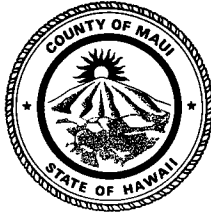


ALAN M. ARAKAWA
Mayor



PATRICK K. WONG
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740 FAX 270-7152

OFFICE OF THE
COUNTY COUNCIL

2013 JUL 10 PM 2:43

RECEIVED

July 10, 2013

MEMO TO: G. Riki Hokama, Chair
Policy and Intergovernmental Affairs Committee

F R O M: Moana M. Lutey, Deputy Corporation Counsel *ML*

SUBJECT: Litigation Matters (PIA-1)
Claim of Eleanor and Gary Kondo, Claim No. 2012-058

Our Department respectfully requests the opportunity to discuss the settlement of the above-referenced claim. There is no urgency in the scheduling of this matter.

It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

Copies of the claim and the proposed resolution are enclosed. Our department would also like to request that a representative of the Department of Public Works be present at the meeting to answer any questions that may arise.

Thank you for your anticipated assistance.

MML:ma
Enclosures
cc: David Goode, Director of Public Works

Resolution

No. _____

AUTHORIZING SETTLEMENT OF CLAIM NO. 2012-058
OF STATE FARM MUTUAL INSURANCE COMPANY ON BEHALF
OF ITS INSURED, ELEANOR KONDO AND GARY KONDO

WHEREAS, Eleanor Kondo and Gary Kondo filed Claim No. 2012-058 on October 6, 2011, against the County of Maui for damages to their car as a result of a motor vehicle accident with a County vehicle on Haleakala Highway, on April 13, 2011; and

WHEREAS, Eleanor Kondo and Gary Kondo are insured for such damage by State Farm Mutual Insurance Company; and

WHEREAS, Eleanor Kondo, Gary Kondo, and State Farm Mutual Insurance Company have alleged that the County of Maui, as subrogee of this claim, is liable for a share of the expenses paid by State Farm Mutual Insurance Company; and

WHEREAS, Eleanor Kondo, Gary Kondo, State Farm Mutual Insurance Company, and the County of Maui, to avoid incurring expenses and the uncertainty of a judicial determination of the parties' respective rights and liabilities, have reached a proposed resolution of this claim by way of a negotiated settlement; and

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

Resolution No. _____

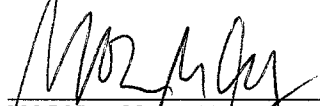
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves settlement of Claim No. 2012-058 in the amount of Eight Thousand Seventy-Six and 89/100 Dollars (\$8,076.89); and

2. That payment is authorized to satisfy settlement of this claim following the execution of the "Release of Claim" by Eleanor Kondo, Gary Kondo, and State Farm Mutual Insurance Company; and

3. That certified copies of this Resolution be transmitted to the Mayor, the Director of Finance, the Director of Public Works, and the Corporation Counsel.

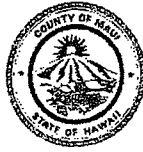
APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

S:\RISK MANAGEMENT\2 - GL Shared\Kondo, Gary & Eleonor\reso.wpd

JEFFREY T. KUWADA
County Clerk



LANCE TAGUCHI
Deputy County Clerk

1043115 204

2011-050

OFFICE OF THE COUNTY CLERK

COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/county/clerk

October 12, 2011

John Mullen & Company
677 Ala Moana Boulevard, Suite 910
Honolulu, Hawaii 96813

Attn: Arlene Laufasa
New Claims Assignment

Dear Ms. Laufasa:

Respectfully transmitted is a claim against the County of Maui filed by Eleanor Kondo of 177 Alea Place, Pukalani, which was received by our office on October 11, 2011.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey T. Kuwada", written in a cursive style.

JEFFREY T. KUWADA
County Clerk

Attachment

cc: Mayor
Corporation Counsel
Council Chair
Department of Finance

RECEIVED

OCT 13 2011

JMB

COUNTY OF MAUI

CLAIM FOR DAMAGE OR INJURY

OFFICE OF THE
COUNTY CLERK

2011 OCT 11 PM 3:23

RECEIVED

PLEASE PRINT CLEARLY

1. Claimant: Eleanor Kondo
2. Address: 177 Alea Place, PuKalani, HI 96768
3. Telephone No. (Business) 298-1703 (cell) (Residence) 572-1501
4. Date of Accident: 4/13/11 Time of Accident: 1:44pm
5. Location of Accident: Haleakala Highway, Kula (377)
6. Amount of Claim: Property Damage \$ 9259.81 Personal Injury \$ pending
7. Describe the accident in detail. Please indicate all the facts, causes, persons involved, witnesses, extent of damage, etc., and why you think the County is responsible. You may write on the back if needed.

