, makes reference to County Communication No. 01-90, from the Council Chair, regarding the settlement of claims and lawsuits.

Your Committee is in receipt of a letter dated May 8, 2001, from Deputy Corporation Counsel Robert D. Rivera, requesting consideration of the possible settlement of consolidated cases Norman and Patricia Diego vs. James Scott Cumming, et al., Civil No. 99-0764 (3) and Rachelle D. Diego, etc. vs. James Scott Cumming, et al., Civil No. 00-1-0005 (3), as well as a discussion on the status and/or disposition of a court-ordered mediation. Attached to the request were copies of the first amended complaints. Also attached to the request was a proposed resolution entitled "AUTHORIZING SETTLEMENT OF THE CLAIM OF NORMAN AND PATRICIA DIEGO VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 99-0764 (3), AND RACHELLE D. DIEGO, ETC. VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 00-1-0005 (3) ARISING FROM AN ALLEGED FATAL MOTOR-VEHICLE/MOTORCYCLE ACCIDENT ON NOVEMBER 11, 1999". The purpose of the proposed resolution is to authorize additional settlement authority to the Department of the Corporation Counsel to settle the claims.

Your Committee notes that the claims allege negligence on the part of the County.

Your Committee further notes that the Council authorized initial settlement of this matter by Resolution No. 01-42.

At its meeting, your Committee met with two Deputy Corporation Counsel.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

June 1, 2001
Page 2

Committee
Report No. 01-97

There being no public testimony, Deputy Corporation Counsel Robert D. Rivera provided a brief overview of the consolidated cases and requested the opportunity to discuss the matter in an executive meeting.

Your Committee voted to convene an executive meeting for the purpose of consulting with legal counsel on liability issues in the matter, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes.

At its executive meeting, your Committee met with the Corporation Counsel, the First Deputy Corporation Counsel and two Deputy Corporation Counsel. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted on the matter.

Following the executive meeting, your Committee reconvened in regular session and announced the result of the vote taken in the executive meeting. Your Committee announced that it had agreed to recommend adoption of the proposed resolution to approve the settlement of the matter under the terms proposed in the executive meeting.

Your Committee of the Whole **RECOMMENDS** that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF THE CLAIM OF NORMAN AND PATRICIA DIEGO VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 99-0764 (3), AND RACHELLE D. DIEGO, ETC. VS. JAMES SCOTT CUMMING, ET AL., CIVIL NO. 00-1-0005 (3) ARISING FROM AN ALLEGED FATAL MOTOR-VEHICLE/MOTORCYCLE ACCIDENT ON NOVEMBER 11, 1999", be ADOPTED.

Adoption of this report is respectfully requested.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

June 1, 2001
Page 3

Committee
Report No. 01-97

DAIN P. KANE **Chair**

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G. RIKI HOKAMA **Vice-Chair**

MICHAEL J. MOLINA **Member**

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