

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

July 24, 2015

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 July 7, 2015, and July 16, 2015, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated June 30, 2015, the Department of the Corporation Counsel requested consideration of the possible settlement of five claims alleging work-related injuries sustained as a result of an air crash on Lanai, Maui, Hawaii, on February 26, 2014.

Attached to the request is a proposed resolution for each claim, entitled as follows:

1. "AUTHORIZING SETTLEMENT OF TREMAINE BALBERDI V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00322";
2. "AUTHORIZING SETTLEMENT OF JAMES A.Q. GIROUX V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00345";
3. "AUTHORIZING SETTLEMENT OF KATHLEEN KERN V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00330";
4. "AUTHORIZING SETTLEMENT OF MARK A. KING V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00348"; and

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5. "AUTHORIZING SETTLEMENT OF DOUGLAS MILLER V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00526."

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

Your Committee notes Section 3.16.020(A), Maui County Code, requires Council authorization for any settlement of a workers' compensation claim in excess of the authority granted by that provision.

Your Committee further notes four of the five claimants were employees of the Department of Planning at the time of the incident. The fifth claimant, James A.Q. Giroux, was an employee of the Department of the Corporation Counsel. All five individuals were on Lanai to staff a Lanai Planning Commission meeting and were returning to Maui aboard a Maui Air plane when the incident occurred.

At your Committee's meeting of July 7, 2015, a Deputy Corporation Counsel provided a brief overview of the claims. Because the cases involve ongoing litigation and confidential medical information, the Deputy requested the opportunity to convene an executive meeting.

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; 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), Hawaii Revised Statutes.

Your Committee deferred the matter.

At your Committee's meeting of July 16, 2015, the Corporation Counsel provided an overview of the claims. He explained there are issues under workers' compensation law that require the Department to properly advise the Council in advance of an upcoming arbitration between the company that owned the airplane and the individual

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claimants. Because the cases involve ongoing litigation and confidential medical information, the Corporation Counsel requested the opportunity to convene an executive meeting.

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; 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), Hawaii Revised Statutes.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received and the recommendations of the Department of the Corporation Counsel, your Committee voted 5-2 to recommend adoption of the proposed resolutions to authorize the settlement of the matters under the terms proposed in the executive meeting. Committee Chair Guzman and members Carroll, Cochran, Hokama, and White voted "aye." Committee members Baisa and Couch voted "no." Vice-Chair Crivello and member Victorino were excused.

Your Committee of the Whole RECOMMENDS the following:

1. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF TREMAINE BALBERDI V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00322," be ADOPTED;
2. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF JAMES A.Q. GIROUX V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00345," be ADOPTED;
3. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF KATHLEEN KERN V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00330," be ADOPTED;

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

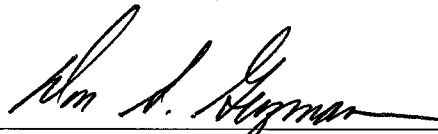
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4. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF MARK A. KING V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00348," be ADOPTED; and

5. That Resolution _____, attached hereto, entitled "AUTHORIZING SETTLEMENT OF DOUGLAS MILLER V. COUNTY OF MAUI, DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00526," be ADOPTED.

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



DON S. GUZMAN, Chair

cow:cr:15001(19)aa:cmn

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
TREMAINE BALBERDI V. COUNTY OF MAUI,
DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00322

WHEREAS, Claimant Tremaine Balberdi filed a Workers' Compensation Claim alleging work-related injuries sustained on February 26, 2014; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of the proposed settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement of the Workers' Compensation Claim under the terms and conditions proposed in an executive meeting before the Committee of the Whole; now therefore,

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

1. That it hereby approves settlement of Tremaine Balberdi v. County of Maui, Disability Compensation Division Case No. 5-14-00322, 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 Stipulation and Settlement Agreement on behalf of the County in this case; 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

Resolution No. _____

4. That payment is authorized to satisfy this settlement following approval of the Stipulation and Settlement Agreement by the Department of Labor and Industrial Relations, State of Hawaii; and

5. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Planning, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



CALEB P. ROWE
Deputy Corporation Counsel
County of Maui

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
JAMES A.Q. GIROUX V. COUNTY OF MAUI,
DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00345

WHEREAS, Claimant James A.Q. Giroux filed a Workers' Compensation Claim alleging work-related injuries sustained on February 26, 2014 ; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of the proposed settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement of the Workers' Compensation Claim under the terms and conditions proposed in an executive meeting before the Committee of the Whole; now therefore,

