

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

December 17, 2010

**Committee
Report No.** _____

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 December 2, 2010, makes reference to County Communication No. 09-14, from Michael J. Molina, Chair of your Committee, regarding litigation matters submitted by the Department of the Corporation Counsel.

By correspondence dated October 6, 2010, the Department of the Corporation Counsel requested consideration of the possible settlement of Caleb J. Sanders v. County of Maui, et al., Civil No. 09-1-0287(3). Attached to the request is a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF CALEB J. SANDERS VS. COUNTY OF MAUI, ET AL., CIVIL NO. 09-1-0287(3)". The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case.

Your Committee notes that the complaint alleges that Caleb J. Sanders suffered injuries as a result of a fall on a ramp at Kalama Park, 1910 South Kihei Road, Kihei, Maui, Hawaii, on April 25, 2007.

A Deputy Corporation Counsel provided a brief overview of the case and requested the opportunity to discuss the matter in an executive meeting, closed to the public.

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 ("HRS"); and 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, pursuant to Section 92-5(a)(8), HRS.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted 7-0 to recommend adoption of the proposed resolution to authorize the settlement of the matter under the terms proposed in the

COUNCIL OF THE COUNTY OF MAUI
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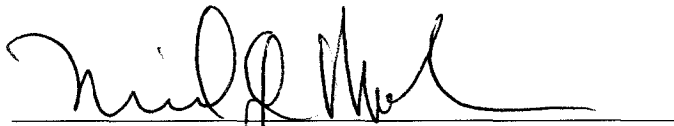
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executive meeting. Committee Chair Molina, Vice-Chair Mateo, and members Baisa, Kaho`ohalahala, Medeiros, Nishiki, and Victorino voted "aye". Committee members Johnson and Pontanilla were excused.

Your Committee of the Whole RECOMMENDS that Resolution No. _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF CALEB J. SANDERS VS. COUNTY OF MAUI, ET AL., CIVIL NO. 09-1-0287(3)" be ADOPTED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



MICHAEL J. MOLINA, Chair

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
CALEB J. SANDERS VS. COUNTY OF MAUI, ET AL.,
CIVIL NO. 09-1-0287(3)

WHEREAS, Plaintiff Caleb J. Sanders filed a lawsuit in the Circuit Court of the Second Circuit Court on April 14, 2009, Civil No. 09-1-0287(3), against the County of Maui, et al., claiming damages for a slip and fall incident on an ocean ramp at Kalama Park, Kihei, on or about April 25, 2007; 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 Committee of the Whole; 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:

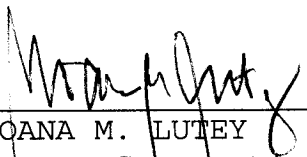
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Committee of the Whole; and

2. That it hereby authorizes the Mayor to execute a Release and Settlement Agreement on behalf of the County in this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

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

APPROVED AS TO FORM AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui