

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

August 25, 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 August 7, 2015, makes reference to County Communication 15-6, from Councilmember Mike White, relating to litigation matters.

By correspondence dated February 25, 2015, the Department of the Corporation Counsel requested consideration of the possible settlement of Alvin F. Jardine, III v. State of Hawaii, et al., Civil 13-1-0062(2). Attached to the request are a copy of the complaint and a proposed resolution entitled "AUTHORIZING SETTLEMENT OF ALVIN F. JARDINE, III V. STATE OF HAWAII, ET AL., CIVIL NO. 13-1-0062(2)."

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 emotional distress, physical suffering, and general and special damages from the incarceration of Alvin F. Jardine, III, relating to his conviction for several 1990 felonies, which was later vacated.

Your Committee further 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. She noted in 1991, Mr. Jardine was convicted of sexual assault and related offenses and sentenced to serve 20 years in prison. In 2011, the Hawaii Innocence Project filed a motion for a new trial on the basis that newly analyzed mucus evidence did not match Mr. Jardine's DNA. The motion for a new trial was granted, and Mr. Jardine sued the County, alleging malicious prosecution.

COUNCIL OF THE COUNTY OF MAUI
COMMITTEE OF THE WHOLE

Page 2

Committee
Report No. _____

Because the case involves ongoing litigation and confidential 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.

Following the executive meeting, your Committee reconvened in regular session. Based on the information received, your Committee decided against authorizing settlement of the case.

Your Committee voted 6-0 to recommend filing of the correspondence transmitting the proposed resolution to authorize the settlement of the case. Committee Chair Guzman, Vice-Chair Crivello, and members Baisa, Carroll, Couch, and White voted "aye." Committee members Cochran, Hokama, and Victorino were excused.

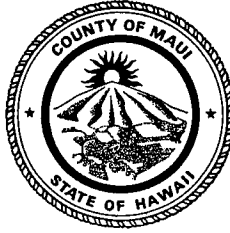
Your Committee of the Whole **RECOMMENDS** that the correspondence dated February 25, 2015, from the Department of the Corporation Counsel, attached hereto, be FILED.

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



DON S. GUZMAN, Chair

ALAN M. ARAKAWA
Mayor



COW-1(8)

PATRICK K. WONG
Corporation Counsel

EDWARD S. KUSHI
First Deputy

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DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET, 3RD FLOOR
WAILUKU, MAUI, HAWAII 96793
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February 25, 2015

MEMO TO: Don Guzman, Chair
Committee of the Whole

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

SUBJECT: Alvin F. Jardine, III v. State of Hawaii, et al.,
Civil No. 13-1-0062(2)

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2015 FEB 25 PM 2:49
OFFICE OF THE
COUNTY COUNCIL

Our department respectfully requests the opportunity to discuss settlement of the above-captioned matter. I will be out of state March 23rd through April 3rd and request that this matter not be taken up during that period. Copies of the Complaint and resolution are attached for your perusal.

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.

Thank you for your anticipated assistance on this matter.

MML:ma
Enclosures

Resolution

AUTHORIZING SETTLEMENT OF
ALVIN F. JARDINE, III V. STATE OF HAWAII, ET AL.,
CIVIL NO. 13-1-0062(2)

WHEREAS, Plaintiff Alvin F. Jardine, III, filed a lawsuit in the Circuit Court of the Second Circuit on January 17, 2013, Civil No. 13-1-0062(2), against the State of Hawaii, County of Maui, et al., claiming emotional distress, physical suffering, general and special damages for his incarceration after being convicted of numerous felonies on April 1, 1992; 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,

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

Resolution No. _____

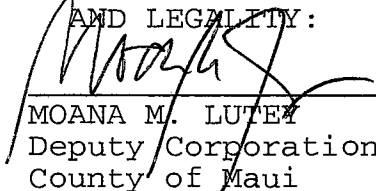
1. That it hereby approves settlement of this case under the terms set forth in an executive meeting before the Committee of the Whole; and

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, and the Corporation Counsel.

