

**DEPARTMENT OF WATER ENGINEER SETTLES WITH
COUNTY OF KAUAI FOR AGE DISCRIMINATION**

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A Department of Water (DOW) engineer has settled with the County of Kauai, Department of Personnel Services for age discrimination after his filing of a complaint in Fifth Circuit court on July 8, 2013. The plaintiff, Dustin Moises, now 33, has been employed with the DOW, a semi-autonomous agency of the County of Kauai since 2005.

At the time of the complaint filing, Moises claimed that the County discriminated against him due to his age because he was told he was too young to have such a high position and salary.

On December 3, 2014, a Circuit Court judge ruled against the County of Kauai and the Department of Personnel Services and in favor of the plaintiff, Dustin Moises in response to the defendant's motion to dismiss the complaint filed on July 8, 2013. By ruling in favor of the plaintiff, Judge Kathleen Watanabe denied the County's motion to dismiss the following items.

- . Plaintiff's claim for age discrimination against Malcolm Fernandez, the former head of the Department, in his individual capacity.
- . Plaintiff's claim for Intentional Infliction of Emotional Distress.
- . Plaintiff's claim for punitive damages.

On January 16, 2015 a settlement was agreed to, and Judge Kathleen Watanabe thanked all counsel for their continued diligence and professionalism in how they handled the case. Watanabe stated, "I would especially like to commend Mr. Moises and Mrs. Moises for the time that you spent on the case."

Major terms of the settlement agreement were as follows:

- . The Defendants deny liability for any of the claims asserted in the lawsuit.
- . County of Kauai to make a one-time \$125,000 payment to plaintiff.
- . County of Kauai to conduct discrimination training by Type as defined by United States Equal Employment Opportunity Commission including, but not limited to: disability, genetic information, national origin, race/color, religion, sex, age; as well as discrimination based on age in violation of the Hawaii Revised Statutes for all County of Kauai Department heads and supervisors (approximately 200 employees)
- . The Plaintiff deliver a Stipulation for Dismissal with Prejudice of all Parties and all claims.
- . No confidentiality.

Moises stated, "It was a difficult decision to make but I came to it mindfully considering the situation and everyone involved. I am satisfied with the recent settlement as I believe the magnitude of the overall terms does provide validation. It was imperative to include a no confidentiality clause in order to provide as much transparency as possible related to my case. The past several years have significantly affected me, my wife Kristi, and my daughters Shealee and Kenzie; this provides closure for all of us in order to move forward with a new chapter in our lives."

"If this case sets any precedent, I believe it does for the State of Hawaii and other states that may recognize discrimination towards individuals who are perceived to be too young. I am hopeful that the agreed upon settlement that requires broad based training for federal protected classes with added emphasis of the Hawaii Revised Statutes related to discrimination of all ages, including those under the age of 40, will prevent future discrimination against current and potential employees. In addition to the training, I remain optimistic that there will be a culture that provides timely, equal employment and promotional opportunities to all present and prospective County of Kauai employees," said Moises.

Moises is a 1999 graduate of Kauai High School. After graduating from the University of Hawaii at Manoa in civil and environmental engineering with distinction in 2004, Moises declined private firm offers and decided to return home and work for the County because he wanted the opportunity to provide fresh water to Kauai residents. He has been heavily involved with the planning, design and construction of numerous projects for the betterment of the Island while providing safe, affordable and sufficient drinking water to the people of Kauai. In 2012, he was a Department of Water Employee of the Year. Moises completed the American Water Works Association's comprehensive Utility Management Certificate Program to enhance his ability as a DOW steward for the Island. He holds a water distribution system operator license and is a licensed professional civil engineer in the State of Hawaii.