# Committee on Claims

**Wednesday**

**March 8, 2006**

**10:00 A.M.**

**28 House Office Building**

**Allan G. Bense**
**Speaker**

**John Quinones**
**Chair**

## Agenda

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

**Speaker Allan G. Bense**

## Claims Committee

| | |
|---|---|
| **Start Date and Time:** | Wednesday, March 08, 2006 10:00 am |
| **End Date and Time:** | Wednesday, March 08, 2006 12:00 pm |
| **Location:** | 28 HOB |
| **Duration:** | 2.00 hrs |

**Consideration of the following bill(s):**

HB 799 Relief of Norka Laureiro by Miami-Dade County by Bullard
HB 845 Relief of Verlin C. Weaver by the City of Fernandina Beach by Mahon
HB 853 Relief of Adam Susser by the North Broward Hospital District by Negron
HB 863 Relief of Anthony John Angelillo by Miami-Dade County by Kottkamp
HB 877 Relief of Sharon Jurgrau and Megan Jurgrau by the South Broward Hospital District by Seiler
HB 1075 Relief of Ashraf Kamel and Marguerite Dimitri by the Palm Beach County School Board by Seiler

**NOTICE FINALIZED on 03/06/2006 09:00 by WATSON.LOIS**

1 A bill to be entitled
2 An act for the relief of Norka Laureiro by Miami-Dade
3 County; authorizing and directing Miami-Dade County to
4 compensate Norka Laureiro for injuries sustained as a
5 result of a collision caused by a Miami-Dade County bus;
6 providing an effective date.
7
8 WHEREAS, on March 25, 1998, Norka Laureiro was transporting
9 children in a private school van when she approached an
10 intersection, and
11 WHEREAS, a Miami-Dade County bus ran a stop sign at the
12 intersection and collided with Ms. Laureiro's van, which caused
13 serious injuries to Ms. Laureiro and several children, and
14 WHEREAS, the driver of the Miami-Dade County bus had a
15 significant history of driving citations and safety violations,
16 and
17 WHEREAS, as a result of the collision, Ms. Laureiro
18 suffered a crushing blow to her head which caused bone and nerve
19 damage and she underwent reconstructive surgery, and
20 WHEREAS, as a result of the collision, Ms. Laureiro has
21 permanent numbness on the right side of her face due to damaged
22 cranial nerves, and
23 WHEREAS, Ms. Laureiro also suffered permanent injury to her
24 Achilles tendon, several fractures to her right leg, and a
25 subtalar joint dislocation to her right foot which required two
26 major orthopedic surgeries, and
27 WHEREAS, because of the extent of the break to and
28 fragmentation of the bone in her foot, surgery could not achieve

29 complete alignment, and
30 WHEREAS, due to the resulting extensive arthritis and
31 progressive nature of her injury, Ms. Laureiro is unable to use
32 her foot normally, will need additional surgeries in the future,
33 experiences swelling of the foot, is in constant pain, and, as a
34 result, limps when she walks, which causes additional pain in
35 her hips, back, and legs, and
36 WHEREAS, since the accident, Ms. Laureiro has been under
37 the care of a neurologist for the nerve damage to her foot, leg,
38 and face and has also been on antidepressants since the
39 collision, and
40 WHEREAS, before the accident, Ms. Laureiro owned her own
41 business that involved driving children to and from school 5
42 days a week, but due to the nature of her foot injury, she is
43 unable to continue her driving business and has not worked since
44 the accident, and
45 WHEREAS, on September 3, 2003, a jury from the Miami-Dade
46 County Circuit Court returned a verdict in favor of Norka
47 Laureiro in the sum of $1,550,685.38 and $50,000 in favor of
48 Norka Laureiro's husband, Fredy Laureiro, for his loss of
49 consortium, and
50 WHEREAS, Defendant Miami-Dade County appealed the verdict
51 to the Third District Court of Appeal, and while the appeal was
52 pending, the parties resubmitted the case to mediation and
53 reached a settlement of $1 million, and
54 WHEREAS, on March 29, 2005, the Circuit Court of the
55 Eleventh Judicial Circuit issued a final consent judgment
56 against Miami-Dade County in favor of Norka Laureiro in the sum

57 of $1 million, NOW, THEREFORE,
58
59 Be It Enacted by the Legislature of the State of Florida:
60
61 Section 1. The facts stated in the preamble to this act
62 are found and declared to be true.
63 Section 2. Miami-Dade County is authorized and directed to
64 appropriate from funds of the county not otherwise appropriated
65 and to draw a warrant payable to Norka Laureiro in the amount of
66 $1 million for injuries and damages sustained due to the
67 negligence of Miami-Dade County.
68 Section 3. This act shall take effect upon becoming a law.

COUNCIL/COMMITTEE ACTION

| | | |
|---|---|---|
| ADOPTED | __ | (Y/N) |
| ADOPTED AS AMENDED | __ | (Y/N) |
| ADOPTED W/O OBJECTION | __ | (Y/N) |
| FAILED TO ADOPT | __ | (Y/N) |
| WITHDRAWN | __ | (Y/N) |
| OTHER | ____ | |

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1 Council/Committee hearing bill: Claims
2 Representative(s) Bullard offered the following:
3
4 **Amendment**
5 Remove line(s) 57-66 and insert:
6 Of $1 million, and
7 WHEREAS, $900 has already been paid pursuant to the limits
8 of liability set forth in section 768.28, Florida Statutes, NOW
9 THEREFORE,
10 Be It Enacted by the Legislature of the State of Florida:
11 Section 1. The facts stated in the preamble to this act
12 are found and declared to be true.
13 Section 2. Miami-Dade County is authorized and directed to
14 appropriate from funds of the county not otherwise appropriated
15 and to draw a warrant payable to Norka Laureiro in the amount of
16 $999,100 for injuries and damages she sustained due to the

**STORAGE NAME:** h0799.CLAM
**DATE:** January 26, 2006

**Florida House of Representatives**
**Committee on Claims**
**Summary Claim Bill Report**

**Bill #:** **HB 799**
**Sponsor:** **Rep. Bullard**
**Companion Bill:** **SB 44 by Senator Diaz de la Portilla**
**Special Master:** **Stephanie Birtman**

**Basic Information:**

| | |
|---|---|
| **Claimants:** | Norka Laureiro |
| **Respondent:** | Miami-Dade County |
| **Amount Requested:** | $1 million less $900 already paid pursuant to the statutory cap on liability. Total requested = $999,100. |
| **Type of Claim:** | Equitable, based on a settlement agreement. |
| **Respondent's Position:** | The County has agreed to cooperate with the claimants in the claim bill process. |
| **Collateral Sources:** | None. |
| **Attorney's Fees:** | Claimant's attorney has submitted documentation attesting that their fee and the lobbying fee combined will not exceed the 25% cap provided in s. 768.28, F.S., for a total of $250,000. Costs total $48,334.69. |
| **Prior Legislative History:** | None. |

**Procedural Summary:** Norka Laureiro and her husband, Fredy filed suit against Miami-Dade County in 2000, alleging that the driver of a Miami-Dade County bus negligently operated a county bus, resulting in a collision that caused Mrs. Laureiro serious and permanent injuries. The County admitted liability and proceeded to trial on damages alone. The jury returned a total verdict of $1,600,685.38 for the claimants. The County appealed the verdict to the Third District Court of Appeal on a narrow evidentiary issue regarding the admission of evidence on the amount of medical bills paid by Medicare. While the appeal was pending, the parties reached a high/low settlement. Pursuant to the terms of the agreement, because the appellate court did not order a new trial on all of the damages awarded by the jury, the County agreed to pay the claimant $1 million. The Circuit Court

issued a consent judgment awarding $968,750 for Norka Laureiro and $31,250 for Fredy Laureiro. The parties have agreed to merge Mr. Laureiro's claim with the reduced amount for Mrs. Laureiro awarded in the settlement.

**Facts of Case:** On March 25, 1998, Norka Laureiro, then a 64 year-old woman who owned her own business driving children to and from school, was driving her private school van and approaching the southbound intersection of S.W. 3rd Street and S.W. 113th Avenue in Miami-Dade County. Mrs. Laureiro had the right of way. At the same time, a Miami-Dade County bus traveling eastbound and approaching the intersection failed to stop at the stop sign and struck Mrs. Laureiro's van on the left side. As a result of the collision, Mrs. Laureiro suffered a blow to her head which caused bone and nerve damage. The skull trauma caused a fractured right orbital wall and maxillary sinus which had to be reconstructed so that her eye wouldn't sink into the orbit. She has permanent numbness on the right side of her face. Mrs. Laureiro also suffered several fractures to her right leg and has a permanent injury to her Achilles tendon which has required two major orthopedic surgeries. In addition, the injury caused her right subtalar joint to become dislocated (where the ankle bone joins with the foot forming the heel), necessitating two surgeries, the latest of which fused the joint. The surgery was not able to increase her normal function of the ankle, but did help to lesson some of the debilitating pain. She is unable to use the foot normally and anticipates needing future surgeries. The limp has altered her gait causing pain in her hips, back, and legs. She continues to be under a doctor's care for depression cause by the pain, injuries, and inability to work.

SM: _____ SD: _____ Date: 3/2/06

Stephanie O. Birtman Stephanie O. Birtman

CFN 2005R0304089 OR BK 23212 Pgs 3449 - 3450; (2pgs)
RECORDED 03/29/2005 11:17:16
HARVEY RUVIN, CLERK OF COURT, MIAMI-DADE COUNTY, FLORIDA

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT, IN AND FOR
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO.: 00-14076 CA 09

NORKA LAUREIRO and FREDY
LAUREIRO,

Plaintiffs,

v.

MIAMI-DADE COUNTY, etc.

Defendant.
_____/

12

**FINAL CONSENT JUDGMENT AGAINST MIAMI-DADE COUNTY**

Pursuant to the agreement of the parties, the Defendant MIAMI-DADE COUNTY is legally liable to Plaintiffs NORKA LAUREIRO and FREDY LAUREIRO for the amount of One Million Dollars ($1,000,000.00).

THEREFORE IT IS ADJUDGED that Plaintiff NORKA LAUREIRO recovers from Defendant MIAMI-DADE COUNTY the sum of $968,750.00, for which let execution issue.

THEREFORE IT IS ADJUDGED that Plaintiff FREDY LAUREIRO recovers from Defendant MIAMI-DADE COUNTY the sum of $31,250.00, for which let execution issue.

The amount awarded in favor of Plaintiffs against Defendant, MIAMI-DADE COUNTY, shall bear interest at the prevailing legal rate from the date of the denial of the Motion for Re-hearing at the Third District Court of Appeal, for which let execution issue.



Bk 23031 Pg 1618 CFN 20050085199 01/26/2005 16:10:43 Pg 1 of 2 Mia-Dade Cty, FL

2

DONE and ORDERED in Miami-Dade County, Florida, on this 24 day of January 2005

Honorable Marc Schumacher,
Circuit Court Judge

Copies furnished to:
Ervin A. Gonzalez, Esquire
Thomas H. Robertson, Esquire

Persons claiming a lien as a result of judgment:

Norka Laureiro
11290 SW 47 Terrace
Miami, FL 33165
S.S. # 090-34-7338

Fredy Laureiro
11290 SW 47 Terrace
Miami, Florida 33165
S.S. # 261-97-9564

STATE OF FLORIDA
I HEREBY CERTIFY that the foregoing
original on file in this office, Mar 29
HARVEY RUVIN, CLERK, of Circuit
Deputy Clerk

**Biscayne Building-Suite 905**
**Miami, Florida 33130**
**Tel:(305) 374-0042**
**Fax: (305) 373-4770**

Acknowledgement of Settlement

MIAMI-DADE COUNTY,
Plaintiff,

CASE NO.: 00-14076 CA 09

Vs.

NORKA LAUREIRO and FREDY LAUREIRO,
Defendants.
_____/

This case was mediated on October 28, 2004 with Thomas Robertson, Esq. and Ervin Gonzalez, Esq. and a (complete) (partial) settlement was reached. The terms of that settlement are:

The PARties agree to a high/low Settlement between $700,000 and $1 million based on the results of the Appeal in the Third District. If the Court orders a new trial on all damages, then the County shall ~~pay the~~ Agree to a judgment in favor of the Π's for $700,000. If the Court does not order a new trial or orders a new trial on anything less than a full new trial on damages, then the County shall agree to a judgment in favor of the Π's for $1,000,000. The County shall cooperate with the Π's in the Claims Bill Process.

Plaintiff _____ Defendant _____

Plaintiff's Attorney _____ Defendant's Attorney _____

Interpreter _____ Defendant _____

Defendant's Attorney _____

HB 845

1 A bill to be entitled
2 An act for the relief of Verlin C. Weaver by the City of
3 Fernandina Beach; providing for an appropriation to
4 compensate him for injuries sustained as a result of the
5 negligence of an employee of the City of Fernandina Beach;
6 providing for attorney's fees and expenses; providing an
7 effective date.
8
9 WHEREAS, on November 11, 2002, Verlin C. Weaver was
10 seriously injured when a garbage truck owned by the City of
11 Fernandina Beach and operated by one of the city's employees
12 rolled over Mr. Weaver's pickup truck, and
13 WHEREAS, after the accident, the Florida Highway Patrol
14 issued a citation for careless driving to the city employee who
15 was driving the garbage truck, and
16 WHEREAS, as a result of the accident, Verlin C. Weaver
17 suffered multiple fractured bones, and
18 WHEREAS, after the collision, Verlin C.. Weaver spent a
19 month in the hospital, during which time he was in and out of
20 consciousness; he lost his spleen, spent 2 months in
21 rehabilitation, and suffered hearing loss; and he can no longer
22 work full-time, and
23 WHEREAS, Verlin C. Weaver's medical expenses to date total
24 more than $400,000, and
25 WHEREAS, Verlin C. Weaver filed suit against the City of
26 Fernandina Beach (Case No. 03-251-CA-A) in the Circuit Court of
27 the Fourth Judicial Circuit in and for Nassau County, and
28 WHEREAS, subsequently, the parties agreed to settle the

29 case, and, on June 1, 2004, they entered into a consent final
30 judgment in which the City of Fernandina Beach agreed to pay to
31 Verlin C. Weaver the sum of $500,000, including a payment to be
32 made out of insurance proceeds in the amount of $100,000, the
33 limit payable under section 768.28, Florida Statutes, and an
34 additional $400,000 upon the Legislature's passage of a claim
35 bill, which the city agreed to actively support, and
36 WHEREAS, this claim bill is being filed in accordance with
37 the consent final judgment in this matter, NOW, THEREFORE,
38
39 Be It Enacted by the Legislature of the State of Florida:
40
41 Section 1. The facts stated in the preamble to this act
42 are found and declared to be true.
43 Section 2. The City of Fernandina Beach is authorized and
44 directed to appropriate from funds of the city not otherwise
45 encumbered the amount of $400,000 payable to Verlin C. Weaver as
46 compensation for injuries and damages suffered as a result of
47 the negligence of a former employee of the city. Upon passage of
48 this act, payment shall be made in accordance with the terms set
49 forth in the General Release and Settlement of Claim entered
50 into by Verlin C. Weaver and the City of Fernandina Beach,
51 Florida, on May 19, 2004, as follows: within 20 days after the
52 Governor signs this act into law, the City of Fernandina Beach
53 shall draw a warrant in the amount of $200,000 payable to Verlin
54 C. Weaver; on October 10, 2005, the City of Fernandina Beach
55 shall draw a warrant in the amount of $100,000 payable to Verlin
56 C. Weaver; and, on January 9, 2006, the City of Fernandina Beach

57 shall draw a warrant in the amount of $100,000 payable to Verlin
58 C. Weaver. Furthermore, in accordance with the release and
59 settlement, Verlin C. Weaver is responsible for all expenses,
60 including, but not limited to, attorney's fees, associated with
61 the legislative claim bill process.
62 Section 3. This act shall take effect upon becoming a law.

Bill No. **845**

COUNCIL/COMMITTEE ACTION

| | | |
|---|---|---|
| ADOPTED | __ | (Y/N) |
| ADOPTED AS AMENDED | __ | (Y/N) |
| ADOPTED W/O OBJECTION | __ | (Y/N) |
| FAILED TO ADOPT | __ | (Y/N) |
| WITHDRAWN | __ | (Y/N) |
| OTHER | ____ | |

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1 Council/Committee hearing bill: Claims
2 Representative(s) Mahon offered the following:
3
4 **Amendment**
5 On line 54, remove "2005" and insert: 2006
6 On line 56, remove "2006" and insert: 2007

**STORAGE NAME:** h0845.CLAM
**DATE:** January 25, 2006

**Florida House of Representatives**
**Committee on Claims**
**Summary Claim Bill Report**

**Bill #:** **HB 845**
**Sponsor:** **Rep. Mahon**
**Companion Bill:** **SB 62 by Sen. Aronberg**
**Special Master:** **Stephanie Birtman**

## Basic Information:

**Claimants:** Verlin Weaver

**Respondent:** City of Fernandina Beach

**Amount Requested:** $400,000

**Type of Claim:** Equitable, based on a settlement wherein the City has agreed to pay Mr. Weaver a total of $500,000 as follows: $100,000 already paid pursuant to the statutory cap in s. 768.28(5), F.S.; $200,000 to be paid 20 days after the law is enacted; $100,000 to be paid on October 10, 2006; and $100,000 to be paid on January 9, 2007.

**Respondent's Position:** Supports passage of the claim bill. First year funds are from savings realized from the privatization of the city's sanitation system.

**Collateral Sources:** Mr. Weaver received $10,000 in uninsured motorist proceeds from Progressive Insurance. The initial $100,000 payment covered all outstanding liens for his medical treatment.

**Attorney's Fees:** The claimant's attorney has attested that his fees are limited to 20% of the claim in compliance with s. 768.28(8), F.S. There are no outstanding costs. Lobbying fees are 5%, for a total attorney's fee of 25%.

**Prior Legislative History:** HB 23 was filed by Rep. Mahon in 2005, and died on the House calendar. SB 40 (2005) was filed by Sen. Aronberg, and was not heard by any Senate committee.

**Procedural Summary:** Mr. Weaver filed a negligence suit against the City of Fernandina Beach in the Fourth Judicial Circuit in and for Nassau County. While the City had insurance coverage, that coverage had been exhausted by a settlement reached with another victim in this accident. The City admitted liability and a bench trial was had on damages only. The parties requested that the judge withhold judgment pending settlement negotiations. The parties settled for a total of $500,000 as outlined above, and a consent judgment was entered.

**Facts of Case:** On November 11, 2002, Mr. Weaver was stopped at the red light at the intersection of Olive Street and 8th Street in Fernandina Beach. He was wearing a seat belt. A city garbage truck traveling northbound on 8th Street rear-ended another car, causing the garbage truck to lose control, veer across the median, hit several other cars, roll over on top of Mr. Weaver's truck, and come to rest on the top of another vehicle. Mr. Weaver was life-flighted to Shands Trauma Center where he remained for approximately one month, and spent another 5 weeks in rehabilitation hospitals. He suffered a flail chest, ruptured spleen, fractured ribs, acute respiratory failure, and fracture of the left humerus. At the time of the accident, Mr. Weaver was a 67 year-old retiree of the Navy, who had his own pest control business. He now has lost all hearing in his right ear, has lost his spleen, has lost mobility and strength in his left arm and leg, and suffers from chronic shoulder pain.

SM: _____ Stephanie O. Birtman SD: _____ Stephanie O. Birtman Date: 3/2/06

IN THE CIRCUIT COURT OF
THE FOURTH JUDICIAL CIRCUIT
IN AND FOR NASSAU COUNTY, FLORIDA

VERLIN WEAVER, an individual,

Plaintiff,

vs. CASE NO. 03-251-CA-A

THE CITY OF FERNANDINA BEACH, FLORIDA, an agency of the State of Florida,

Defendant.
_____/

**CONSENT FINAL JUDGMENT**

Defendant agrees to entry of this Consent Final Judgment and stipulates that Plaintiff shall be entitled to a judgment in his favor in the total amount of Four Hundred Thousand U.S. Dollars ($400,000.00) to be paid in installments and pursuant to certain specific statutory requirements as follows:

1. Plaintiff shall seek a Legislative Claim Bill, pursuant to the terms set forth herein, from the Florida Legislature and approval of same by the Governor of the State of Florida in accordance with Section 768.28, Florida Statutes. Defendant agrees not to oppose the passage of the Claim Bill and shall consent to and support the passage of the Claim Bill by the Legislature and approval by the Governor, payable as described below:

(a) The sum of Two Hundred Thousand U.S. Dollars ($200,000) to be paid by Defendant to Plaintiff, within 20 days of approval of the Claim Bill by the Governor of the State of Florida.

(b) Payment by Defendant of the sum of One Hundred Thousand U.S. Dollars ($100,000) to Plaintiff on October 10, 2005.

(c) Payment by Defendant of the sum of One Hundred Thousand U.S. Dollars ($100,000) to Plaintiff on January 9, 2006.

2. Defendant shall have no obligation to make the payments described in paragraph one (1) above until the Claim Bill authorizing said payments, as set forth herein, is passed by the Legislature and approved by the Governor of the State of Florida.

3. Each party shall bear its own costs and attorney's fees incurred to date or to be incurred in the future in association with this action or the Legislative Claim Bill process. No interest of any kind, including but not limited to pre-judgment and post-judgment interest, will accrue on the above described installment payments and Defendant shall have no obligation to post a bond to secure the payments referenced in this Consent Final Judgment.