APPROVED AS TO FORM
AND LEGALITY:



MOANA M. LUTEY
Deputy Corporation Counsel
County of Maui

Served on MRS 1/31/13 4:20pm.

TAKITANI, AGARAN & JORGENSEN, LLLP
A Law Partnership

FILED

2013 JAN 17 PM 1:35

ANTHONY P. TAKITANI 4422
GILBERT S.C. KEITH-AGARAN 4677
DAVID M. JORGENSEN 4784
24 North Church Street, Suite 409
Wailuku, Maui, Hawaii 96793
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V. ISHIHARA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

Of Counsel:
JOSEPH L. WILDMAN 4153

LAW OFFICE OF MATSON KELLEY, LLC

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Wailuku, Maui, Hawaii 96793
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CORPORATION COUNSEL
2013 JAN 31 PM 4:24

Attorneys for Plaintiff
ALVIN F. JARDINE, III

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

ALVIN F. JARDINE, III,

Plaintiff,

v.

STATE OF HAWAII; COUNTY OF
MAUI; MAUI POLICE DEPARTMENT;
THE ESTATE OF ANTONIO FUNES;
JOHN DOES 1-10; JANE DOES 1-10;
DOE PARTNERSHIPS 1-10; DOE
CORPORATIONS 1-10 and DOE
ENTITIES 1-10,

Defendants

Civil No.: 13-1-0062(1)
(Category: Other Non-Vehicle Tort)

COMPLAINT; DEMAND FOR JURY
TRIAL; and SUMMONS

I hereby certify that this is a full, true and
correct copy of the Original.

Clerk, Second Circuit Court

COMPLAINT

Plaintiff above-named, by and through his undersigned counsel, for claims against Defendants herein, alleges and avers as follows:

1. At all times material to this Complaint, Plaintiff Alvin F. Jardine, III (hereinafter "Plaintiff") has been a resident of the County of Maui, State of Hawaii.
2. At all times material to this Complaint, Defendant STATE OF HAWAII (hereinafter Defendant "State") has been an entity created by law and amenable to the jurisdiction and process of this Court.
3. At all times material to this Complaint, Defendant COUNTY OF MAUI (hereinafter Defendant "County") has been a municipal entity created by law and amenable to the jurisdiction and process of this Court.
4. At all times material to this Complaint, Defendant Maui Police Department (hereinafter Defendant "MPD") was a department within Defendant County.
5. At all times material to this Complaint, Defendant Estate of Antonio Funes (hereinafter Defendant "Funes") has been a resident of the County of Maui, State of Hawaii and employed with Defendant MPD.
6. All events material to this Complaint occurred within the County of Maui and within the jurisdiction of the Circuit Court of the Second Circuit, State of Hawaii.
7. Plaintiff has reviewed the records of the Department of Commerce and Consumer Affairs in order to ascertain the true and full names and identities of all Defendants in this action, but have no further knowledge or information regarding the parties responsible and are unable to ascertain the identity of the Defendants in this action designated as JOHN DOES 1-10, JANE DOES 1-10, DOE PARTNERSHIPS 1-

10, DOE CORPORATIONS 1-10 and DOE ENTITIES 1-10; said Defendants are sued herein under fictitious names for the reason that their true names and identities are unknown to Plaintiff, except that they may be connected in some manner with Defendants, and may be agents, servants, employees, employers, representatives, co-venturers, associates, or independent contractors of Defendants and/or were in some manner responsible for the injuries and damages to Plaintiff and their true names, identities, capacities, activities, and/or responsibilities are presently unknown to Plaintiff or his attorneys.

INTRODUCTION

8. On December 28, 1990, Ms. Kimberly Prator (hereinafter "Ms. Prator") and her two children were residing in Haiku, County of Maui, State of Hawaii.

