

COUNCIL OF THE COUNTY OF MAUI

POLICY AND INTERGOVERNMENTAL AFFAIRS COMMITTEE

June 20, 2014

**Committee
Report No.** _____

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

Chair and Members:

Your Policy and Intergovernmental Affairs Committee, having met on June 5, 2014, makes reference to County Communication 13-41, from Council Chair Gladys C. Baisa, regarding litigation matters.

By correspondence dated April 15, 2014, the Department of the Corporation Counsel requested consideration of the possible settlement of Patrice Falcone and Robert Falcone v. County of Maui, et al., Civil 13-1-0716(2). Attached to the request is a proposed resolution entitled "AUTHORIZING SETTLEMENT OF PATRICE FALCONE AND ROBERT FALCONE V. COUNTY OF MAUI, ET AL., CIVIL NO. 13-1-0716(2)" and a copy of the complaint. The purpose of the proposed resolution is to authorize the Department of the Corporation Counsel to settle the case.

Your Committee notes the complaint alleges Patrice Falcone suffered injuries when she slipped and fell in the public shower area at D.T. Fleming Beach Park on September 17, 2011. The complaint further alleges Ms. Falcone and her husband, Robert Falcone, sustained damages as a result.

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 and requested the opportunity to discuss the proposed settlement in an executive meeting.

Your Committee voted to convene an executive meeting, closed to the public, pursuant to Section 92-5(a)(4), Hawaii Revised Statutes, to consult with legal counsel on questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee; and Section 92-5(a)(8), Hawaii Revised Statutes, to deliberate or make a decision upon a matter that requires the

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consideration of information that must be kept confidential pursuant to a State or Federal law, or a court order.

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 6-0 to recommend adoption of the proposed resolution to authorize the settlement of the matter under the terms proposed in the executive meeting. Committee Chair Hokama and members Carroll, Cochran, Crivello, Guzman, and White voted "aye". Committee Vice-Chair Couch and members Baisa and Victorino were excused.

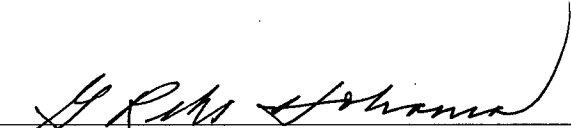
Your Policy and Intergovernmental Affairs Committee RECOMMENDS that Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF PATRICE FALCONE AND ROBERT FALCONE V. COUNTY OF MAUI, ET AL., CIVIL NO. 13-1-0716(2)", be ADOPTED.

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



G. RIKI HOKAMA, Chair

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Resolution

No. _____

AUTHORIZING SETTLEMENT OF
PATRICE FALCONE AND ROBERT FALCONE
V. COUNTY OF MAUI, ET AL.,
CIVIL NO. 13-1-0716(2)

WHEREAS, Plaintiffs PATRICE FALCONE and ROBERT FALCONE filed a lawsuit in the Circuit Court of the Second Circuit of the State of Hawaii on June 25, 2013, Civil No. 13-1-0716(2), against the County of Maui, claiming general and special damages as a result of a slip and fall in the D.T. Fleming Park, Lahaina, on September 17, 2011; 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 Policy and Intergovernmental Affairs 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

Resolution No. _____

of Judgment by the Department of the Corporation Counsel, the Council wishes to authorize the settlement; now, therefore,

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 Policy and Intergovernmental Affairs Committee; 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:



THOMAS KOLBE
Deputy Corporation Counsel
County of Maui