4. All expenses associated with the Legislative Claim Bill process, including but not limited to, the application for and passage of the Claim Bill,

including attorney's fees and the hiring of a lobbyist, if necessary, will be borne by the Plaintiff. Defendant will not be obligated to provide any financial support to the Plaintiff in connection with the Legislative Claim Bill process or with this lawsuit. Defendant shall support the passage of the Claim Bill described herein by drafting letters and making phone calls in support thereof. To the extent Plaintiff requests appearance by a representative of the Defendant at a proceeding before the Florida Legislature or any other proceeding in connection with the Claim Bill described herein, Defendant shall make all reasonable efforts to accommodate said request by sending a representative of the Defendant to travel to said proceeding. Should a representative of the Defendant appear at a proceeding in connection with the Claim Bill, or travel to a proceeding in connection with the Claim Bill, Plaintiff shall be responsible for paying all costs and expenses incurred by the Defendant and associated with same, including but not limited to, transportation and travel expenses, administrative expenses, and a reasonable hourly fee for the time spent in connection with same.

DONE AND ORDERED in Fernandina Beach, Nassau County, Florida this

___ day of _____, 2004.

ORDER ENTERED

JUN - 1 2004

/s/ Brian J. Davis

_____

Honorable Brian J. Davis
Circuit Court Judge

I HEREBY CERTIFY that copies of the foregoing has been furnished to Robert Spohrer, Esq., Spohrer, Wilner, Maxwell & Matthews, P.A., 701 West Adams Street, Jacksonville, FL 32204 and Michael J. Roper, Esq., Bell, Leeper & Roper, P.A., P. O. Box 3669, Orlando, FL 32802 by mail this ___ day of _____, 2004.

_____

Judicial Assistant

# GENERAL RELEASE AND SETTLEMENT OF CLAIM

**Recitals:**

A. As used in this General Release and Settlement of Claim "PLAINTIFF" shall mean VERLIN C. WEAVER, as well as his heirs, executors, administrators, personal representatives, successors and assigns, singular or plural, wherever the context so admits or requires.

B. As used in this General Release and Settlement of Claim the term "DEFENDANT" shall mean the CITY OF FERNANDINA BEACH, FLORIDA, as well as its past, present and future agents, agencies, officials, commissioners, employees, Boards, representatives, attorneys, insurers, indemnitors, successors and assigns in both their individual and official capacities, and any entity or person in privity with them, jointly or severally, singular or plural, wherever the context so admits or requires.

WHEREAS, on or about November 11, 2002, PLAINTIFF was involved in an automobile collision with an employee of the DEFENDANT, the CITY OF FERNANDINA BEACH, which incident took place on Eighth (8th) Street in the CITY OF FERNANDINA BEACH, Nassau County, Florida; and

WHEREAS, PLAINTIFF alleged that the accident was caused by the negligence of an employee of the CITY OF FERNANDINA BEACH when a truck

being driven by an employee of the CITY OF FERNANDINA BEACH collided with the vehicle PLAINTIFF was driving; and

WHEREAS, as a result of the aforesaid incident, PLAINTIFF claims to have sustained damages, including certain bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, medical and nursing care and treatment, loss of earnings, loss of ability to earn money and aggravation of a previously existing condition, which losses are claimed to be permanent and continuing and which losses are expected to be suffered in the future; and

WHEREAS, as a result of the aforesaid incident, PLAINTIFF filed a Complaint in the Circuit Court in and for Nassau County, Florida, Case No. 03-251-CA-A naming the CITY OF FERNANDINA BEACH as a defendant (hereinafter "lawsuit"); and

WHEREAS, DEFENDANT admitted to liability for the incident at issue in the Complaint filed by PLAINTIFF; and

WHEREAS, PLAINTIFF and DEFENDANT participated in a trial of this lawsuit before the Honorable Brian J. Davis on Monday, March 29, 2004 in the Circuit Court in and for Nassau County, Florida; and

WHEREAS, before entry of a Final Judgment by Judge Davis in the lawsuit in

Circuit Court in and for Nassau County, Florida, PLAINTIFF and DEFENDANT agreed to enter into a Consent Final Judgment in connection with this lawsuit and stipulated to the amount of damages to which PLAINTIFF is entitled in order to fully resolve all claims arising out of the above described incident ; and

WHEREAS, PLAINTIFF has agreed to accept the sum of FOUR HUNDRED THOUSAND U.S. DOLLARS ($400,000.00), to be paid as described below, in full and final compromise and settlement of any and all claims he may have, whether now known or not known or contemplated against DEFENDANT arising out of or resulting from the above described incident, and/or suit; and

WHEREAS, PLAINTIFF shall seek a Legislative Claim Bill from the Florida Legislature and approval of same from the Governor of the State of Florida (the "Governor") in accordance with Section 768.28, Florida Statutes, for Four Hundred Thousand U.S. Dollars ($400,000.00) payable as described below; and

WHEREAS, the parties agree to the following with respect to the Legislative Claim Bill to be sought by the PLAINTIFF:

1. DEFENDANT agrees not to oppose the passage of the Claim Bill and shall consent to and support the passage of the Claim Bill by the Legislature and approval by the Governor, payable as described below.

2. The parties further agree that upon passage of a Legislative Claim Bill, as described in this General Release and Settlement of Claim, and approval of same by the Governor, DEFENDANT shall make payment to PLAINTIFF in accordance with the terms set forth below:

A. The sum of Two Hundred Thousand U.S. Dollars ($200,000) to be paid by DEFENDANT to PLAINTIFF, within twenty (20) days of approval of the Claim Bill by the Governor of the State of Florida.

B. Payment by DEFENDANT of the sum of One Hundred Thousand U.S. Dollars ($100,000) to PLAINTIFF on October 10, 2005. (The time for payment referenced in this paragraph is contingent upon passage of the Claim Bill by the Legislature and approval by the Governor by the date specified herein).

C. Payment by DEFENDANT of the sum of One Hundred Thousand U.S. Dollars ($100,000) to PLAINTIFF on January 9, 2006. (The time for payment referenced in this paragraph is contingent upon approval of the Claim Bill by

the Governor by the date specified herein).

D. All expenses associated with the Legislative Claim Bill process, including but not limited to, the application for and passage of the Claim Bill, including attorney's fees and the hiring of a lobbyist, if necessary, will be borne by the PLAINTIFF. DEFENDANT will not be obligated to provide any financial support to the PLAINTIFF in connection with the Legislative Claim Bill process or with this lawsuit.

E. Defendant shall have no obligation to make the payments described in this General Release and Settlement of Claim until the Claim Bill authorizing said payments is passed by the Florida Legislature and approved by the Governor of the State of Florida.

F. No interest of any kind, including but not limited to pre-judgment and post-judgment interest, will accrue on the amount stated in the Consent Final Judgment and the above described installment payments.

3. Defendant shall support the passage of the Claim Bill described

herein by drafting letters and making phone calls in support thereof. To the extent Plaintiff requests appearance by a representative of the Defendant at a proceeding before the Florida Legislature or any other proceeding in connection with the Claim Bill described herein, Defendant shall make all reasonable efforts to accommodate said request by sending a representative of the Defendant to travel to said proceeding. Should a representative of the Defendant appear at a proceeding in connection with the Claim Bill, or travel to a proceeding in connection with the Claim Bill, Plaintiff shall be responsible for paying all costs and expenses incurred by the Defendant and associated with same, including but not limited to, transportation and travel expenses, administrative expenses, and a reasonable hourly fee for the time spent in connection with same.

**NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:** That the said and undersigned PLAINTIFF, for and in consideration of the payment to him of the total sum of FOUR HUNDRED THOUSAND U.S. DOLLARS ($400,000.00), payable as described above, to him in hand paid or which shall be paid in accordance with the terms referenced above, the receipt and sufficiency of which is hereby

acknowledged, does hereby remise, release and forever discharge DEFENDANT of and from all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, account, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims and demands whatsoever, in law or in equity, which PLAINTIFF ever had, now has, or which any personal representative, successor, heir, or assign of PLAINTIFF, hereafter can, shall or may have, against said DEFENDANT, by reason of any matter, cause or thing, from the beginning of the world to the date of these presents including, but not limited to, the above described incident and that certain lawsuit referenced above, and including, but not limited to, any and all claims for compensatory damages, bad faith, injunctive relief, contractual claims, declaratory relief, punitive damages, interest, costs, attorney's fees, federal claims, state statutory or common law claims, lost wages, workers compensation insurance benefits, impairment of earning capacity, physical, emotional or psychological injury, mental anguish, pain and suffering, past and future medical expenses.

As a further consideration and inducement for this compromise settlement, PLAINTIFF agrees to indemnify, protect and save harmless DEFENDANT from all judgments, any and all liens, costs and expenses whatsoever arising on account of any

action, claim or demand which may be brought hereafter by any person or entity, on account of any injury, loss or damages resulting from the accident, occurrence, incident, lawsuit, or event aforesaid. PLAINTIFF further states that at the time of the execution of this General Release and Settlement of Claim there are outstanding claims by way of reimbursement or subrogation by insurance carriers, medical providers or other entities for amounts paid on behalf of PLAINTIFF by reason of the incident, accident, event, occurrence, and/or lawsuit which is described above, and PLAINTIFF will satisfy those claims and will hold DEFENDANT harmless from such claims and will satisfy any such outstanding claims which may be outstanding at the present time, including, but not limited to, any workers compensation insurance liens or subrogated interests, any other insurance liens, any medical liens, and/or liens held by Medicaid and/or Medicare or any other federal or state agency, or any physician, physician group, hospital, nursing care facility, or any other entity.

This General Release and Settlement of Claim shall not be construed as an admission of liability or responsibility by DEFENDANT but is rather a compromise settlement entered into in conjunction with the Consent Final Judgment entered into by the parties which is designed to avoid further litigation and attendant costs.

PLAINTIFF acknowledges and agrees that this is a General Release of all claims. PLAINTIFF expressly waives and assumes the risk of any and all claims for

damages which exist as of this date, of which PLAINTIFF does not know or suspects to exist, whether through ignorance, oversight, error, negligence, or otherwise and which, if known, would materially affect PLAINTIFF's decision to enter into this settlement and provide this General Release. PLAINTIFF further agrees that he has accepted payment of the sum specified herein or will accept payment of the sum specified herein, as a full, final, and complete compromise of matters involving disputed issues of law and fact. PLAINTIFF assumes the risk that the facts or law may be other than PLAINTIFF believes.

The undersigned further warrants that no promise or inducement not herein expressed has been made, that payment of the above mentioned sum and installment payments is in full and final compromise settlement and full satisfaction of all the aforesaid actions, claims and demands whatsoever; that this Release is given in good faith and discharges DEFENDANT from any and all liability for contribution to any other alleged tortfeasor; that the undersigned is over 21 years of age, legally competent to execute this Release, has read the contents of this Release, has been adequately represented by counsel of his own choice, and signs this General Release with full knowledge and appreciation of its meaning.

**IN WITNESS WHEREOF**, the undersigned hereby sets his hand and seal to this General Release and Settlement of Claim this ____ day of _____, 2004.

Signed, sealed and delivered in
the presence of:

Witness

Witness

Verlin C. Weaver

STATE OF FLORIDA
COUNTY OF Duval

The foregoing General Release and Settlement of Claim was acknowledged before me this 19th day of May, 2004, by Verlin C. Weaver, who is personally known to me or who has produced Driver's License as identification and who did/did not take an oath.

My Commission Expires:

Print:
Notary Public

TRACY ANN WITKOWSKI
Notary Public, State of Florida
Commission No. DD 150414
My Commission Expires Sept. 17, 2006

Signed, sealed and delivered in
the presence of:

The City of Fernandina Beach

By: _____

Its: _____

_____
Witness

_____
Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing General Release and Settlement of Claim was acknowledged before me this ___ day of _____, 2004, by _____, who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

My Commission Expires:

_____
Print:
Notary Public

PREPARED BY: Michael J. Roper, Esq.
P. O. Box 3669
Orlando, FL 32802

1 A bill to be entitled
2 An act for the relief of Adam Susser by the North Broward
3 Hospital District; providing for the relief of Adam
4 Susser, a minor, by and through his parents and natural
5 guardians, Judith Susser and Gary Susser; providing for an
6 appropriation to compensate him for injuries and damages
7 sustained as a result of the negligence of the North
8 Broward Hospital District, d.b.a. Coral Springs Medical
9 Center; providing an effective date.
10
11 WHEREAS, in July 2000, Gary Susser, a lawyer, and his wife,
12 Judith Susser, a paralegal, were residing in Boca Raton,
13 Florida, and
14 WHEREAS, prior to her marriage to Gary Susser, Judith
15 Susser was unable to have children, and
16 WHEREAS, after their marriage, Judith and Gary Susser badly
17 wanted to have children, despite the fact that Judith Susser was
18 47 years of age, and
19 WHEREAS, Judith Susser went to a fertility expert and was
20 finally able to become pregnant through in vitro fertilization,
21 and
22 WHEREAS, prenatal tests revealed that Judith Susser was
23 pregnant with twins, and consequently Judith and Gary Susser
24 were looking forward to the birth of their twin boys, and
25 WHEREAS, Judith and Gary Susser sought out high-risk
26 pregnancy experts who could guide them through Judith Susser's
27 pregnancy in order to ensure that her pregnancy progressed
28 safely and without complications, and

29 WHEREAS, Judith Susser kept all of her appointments and
30 complied with all orders by her physicians, and
31 WHEREAS, at approximately 34 weeks gestation, Judith
32 Susser's membrane on the sac holding Adam Susser ruptured, and
33 WHEREAS, Gary Susser immediately took his wife to the Coral
34 Springs Medical Center where, on July 6, 2000, she was admitted
35 by her obstetrician's office and where she remained until her
36 discharge on July 12, 2000, and
37 WHEREAS, during the admission, a high-risk perinatal
38 expert, Dr. Christine Edwards, as well as Dr. Kerry Kuhn and Dr.
39 Carrie Greenspan, Dr. Kuhn's partner, also saw Judith Susser,
40 and
41 WHEREAS, despite a nonreassuring fetal heart pattern and
42 despite the fact that the nurses kept having difficulties
43 getting the fetal monitoring to perform properly, the pregnancy
44 was allowed to continue for 4 and 1/2 days, with the nurses
45 never reporting the abnormal test results or the difficulties
46 they were having with the fetal monitoring equipment to the
47 physicians, and
48 WHEREAS, two days into Judith Susser's labor, a biophysical
49 profile was ordered to be performed by Dr. Edwards, and
50 WHEREAS, that biophysical profile yielded abnormal
51 indications and, although they were not reported by the nurses,
52 the obstetricians were aware of the abnormal results, and
53 WHEREAS, despite this, the obstetricians allowed Judith
54 Susser's labor to continue, and
55 WHEREAS, finally, on the early morning of the fifth day of
56 labor, Judith Susser was taken to the operating room for