9. On the aforesaid date, Ms. Prator was attacked by an armed intruder who broke into Ms. Prator's residence.

10. Previous to the break-in, Ms. Prator had taken precautions to notify her landlord in the event an intruder broke into her residence. Ms. Prator notified her landlord who commenced his own investigation of the situation. In the course of that investigation, Ms. Prator advised her landlord of the fact that an intruder was present and indicated she needed help. Ms. Prator's landlord and his wife repeatedly placed telephone calls to the emergency 911 number operated, serviced and staffed by employees of Defendant County.

11. Ms. Prator's landlord and family placed at least three telephone calls to Defendant County's 911 number. Assurances were given that officers would be dispatched immediately. Based upon the assurances, the landlord did not take

affirmative action to remove the intruder from Ms. Prator's residence and rescue Ms. Prator.

12. At approximately 11:00 p.m., Ms. Prator had told her landlord and neighbor, Norman Duquette ("Mr. Duquette"), whose house was about seventy-five feet from Ms. Prator's cottage, about "hang up" telephone calls she had received around 7:00 and 8:00 p.m. Ms Prator notified the police about the calls and also hung wind chimes on the door to alert her in case anyone tried to enter.

13. Ms. Prator and her two small children, ages one and two, went to bed between approximately 9:00 and 10:00 p.m.

14. Ms Prator was awakened by the sound of the wind chimes on the front door. The man whom Ms. Prator described as bare-chested and sweaty, had taken off his shorts.

15. The man held Ms. Prator at knifepoint, on his lap, as he sat naked on a round "papa-san" chair. This chair was covered by a green and white checked tablecloth used as a "throw." The green and white checked tablecloth that was on the chair was collected as evidence by police. At 11:20 p.m., the assailant made Ms. Prator call the Duquette home and say that everything was alright.

16. During the time the first telephone call was made to Defendant County operator until the police finally arrived, the intruder repeatedly assaulted and raped Ms. Prator at knife point.

17. The man committed a number of sexual assaults on Ms. Prator before the police arrived.

18. When the police arrived, the rapist fled though a window and ran away.

Responding Officer Christina Dixon and Mr. Duquette chased the naked man down the driveway. Neither Maui Police Department Officer Dixon nor Mr. Duquette saw the man's face.

19. A composite of the assailant was prepared by Defendant MPD. Defendant Funes, a detective with Defendant MPD, was assigned to investigate the case.

20. Defendant Funes' brother, Joseph Funes, who lived next to Plaintiff, did not think the composite looked like anyone he knew.

21. After Defendant Funes spoke to his brother, Joseph Funes, about the composite, Joseph Funes concluded that "maybe" "the mouth part" looked something like Plaintiff's mouth.

22. Defendant Funes showed the composite to a group of children. Defendant Funes made statements to the children that improperly directed the children to identify the assailant as Plaintiff.

23. Ms. Prator overheard one of the children mention the name "Alvin."

24. Defendant Funes fabricated evidence when talking with the group of children by arranging or manufacturing circumstances or indicia, with the intention to use them as evidence and made it appear accidental.

25. Ms. Prator testified at the preliminary hearing one week after the attack, that Mr. Duquette had handed her a single closed yearbook to look through. Ms. Prator reviewed the photos and the names of the persons in the yearbook and concluded that Plaintiff looked like her assailant. This identification occurred after Ms. Prator heard the name "Alvin" mentioned by one or more of the children in connection

with the composite sketch.

26. Police showed Ms. Prator a photo line-up and she picked out Plaintiff's photo. In this photo array, Plaintiff's photo stood out, as he was the only one with "messed up" hair and the only one without a shirt. He was also the only one in the six-photo lineup who had also been on the Maui High yearbook page. The photograph of Plaintiff was also the only Polaroid.

27. On the date of the assaults, Plaintiff came home after work between 6:30 and 7:00 p.m. Plaintiff remained at his home until the next morning. Plaintiff was with friends and family the night of the assaults.