See attached form.

8. If you carry insurance applicable to this claim, please give the name and address of the company and your policy number.

State Farm Insurance, P.O. Box 5000, Dupont, WA 98327
 Policy No. 0705948-A14-51

- A. Did you file a claim with your insurance company? yes If yes, for what amount? \$ 12,772 (DATE) Deductible amount \$ 500.00
- B. If a claim was filed with your insurance company, what action do they intend to take?

Subrogation

I HEREBY DECLARE THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT.

Eleanor R. Kondo

(Signature of Claimant)

10/6/11

(Date)

On April 13, 2011, I was driving up Haleakala Highway (377) near milepost 5. I was just entering a hairpin curve, when I saw a large truck coming downhill at a fast pace from the opposite direction. As I entered the curve, I realized the truck was over the centerline in my lane. The driver was quickly trying to maneuver to get out of my lane. Initially, I saw only the truck and then realized he was pulling a flatbed trailer. There was no shoulder to pull over, only a guardrail along the side of the road. The trailer hit my car scraping my vehicle from the front bumper, knocking off the side mirror, and continued to scrape my car to the rear bumper. The impact and sound of metal scraping metal was a traumatic experience for me. After the impact, I called 911 as soon as I could. The dispatcher instructed me to drive further up the road and pull over onto a shoulder and wait for the police to arrive.

As a result of the accident, my car was totaled as the amount of damage equaled the value of my car. I needed to obtain a rental car for twelve days while in the process of purchasing a replacement vehicle. I sustained neck and back injuries due to the impact. Medical treatment is ongoing at present.

The County of Maui is responsible for this accident because their employee Anthony Freitas, while driving a County of Maui vehicle, crossed over a double solid line into my lane. Mr. Freitas misjudged negotiating the hairpin curve and failed to provide proper warning indicators to oncoming vehicles that a wide load was approaching.

State Farm Insurance Companies



March 30, 2012

State Farm Insurance
Subrogation Services
PO Box 2371
Bloomington, IL 61702-2371

Certified Mail-Return Receipt Requested

County Of Maui
Office Of The County Clerk
200 South High St
Wailuku, HI 96793

RECEIVED
2012 APR 11 PM 1:30
OFFICE OF THE
COUNTY CLERK

RE: Claim Number: 51-0649-473
Our Insured: Gary I Kondo
Date of Loss: April 13, 2011
Your Insured: County Of Maui
Your Insured Driver: Anthony B Freitas
Your Claim Number:
Your Policy Number: 85-2-25
Loss Location: Old Kula Hwy, 2 Miles Down From The Ku
Kula, HI

Dear Sir / Madam:

We have been informed you are the liability carrier for the party involved in this loss with our insured. Our investigation indicates your insured is responsible for this claim. Therefore, we are seeking recovery from you. This letter is to notify you of our subrogation claim and request your cooperation in settling this matter.

To assist you in your review, here is a breakdown of the amounts State Farm paid by Cause of Loss:

041/045 - Uninsured Motorist BI	\$
042 - Uninsured Motorist PD	\$
300 series/400 - Comp/Collision	\$8,659.81
501 - Rental/Loss of Use	\$420.98
600/050 - Med Pay/ PIP	\$
Other	\$
Salvage Recovery	\$1,604.00
Amount State Farm Paid	\$7,576.79
Insured Deductible	\$500.00
Total Claim Amount	\$8,076.79

Based on the assessment of liability between the parties, State Farm Mutual Automobile Insurance Company is seeking 100% of the Total Claim Amount listed above. The amount payable to State

Office Of The County Clerk

Page 2

March 30, 2012

Farm Mutual Automobile Insurance Company for this loss is \$8,076.79.

Please remit payment of this claim, or contact us to discuss settlement. Include our claim number on the payment. Thank you for your cooperation.

If you have any questions, please call (877) 457-8276 and any member of Team #60 may assist you.

In order to assist you in evaluating and processing the subrogation claim we are asserting, we may provide nonpublic personal information about our customer. We are sharing this information to effect, administer, or enforce a transaction authorized by the consumer. However, you are neither authorized nor permitted to: (1) use the customer information we provided for any purpose other than to evaluate and process the subrogation claim, or (2) disclose or share the customer information we provide for any purpose other than to evaluate and process the subrogation claim.

Sincerely,



Ryan Perno x39150
Claim Representative
(877) 457-8276, Team 60

State Farm Mutual Automobile Insurance Company
Enclosure(s)