57 delivery, and
58 WHEREAS, the physician in charge was insistent on
59 performing a vaginal delivery despite all the obvious needs for
60 an emergency cesarean section, and
61 WHEREAS, when Dr. Kuhn reached the delivery room, he asked
62 for fetal monitoring to be commenced and the nurses indicated
63 that they could not bring the fetal monitoring machine into the
64 delivery room because they did not have a fetal monitor for
65 twins available, and
66 WHEREAS, Gary Susser then asked the nurses to get the fetal
67 monitoring machine from the room that Judith Susser had
68 previously been in for 4 days, which demand was also made by Dr.
69 Kuhn, and the nurses said they could not remove the monitoring
70 machine from the wall, and
71 WHEREAS, for the next hour there was only manual monitoring
72 of Adam Susser, and Dr. Kuhn continued to wait, and
73 WHEREAS, on July 10, 2000, Adam Susser was born by vaginal
74 delivery, and
75 WHEREAS, tragically, as a result of the extraordinary and
76 egregious malpractice by the physicians and nurses at the Coral
77 Springs Medical Center, Adam Susser was born severely depressed
78 and oxygen-deprived, which led to severe brain damage, and
79 WHEREAS, Adam Susser cannot walk and will never be able to
80 walk, cannot sit up on his own, cannot use his hands or arms, is
81 cortically blind, needs to be fed through a feeding tube, and is
82 severely mentally and physically impaired, and
83 WHEREAS, though by all accounts Adam Susser will have a
84 normal life expectancy, which means that he should live into his

85 70's, Adam Susser will require medical care and treatment for
86 the remainder of his life, and
87 WHEREAS, the negligent care administered by the Coral
88 Springs Medical Center formed the basis of legal action against
89 the North Broward Hospital District, d.b.a. Coral Springs
90 Medical Center, and
91 WHEREAS, the matter was settled prior to trial with the
92 overall settlement amount being $9.8 million, and
93 WHEREAS, the hospital's private insurer, the Zurich
94 Insurance Company, paid the claimants the amount of
95 $3,831,218.04 on behalf of the North Broward Hospital District,
96 and
97 WHEREAS, the North Broward Hospital District paid $200,000
98 for the benefit of Adam Susser pursuant to the limits of
99 liability set forth in section 768.28, Florida Statutes, and
100 WHEREAS, in addition, the North Broward Hospital District
101 fully supports the passage of a claim bill for the amount of
102 $668,781.96, NOW, THEREFORE,
103
104 Be It Enacted by the Legislature of the State of Florida:
105
106 Section 1. The facts stated in the preamble to this act
107 are found and declared to be true.
108 Section 2. The North Broward Hospital District is
109 authorized and directed to appropriate from funds of the
110 hospital district not otherwise appropriated and to draw a
111 warrant in the sum of $668,781.96 payable to the special needs
112 trust established for the care and benefit of Adam Susser, minor

113 child of Judith Susser and Gary Susser, as compensation for
114 injuries and damages sustained as a result of the negligence of
115 the North Broward Hospital District.
116 Section 3. This act shall take effect upon becoming a law.

**STORAGE NAME:** h0853.CLAM
**DATE:** January 25, 2006

**Florida House of Representatives**
**Committee on Claims**
**Summary Claim Bill Report**

**Bill #:** **HB 853**
**Sponsor:** **Rep. Negron**
**Companion Bill:** **SB 58 by Sen. Jones**
**Special Master:** **Stephanie Birtman, Esq.**

## Basic Information:

**Claimants:** Judith and Gary Susser, parents of Adam Susser, a minor.

**Respondent:** North Broward Hospital District (hospital district)

**Amount Requested:** $668,781.96

**Type of Claim:** Equitable, based on a settlement agreement.

**Respondent's Position:** Supports the passage of the bill.

**Collateral Sources:** Together with this claim bill, the claimants will receive a total of $9.8 million.

**Attorney's Fees:** The attorney has certified that his fees will not exceed the 25% statutory cap, and have in fact been reduced to 15% of the amount to be awarded via this claim bill. Outstanding costs total $8,447.76 Lobbying fees of 5% are included within the attorney's fees.

**Prior Legislative History:** HB 959 was filed in 2004 by Rep. Seiler, but died in the Claims Committee as a Senate companion was not timely filed as required by Senate rule 4.81.

HB 615 (2005) was filed by Rep. Negron and died on the House Calendar. SB 20 (2005) was filed by Sen. Jones and was never considered by the Senate.

**Procedural Summary:** On December 5, 2002, Gary and Judith Susser filed a medical malpractice suit in the 17th Judicial Circuit in and for Broward County. The suit named the following doctors and their professional associations: Dr. Greenspan (settled for $500,000), Dr. Kuhn (settled for $500,000 plus $3,250,000 in a bad faith award), Dr. Edwards (settled for $500,000), Dr. Mata (released), North Broward Radiologists (released), Dr. Beach (released), Pediatrix Medical Group, Inc. (released), and the North Broward Hospital District. Prior to trial, the North Broward Hospital District settled with the claimants for a total of $5.3 million. Of this amount, $4,431,218 was paid by the hospital district's insurance carrier and $200,000 has already been paid pursuant to the statutory cap, leaving a claim bill in the amount of 668,781.96.

**Facts of Case:** On July 6, 2000, Mrs. Susser arrived at Coral Springs Medical Center at 33 weeks gestation. She had the following risk factors: advanced maternal age (she was 47); twin gestation; gestational diabetes; pre-term labor; premature rupture of membranes; and invitro fertilization. This pregnancy required close observation and medical care by the health care providers charged with managing the pregnancy. The acceptable standard of care was breached in the following ways: over four days in the hospital, baby 'A' was not included on the electronic fetal monitoring strips 80% of the time; hospital policy was not followed which required a physician to be notified if there is a problem maintaining electronic fetal monitoring; biophysical profiles were ordered but the results were not checked for two days, and the 'very abnormal' results were not provided to the delivery doctor; the electronic fetal monitor was turned off without a physician's order for almost 24 hours; failure to respond to Mrs. Susser's elevated blood sugar levels; failure to respond to Mrs. Susser's elevated temperature; ordered Pitocin rather than perform a caesarian section; increased the Pitocin in violation of hospital policy given baby A's heart deceleration; complete breakdown in communication amongst treating physicians; and no electronic fetal monitoring in the operating room. Baby A, Adam, was vaginally delivered in critical condition. The one neonatal team in the room had to resuscitate him, but failed to check his blood sugar, prescribe glucose, or check his cord blood gas. Baby B, Brandon, was then born, showing APGAR scores of 7 and 8. The Susser family was sent home believing that both babies were perfectly healthy. However, Adam has been diagnosed with estatic encephalopathy and cortical blindness. He is blind and incapable of walking, talking, or feeding himself. He will never be employable or be self-sustaining. Brandon has a shunt in his brain to decompress the pressure caused by significant hydrocephalus; the shunt will remain in his brain for the rest of his life. He is unsteady on his feet and has a left-sided hemiparesis. Experts have provided sworn deposition testimony that the care and treatment of Mrs. Susser fell below the standards of medical care, and that had acceptable standards of medical care been followed, Adam's brain injury would not have occurred.

SM: _____ SD: _____ Date: 3/2/06

Stephanie O. Birtman Stephanie O. Birtman

WVC:hmg(380)01-356

IN THE CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO. 02002711 08

GARY SUSSER and JUDITH SUSSER, Individually, and as Parents and Natural Guardians of ADAM SUSSER, a minor, and as Parents and Natural Guardians of BRANDON SUSSER, a minor,

Plaintiffs,

v.