28. Ms. Trina Jardine ("Ms. Jardine"), Plaintiff's sister and Ms. Michelle Okimoto ("Ms. Okimoto") returned to the Jardine home at around 11:30 p.m., along with Rickey Calderwood ("Mr. Calderwood") and Rolene Ishimura ("Ms. Ishimura"), friends whom Ms. Jardine and Ms. Okimoto had encountered at the gas station.

29. Ms. Jardine went to the garage to give her father the car keys and saw Plaintiff. Ms. Okimoto and Ms. Jardine went inside the house for about ten to fifteen minutes, then returned to the garage where Ms. Jardine kissed Plaintiff good-bye before leaving with her friends at about 11:45 p.m.

30. Mr. Calderwood and Ms. Ishimura parked in front of the Jardine house where they were able to see the garage where Plaintiff and his father were still drinking beer. They remained in the car while Ms. Jardine and Ms. Okimoto changed their clothes, from approximately 11:15 to 11:43 p.m., the time in which Ms. Prator testified that the assailant was in her house.

31. Plaintiff drank at least fifteen or sixteen beers that night before going to

bed. Ms. Prator testified that she did not smell alcohol on her assailant's breath and there was nothing in the way he moved to suggest that he was intoxicated.

32. Plaintiff also had a distinctive, partly healed cut on the left side of his chest from an accident at work that occurred one week before the rape. Ms. Prator specifically testified that the assailant did not have a cut on his chest.

33. Plaintiff was charged by complaint filed January 4, 1991 and amended complaint filed February 11, 1991 with ten felony counts in connection with the home invasion and rape of Ms. Prator on December 28, 1990.

34. Plaintiff was charged with Sexual Assault in the First Degree [Counts I, IV, V and VII]; Attempted Sexual Assault in the First Degree [Counts II, III and VI]; Kidnapping [Count VIII]; Terroristic Threatening in the First Degree [Count IX] and Burglary in the First Degree [Count X] (Collectively hereinafter "Criminal Charges").

35. On January 16, 1991 Plaintiff appeared in the Second Circuit Court while being held in the custody of the State of the Hawaii and pled not guilty to all charges.

36. Plaintiff was 21 years old and the father of a two year old daughter at the time he was taken into the custody of the State of Hawaii.

37. Plaintiff maintained his plea of not guilty throughout the prosecution of the Criminal Charges.

38. Three juries declared themselves deadlocked before Plaintiff was finally convicted on all charges on April 1, 1992.

39. On June 8, 1992, the Circuit Court of the Second Circuit entered its Judgment; Guilty Conviction and Sentence and sentenced Plaintiff to thirty-five years in prison with a mandatory minimum of eleven years and eight months in prison.

40. Plaintiff's conviction was vacated on or about January 21, 2011 and Plaintiff was released from prison on the basis that DNA testing conclusively excluded Plaintiff as the man whose DNA was recovered from the crime scene.

41. On July 21, 2011 the State of Hawaii filed a Motion to Dismiss with Prejudice the criminal charges against Plaintiff which was granted by the Second Circuit Court.

42. Plaintiff served twenty-one years in prison before being released on bail. At all relevant times therein, Plaintiff was being held in the custody and control of the Defendant State.

43. At all relevant times herein, Plaintiff maintained his innocence.

44. The State of Hawaii declined releasing Plaintiff on parole due to his assertion of his innocence.

45. Plaintiff did not commit the Criminal Charges.

46. Plaintiff did not bring about prosecution for the Criminal Charges based upon any of Plaintiff's conduct or neglect.

47. Plaintiff is not guilty and/or legally and actually innocent of the Criminal Charges for which he was convicted, sentenced and imprisoned.

