

COUNCIL OF THE COUNTY OF MAUI  
**POLICY COMMITTEE**

August 8, 2008

**Committee**

**Report No.**      08-91

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

Chair and Members:

Your Policy Committee, having met on July 22, 2008, makes reference to County Communication No. 07-9, from the Council Chair, regarding indemnification authorization.

By correspondence dated May 22, 2008, the Department of the Corporation Counsel requested consideration of a proposed resolution entitled "INDEMNIFYING SAMUEL C. GASMEN IN LUCILLE R. TABON V. SAMUEL C. GASMEN, ET AL., CIVIL NO. 07-1-0307(3)". Attached to the request is a copy of the Complaint, filed August 16, 2007. The purpose of the proposed resolution is to indemnify Samuel C. Gasmen, a police officer, in the case.

Your Committee notes that this case includes allegations of physical injuries and emotional trauma to Lucille R. Tabon resulting from a motor vehicle collision with a police vehicle operated by Officer Gasmen.

At its meeting, your Committee met with the Chief of Police and a Deputy Corporation Counsel.

There was no public testimony.

The Deputy Corporation Counsel provided a brief overview of the case. She explained that on February 24, 2007, Officer Gasmen, while on duty, was operating a police vehicle, traveling east on Kaahumanu Avenue. With his vehicle emergency lights and siren on, he entered the intersection of Wahinepio and Kaahumanu Avenues. She further explained that Ms. Tabon's vehicle was traveling south along Wahinepio Avenue toward South Papa Avenue. As Ms. Tabon entered the intersection at Kaahumanu Avenue, the two vehicles collided. The Deputy Corporation Counsel also noted that the Police Commission considered the matter and found that Officer Gasmen acted within the course and scope of his employment.

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Based on the information received and the recommendation of the Department of the Corporation Counsel, your Committee voted to recommend adoption of the proposed resolution.

Your Policy Committee RECOMMENDS that Resolution No. \_\_\_\_\_, attached hereto, entitled "INDEMNIFYING SAMUEL C. GASMEN IN LUCILLE R. TABON V. SAMUEL C. GASMEN, ET AL., CIVIL NO. 07-1-0307(3)" be ADOPTED.

Adoption of this report is respectfully requested.

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# Resolution

No. \_\_\_\_\_

INDEMNIFYING SAMUEL C. GASMEN IN  
LUCILLE R. TABON V. SAMUEL C. GASMEN, ET AL.,  
CIVIL NO. 07-1-0307(3)

WHEREAS, Officer Samuel C. Gasmen has been named as a defendant in his individual capacity, in the case of Lucille R. Tabon v. Samuel C. Gasmen, et al., Civil No. 07-1-0307(3), filed in the Circuit Court of the Second Circuit on August 16, 2007, and received by Corporation Counsel's office on March 19, 2008; and

WHEREAS, the complaint alleges that Plaintiff suffered injuries to her neck, back, chest, shoulders, arms, and legs; and

WHEREAS, based upon an investigation of this matter, the Department of the Corporation Counsel believes there to be a good faith basis for indemnification and has recommended that the Council indemnify this Defendant for any damages that may be assessed against him in the above-referenced lawsuit. The damages being requested within the Complaint are: general, special, and exemplar; pre-judgment and post-judgment interest; and costs of suit; and

WHEREAS, based upon the recommendation of the Department of the Corporation Counsel, it appears at this time that it would be in the best interest of the County of Maui to indemnify this Defendant in the above-referenced lawsuit; now, therefore,

**Resolution No. \_\_\_\_\_**

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

1. That Samuel C. Gasmen is indemnified by the County of Maui for any damages that may be assessed against him in the above-referenced lawsuit; and

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

APPROVED AS TO FORM AND LEGALITY:



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LAUREEN L. MARTIN  
Deputy Corporation Counsel  
County of Maui