CARRIE GREENSPAN, M.D.; CARRIE GREENSPAN, M.D., P.A.; KERRY KUHN, M.D.; KERRY KUHN, M.D., P.A.; OMEGA GYNECOLOGY & OBSTETRICS CENTER; CHRISTINE EDWARDS, M.D.; CHRISTINE EDWARDS, M.D., P.A.; MARIA MATA, M.D.; NORTH BROWARD RADIOLOGISTS, P.A.; RICHARD BEACH, M.D.; PEDIATRIX MEDICAL GROUP, INC.; and NORTH BROWARD HOSPITAL DISTRICT,

Defendants.

_____ /

**CONSENT JUDGMENT**

Upon the stipulation and agreement of the Plaintiffs, GARY SUSSER and JUDITH SUSSER, individually, and as parents and natural guardians of Adam Susser, a minor, and the Defendant, NORTH BROWARD HOSPITAL DISTRICT, d/b/a CORAL SPRINGS MEDICAL CENTER, and the Court having approved the terms and conditions of the settlement reached herein to the extent necessary, and this Court being otherwise fully advised in the premises, it is

ORDERED and ADJUDGED as follows:

1. The judgment is hereby entered in favor of the Plaintiffs and against the Defendant, NORTH BROWARD HOSPITAL DISTRICT, d/b/a CORAL SPRINGS MEDICAL CENTER, by way of a Consent Judgment in the sum of EIGHT HUNDRED SIXTY-EIGHT THOUSAND SEVEN HUNDRED EIGHTY-ONE and 96/100 ($868,781.96) DOLLARS.

2. Execution shall issue with respect to the sum of TWO HUNDRED THOUSAND ($200,000.00) DOLLARS pursuant to the statutory limitation of liability contained in Section 768.28, Florida Statutes, same being payable to the Plaintiffs within thirty (30) days from the entry of this Consent Judgment.

3. The payment of additional money pursuant to this judgment shall only be made in accordance with the law applicable to claims bills and should a claims bill be enacted by the Florida legislature and become law.

4. The amount of this judgment is fully inclusive of all claims for damages, including litigation costs and attorney's fees and interest.

5. This Court shall specifically reserve jurisdiction to enforce the terms and provisions of this Consent Judgment.

DONE and ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 29th day of July, 2003.

J. LEONARD FLEET
A TRUE COPY
JUL 30 2003

J. LEONARD FLEET
CIRCUIT JUDGE

Copies furnished to:
William V. Carcioppolo, Esq.
Gary M. Cohen, Esq.
Paul Buschmann, Esq.
Michael A. Petruccelli, Esq.

Judith A. Bass, Esq.
Thomas Heath, Esq.
Crane Johnstone, Esq.

1 A bill to be entitled
2 An act for the relief of Anthony John Angelillo by Miami-
3 Dade County; authorizing and directing Miami-Dade County
4 to compensate Anthony John Angelillo for injuries suffered
5 due to the negligence of Miami-Dade County; providing an
6 effective date.
7
8 WHEREAS, on April 30, 2002, Anthony John Angelillo was
9 driving his motorcycle, and Miami-Dade Police Officer Barry
10 Savage was driving an automobile owned by Miami-Dade County, and
11 WHEREAS, Officer Savage was on duty and was an agent and
12 employee of Miami-Dade County and acting within the scope of his
13 authority, and
14 WHEREAS, on April 30, 2002, a collision between the
15 motorcycle driven by Anthony John Angelillo and the automobile
16 driven by Officer Savage occurred at the intersection of
17 Northwest 107th Avenue and Northwest 58th Street in Medley,
18 Miami-Dade County, when Officer Savage turned his automobile
19 onto Northwest 107th Avenue from Northwest 58th Street, and
20 WHEREAS, as a result of the accident, Anthony John
21 Angelillo suffered severe bodily injury to his right arm, right
22 elbow, and right shoulder, which are now permanently impaired; a
23 broken clavicle; an impaired lung, which required surgery; and
24 an injured left foot, which necessitated a muscle graft and
25 which foot is permanently impaired, all of which required
26 numerous medical procedures and operations, and
27 WHEREAS, as a result of the injuries, Anthony John
28 Angelillo has constant pain which requires consistent

29 medication; he is required to use a cane to walk; and he will
30 need further medical procedures to his left foot and to his
31 right extremity to allow him to fully straighten it and possibly
32 use his right arm and shoulder for normal everyday activities in
33 the future, and
34 WHEREAS, as a result of this accident, a legal action was
35 filed by Anthony John Angelillo against Miami-Dade County in the
36 Circuit Court of the Eleventh Judicial Circuit in and for Miami-
37 Dade County (Case No. 01-11002-CA-20) alleging negligence on the
38 part of Miami-Dade County, and
39 WHEREAS, Anthony John Angelillo and Miami-Dade County
40 voluntarily settled this claim and lawsuit for the sum of
41 $450,000, and
42 WHEREAS, since the maximum amount that may be awarded and
43 voluntarily paid under section 768.28, Florida Statutes, the sum
44 of $200,000, has been paid, Anthony John Angelillo petitions the
45 Legislature for further payment in the amount of $250,000, and
46 WHEREAS, in the Settlement and Release of All Claims
47 executed by the parties in the lawsuit filed in this matter,
48 Miami-Dade County agreed not to object to a claim bill presented
49 to the Florida Legislature in the amount of $250,000, NOW,
50 THEREFORE,
51
52 Be It Enacted by the Legislature of the State of Florida:
53
54 Section 1. <u>The facts stated in the preamble to this act</u>
55 <u>are found and declared to be true.</u>
56 Section 2. <u>Miami-Dade County is authorized and directed to</u>

57 appropriate from funds of the county not otherwise encumbered
58 and to pay, as agreed by the parties in accordance with the
59 release of all claims, to Anthony John Angelillo the sum of
60 $250,000 as compensation for injuries suffered due to the
61 negligence of an employee of Miami-Dade County.
62 Section 3. This act shall take effect upon becoming a law.

**STORAGE NAME:** h0863.CLAM
**DATE:** February 8, 2006

**Florida House of Representatives**
**Committee on Claims**
**Summary Claim Bill Report**

**Bill #:** **HB 863**
**Sponsor:** **Rep. Kottkamp**
**Companion Bill:** **SB 70 by Sen. Campbell**
**Special Master:** **Stephanie Birtman**

## A. Basic Information:

| | |
|---|---|
| **Claimants:** | Anthony John Angelillo |
| **Respondent:** | Miami-Dade County |
| **Amount Requested:** | $250,000 |
| **Type of Claim:** | Equitable; result of a settlement agreement. |
| **Respondent's Position:** | Agrees not to object to the claim bill. |
| **Collateral Sources:** | Mr. Angelillo receives Social Security Disability payments of $764 per month, as the result of this accident. |
| **Attorney's Fees:** | The claimant's attorney has submitted documentation that his fees are limited to 25% of the recovery, and include lobbying fees of $12,500. Outstanding costs are estimated to be $2,500. |
| **Prior Legislative History:** | HB 793 (2005) was filed by Rep. Kottkamp, passed the Claims Committee, and died in the Justice Council. SB 32 (2005) was filed by Sen. Campbell and was never heard by a Senate committee. |

**B. Procedural Summary:** On December 16, 2002, the claimant and his minor son filed a negligence suit against Miami-Dade County in the Eleventh Judicial Circuit in and for Dade County. A settlement agreement was reached whereby the parties agreed to settle the claim for a total of $450,000 of which the county has paid $200,000. The claim bill amount of $250,000 is to be distributed as follows:

- A 25% attorney's fee in the amount of $62,500, which includes a $12,500 lobbying fee;
- Costs in the amount of $2,500; and
- The remainder of $185,000 to be split evenly with $92,500 going to Mr. Angelillo and $92,500 going to Jackson Memorial Hospital in complete and final satisfaction of the lien.