48. Defendants' conduct described hereinabove was intentional.

COUNT I

49. The allegations contained in paragraphs 1 through 48 above are incorporated herein by reference.

50. As a direct and proximate result of the acts and/or omissions and/or

negligence and/or wrongful imprisonment by Defendant State and/or Defendant County and/or Defendant MPD and/or Defendant Funes, jointly and severally, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or loss of enjoyment of life and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT II

51. The allegations contained in paragraphs 1 through 50 above are incorporated herein by reference.

52. As a direct and proximate result of the False Arrest by Defendant State and/or Defendant County and/or Defendant MPD and/or Defendant Funes, jointly and severally, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT III

53 The allegations contained in paragraphs 1 through 52 above are incorporated herein by reference.

54. As a direct and proximate result of the False Imprisonment by Defendant State and/or Defendant County, jointly and severally, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to

reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT IV

55. The allegations contained in paragraphs 1 through 54 above are incorporated herein by reference.

56. As a direct and proximate result of the fabrication of evidence by Defendant State and/or Defendant County and/or Defendant MPD and/or Defendant Funes, jointly and severally, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT V

57. The allegations contained in paragraphs 1 through 56 above are incorporated herein by reference.

58. As a direct and proximate result of the suppression of exculpatory evidence by Defendant State and/or Defendant County and/or Defendant MPD and/or Defendant Funes, jointly and severally, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time

of trial

COUNT VI

59. The allegations contained in paragraphs 1 through 58 above are incorporated herein by reference.

60. As a direct and proximate result of the suggestive eyewitness identification procedures by Defendant State and/or Defendant County, and/or Defendant MPD and/or Defendant Funes, jointly and severally, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT VII

61. The allegations contained in paragraphs 1 through 60 above are incorporated herein by reference.

62. Defendant County was negligent and careless in responding to the telephone calls made to the 911 emergency number on or about December 28, 1990.

63. As a direct and proximate result of Defendant County's aforesaid conduct, Ms. Prator's landlord failed to take affirmative action which would have rescued Ms. Prator, prevented the assault and rape and ultimately prevented Plaintiff's unwarranted prosecution and detention.

64. Defendant County's aforesaid conduct prevented Ms. Prator from being

rescued and the rapist from being apprehended and/or fleeing prior to the assault and rape, and therefore, Defendant County's aforesaid conduct resulted in the assault and rape of Ms. Prator and the prosecution of Plaintiff.

65. As a direct and proximate result of the negligence and/or acts and/or omissions by Defendant County, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT VIII

66. The allegations contained in paragraphs 1 through 65 above are incorporated herein by reference.

67. Defendant County had a duty to control the conduct of Defendant Funes and to prevent him from fabricating evidence and/or performing an improper photo identification lineup.

68. As a direct and proximate result of the failure of Defendant County to properly supervise Defendant Funes, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT IX

69. The allegations contained in paragraphs 1 through 68 above are incorporated herein by reference.

70. Defendant County failed to properly train Defendant Funes. As a result of the failure to properly train Defendant Funes and prevent him from fabricating evidence and/or performing an improper photo identification lineup, Defendant Funes fabricated evidence and/or conducted an improper photographic lineup thereby resulting in Plaintiff's false imprisonment.

71. As a direct and proximate result of the failure of Defendant County to properly train Defendant Funes, Plaintiff has suffered damages for, inter alia, emotional and mental distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT X

72. The allegations contained in paragraphs 1 through 71 above are incorporated herein by reference.

73. Defendant County is responsible and/or vicariously liable for all actions and conduct of Defendant Funes while he was acting under the authority of the County of Maui Police Department.

74. Because Defendant Funes harmed Plaintiff while acting under the authority of Defendant County, Defendant County is responsible for the damages caused to Plaintiff, inter alia, emotional and mental distress and/or physical suffering

and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

COUNT XI

75. The allegations contained in paragraphs 1 through 74 above are incorporated herein by reference.

76. By doing the acts alleged, Defendant Funes acted under color of law to deprive Plaintiff of his right to equal protection of the laws as provided by the Fourteenth Amendment of the United States Constitution. Defendant Funes intentionally discriminated against Plaintiff in violation of his equal protection rights. Defendant Funes treated Plaintiff differently from others similarly situated by investigating Plaintiff and causing the misidentification of Plaintiff while permitting the actual offender to not be investigated. Defendant Funes had no rational basis for the different treatment of Plaintiff.