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

1. That it hereby approves settlement of James A.Q. Giroux v. County of Maui, Disability Compensation Division Case No. 5-14-00345, 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 Stipulation and Settlement Agreement on behalf of the County in this case; and

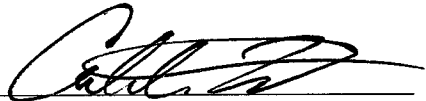
3. That it hereby authorizes the Director of Finance of the County of Maui to satisfy said settlement of this case, under such terms and conditions as may be imposed, and agreed to, by the Corporation Counsel; and

Resolution No. _____

4. That payment is authorized to satisfy this settlement following approval of the Stipulation and Settlement Agreement by the Department of Labor and Industrial Relations, State of Hawaii; and

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

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'Caleb P. Rowe', written over a horizontal line.

CALEB P. ROWE
Deputy Corporation Counsel
County of Maui

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
KATHLEEN KERN V. COUNTY OF MAUI,
DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00330

WHEREAS, Claimant Kathleen Kern filed a Workers' Compensation Claim alleging work-related injuries sustained on February 26, 2014; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of the proposed settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement of the Workers' Compensation Claim under the terms and conditions proposed in an executive meeting before the Committee of the Whole; now therefore,

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

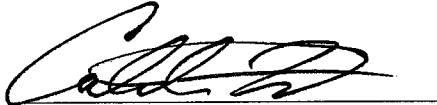
1. That it hereby approves settlement of Kathleen Kern v. County of Maui, Disability Compensation Division Case No. 5-14-00330, under the terms set forth in an executive meeting before the Committee of the Whole; and
2. That it hereby authorizes the Mayor to execute a Stipulation and Settlement Agreement on behalf of the County in this case; 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

Resolution No. _____

4. That payment is authorized to satisfy this settlement following approval of the Stipulation and Settlement Agreement by the Department of Labor and Industrial Relations, State of Hawaii; and

5. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Planning, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



CALEB P. ROWE
Deputy Corporation Counsel
County of Maui

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
MARK A. KING V. COUNTY OF MAUI,
DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00348

WHEREAS, Claimant Mark A. King filed a Workers' Compensation Claim alleging work-related injuries sustained on February 26, 2014; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of the proposed settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement of the Workers' Compensation Claim under the terms and conditions proposed in an executive meeting before the Committee of the Whole; now therefore,

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

1. That it hereby approves settlement of Mark A. King v. County of Maui, Disability Compensation Division Case No. 5-14-00348, 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 Stipulation and Settlement Agreement on behalf of the County in this case; 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

Resolution No. _____

4. That payment is authorized to satisfy this settlement following approval of the Stipulation and Settlement Agreement by the Department of Labor and Industrial Relations, State of Hawaii; and

5. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Planning, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



CALEB P. ROWE
Deputy Corporation Counsel
County of Maui

Resolution

No. _____

AUTHORIZING SETTLEMENT OF
DOUGLAS MILLER V. COUNTY OF MAUI,
DISABILITY COMPENSATION DIVISION CASE NO. 5-14-00526

WHEREAS, Claimant Douglas Miller filed a Workers' Compensation Claim alleging work-related injuries sustained on February 26, 2014; and

WHEREAS, having reviewed the facts and circumstances regarding this matter and being advised of the proposed settlement by the Department of the Corporation Counsel, the Council wishes to authorize the settlement of the Workers' Compensation Claim under the terms and conditions proposed in an executive meeting before the Committee of the Whole; now therefore,

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

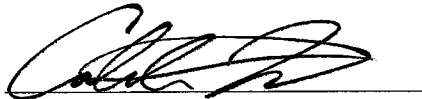
1. That it hereby approves settlement of Douglas Miller v. County of Maui, Disability Compensation Division Case No. 5-14-00526, under the terms set forth in an executive meeting before the Committee of the Whole; and
2. That it hereby authorizes the Mayor to execute a Stipulation and Settlement Agreement on behalf of the County in this case; 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

Resolution No. _____

4. That payment is authorized to satisfy this settlement following approval of the Stipulation and Settlement Agreement by the Department of Labor and Industrial Relations, State of Hawaii; and

5. That certified copies of this resolution be transmitted to the Mayor, the Director of Finance, the Director of Planning, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'Caleb P. Rowe', is written over a horizontal line.

CALEB P. ROWE
Deputy Corporation Counsel
County of Maui