77. By doing the acts alleged, Defendant Funes acted under color of law to deprive Plaintiff of his right to be free from unreasonable searches and seizures as provided by the Fourth Amendment of the United States Constitution and the right to due process of law as guaranteed

78. By doing the acts alleged, Defendant Funes acted under color of law to falsely imprison Plaintiff in violation of his Fourth Amendment rights.

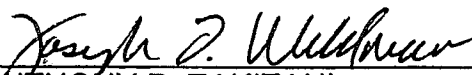
79. As a direct and proximate result of Defendants wrongful conduct, jointly and severally, Plaintiff has suffered damages for, inter alia, emotional and mental

distress and/or physical suffering and/or damage to reputation and/or loss of income and/or impairment of future earning capacity and/or other general and special damages in amounts not presently ascertainable but will be proven at time of trial.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, as follows:

1. General damages in an amount within the jurisdiction of the Circuit Court of the Second Circuit, State of Hawaii;
2. Special damages in such amounts as will be proved at time of trial;
3. Prejudgment interest at the statutory rate from January 21, 2011 until judgment is rendered;
4. Attorneys fees, costs of suit, and such other and further relief as this Court deems just and proper.

DATE: Wailuku, Hawaii, JAN 17 2013



ANTHONY P. TAKITANI
GILBERT S.C. KEITH-AGARAN
DAVID M. JORGENSEN
JOSEPH L. WILDMAN
MATSON KELLEY
Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

ALVIN F. JARDINE, III,

Plaintiff,

v.

STATE OF HAWAII; COUNTY OF MAUI; MAUI POLICE DEPARTMENT; THE ESTATE OF ANTONIO FUNES; JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10 and DOE ENTITIES 1-10,

Defendants

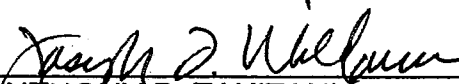
) Civil No. _____
) (Category: Other Non-Vehicle Tort)

) DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff, by and through his undersigned counsel, and hereby demands trial by jury on all issues so triable in the above-entitled action.

DATED: Wailuku, Hawaii, JAN 17 2013.



ANTHONY P. TAKITANI
GILBERT S.C. KEITH-AGARAN
DAVID M. JORGENSEN
JOSEPH L. WILDMAN
MATSON KELLEY
Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

ALVIN F. JARDINE, III,

Plaintiff,

v.

STATE OF HAWAII; COUNTY OF MAUI; MAUI POLICE DEPARTMENT; THE ESTATE OF ANTONIO FUNES, JOHN DOES 1-10; JANE DOES 1-10; DOE PARTNERSHIPS 1-10; DOE CORPORATIONS 1-10 and DOE ENTITIES 1-10,

Defendants.

Civil No. _____
(Category: Other Non-Vehicle Tort)

SUMMONS

SUMMONS

TO THE ABOVE-NAMED DEFENDANT(S):

You are hereby summoned and required to file with the court and serve upon the offices of Takitani, Agaran & Jorgensen, attorneys for Plaintiff, whose address is 24 North Church Street, Suite 409, Wailuku, Hawaii 96793, an answer to the Complaint which is attached. This action must be taken within twenty days after service of this summons upon you, exclusive of the date of service.

If you fail to make your answer within the twenty day time limit, judgment by default will be taken against you for the relief demanded in the Complaint.

If you fail to obey this summons this may result in an entry of default and default judgment.

Pursuant to Rule 4(b) of the Hawaii Rules of Civil Procedure, this summons shall not be delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a judge of the District or Circuit courts permits, in writing on the summons, personal delivery during those hours.

DATED: Wailuku, Hawaii, JAN 17 2013.

/sgd/ V. ISHIHARA (seal)

CLERK OF COURT