A resolution of the Jackson Memorial Hospital lien was an essential component of the settlement. The $200,000 that has already been paid was distributed as follows:

- $100,000 to Mr. Angelillo:
  - $28,000 in partial resolution of the Jackson Memorial lien;
  - A reduced attorney's fee of 15% in the amount of $15,000 plus costs of $4,672; and
  - The remainder of $51,827.86 to Mr. Angelillo.
- $100,000 for the benefit of claimant's son, Anthony Jacob Angelillo:
  - Attorney's fees of 25% in the amount of $25,000; and
  - The remaining $75,000 deposited into a guardianship account for the sole benefit of Anthony.

**C. Facts of Case:** On April 30, 2002, Anthony Angelillo, then aged 35, was riding his motorcycle at the posted speed limit of 35 m.p.h., back to his job at Gold Rush, where he was the general manager. He was heading east on NW 58th Street and proceeded through the intersection of 107th Avenue. At the same time, a Miami-Dade police officer in the course and scope of his employment, turned left at the intersection, striking Mr. Angelillo. Both parties claimed that they had the green light. Sufficient credible evidence was presented to find that the officer breached his duty to yield the right of way to the claimant: the claimant's motorcycle had already entered the intersection and was struck in the rear by the police car, and a witness saw that the light was green as he pulled behind the police car. As a result of the accident, Mr. Angelillo has a steel plate connecting his upper shoulder to his arm, a severed left foot (which was grafted back on by physicians), a broken clavicle, and a collapsed lung. He has 50% use of his right arm, no use of his left foot, and severe disfigurement and scarring. Medical bills totaled over $470,000; he did not have health insurance. It is notable that at the time of the accident, Mr. Angelillo's motorcycle license was suspended for failure to pay a parking ticket. Officer Savage was not disciplined for this accident, as the Crash Review Panel determined that the accident was non-preventable. He has however, had 11 prior accidents in the line of duty over his 31 years with the Department, five of which were deemed preventable.

SM: _____ Stephanie O. Birtman SD: _____ Stephanie O. Birtman Date: 3/2/06

*The Herskowitz Law Firm*

ATTORNEYS

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JON M. HERSKOWITZ
ALSO ADMITTED IN COLORADO AND WASHINGTON, D.C.

GREG M. HERSKOWITZ

LORI H. FRIEDMAN
OF COUNSEL

JENNIFER G. HERSKOWITZ
OF COUNSEL

March 25, 2004

Mr. Jack Hartog
Jackson Memorial Hospital - West Wing
1611 Northwest 12th Avenue
Miami, FL 33136

RECEIVED
MAR 26 2004
Office of the County Attorney
Public Health Trust Division

**RE: Anthony Angelillo**
**JMH Account Number: J2941409**
**Lien Amount: $466,527.28**

Dear Mr. Hartog:

The following is the agreement between Anthony Angelillo and Jackson Memorial Hospital/The Public Health Trust ("PHT")for the resolution of the above lien amount. As you know, Anthony Angelillo settled his third party negligence claim against Miami-Dade County. The settlement is $100,000.00 to Anthony Angelillo, $100,000.00 to his son, and an unopposed and unobjected to Claims Bill in the amount of $250,000.00. It is understood that the PHT is relying entirely on the representations in this matter that these are the only recoveries that are being sought, that no others are contemplated, and no other funds have been recovered.

The agreement with the PHT as to the Jackson Memorial Hospital lien is as follows:

1) As to the $100,000.00 payment to Anthony Angelillo's son, the PHT is not asserting a lien against this amount;

2) As to the $100,000.00 payment to Anthony Angelillo, the attorney's fee will be reduced to 15% plus costs; $28,500.00 will be paid to Jackson Memorial Hospital as partial satisfaction of the lien with respect to the initial $200,000.00 settlement, and the remainder to Anthony Angelillo; and

3) As to the $250,000.00 unopposed and unobjected to Claims Bill, the Medicaid lien formula will be used to determine the amount payable to Jackson Memorial Hospital as a complete satisfaction of the lien and the remainder to Anthony Angelillo. By using the Medicaid formula, if we recover $250,000.00 through a Claims Bill, the formula for distribution will be applied as follows:

   a) $62,500.00 as a 25% attorney's fee (including in such fee, the costs to a Claims Bill attorney in the amount of $12,500.00); and

   b) The remainder of $187,500.00 to be split evenly with $93,750.00 to Anthony Angelillo and $93,750.00 to Jackson Memorial Hospital for complete and final satisfaction of the lien.

As we discussed, if the Claims Bill is defeated and there is no recovery against a third party or for third party payment, then there will be total satisfaction of the lien based on the representation of the lack of any other third party funds being available.

Finally, it is agree to disclose to the PHT the final attorney's closing statement (there will be a second Closing Statement disclosed if the Claims Bill is procured), signed by Anthony Angelillo, reflecting the above agreement has been implemented.

The above is true and correct

Jack Hartog on behalf of the
Jackson Memorial Hospital/The Public Health Trust

3/31/04
Date

Very truly yours,

Jon M. Herskowitz, Esq.

JMH/lrp

1 A bill to be entitled
2 An act for the relief of Sharon Jurgrau, wife of Mark
3 Jurgrau, deceased, and Megan Jurgrau, minor child of Mark
4 and Sharon Jurgrau, by the South Broward Hospital
5 District; providing for an appropriation to compensate
6 them for the death of Mark Jurgrau as a result of the
7 negligence of the South Broward Hospital District;
8 providing an effective date.
9
10 WHEREAS, in the summer of 1999, Mark Jurgrau, an architect,
11 38 years of age and a resident of Broward County, underwent
12 medical tests after exhibiting weakness and shortness of breath
13 while engaging in athletic activity, and
14 WHEREAS, the tests revealed that Mark Jurgrau had a problem
15 with the aortic valve of the heart, and as a result of the
16 diagnosis, he was advised to have surgery to replace the aortic
17 valve, and
18 WHEREAS, Mark Jurgrau's doctors recommended a surgical
19 procedure known as the "Ross procedure" in which the patient's
20 own pulmonic valve is used to replace the aortic valve, and
21 WHEREAS, the procedure, commonly used in younger patients,
22 was chosen due to the fact that it is effective for a very long
23 period of time and does not require the patient to take
24 medications subsequent to surgery, and
25 WHEREAS, the Ross procedure was performed on Mark Jurgrau
26 on September 2, 1999, at Memorial Hospital, part of the South
27 Broward Hospital District, and
28 WHEREAS, Mark Jurgrau tolerated the procedure well and

29 appeared to be doing fine, and
30 WHEREAS, the decision to replace Mark Jurgrau's aortic
31 valve was a good decision, the choice of the Ross procedure was
32 a sound choice, and the operation was performed ably and
33 correctly, and
34 WHEREAS, however, one of the risks of this procedure is the
35 possible occurrence of internal bleeding at the location of the
36 operation, and
37 WHEREAS, internal bleeding following this procedure does
38 occur from time to time, is easily recognizable and readily
39 treatable, and is not an indication of negligence per se, and
40 WHEREAS, one of the primary reasons patients are kept in
41 the hospital following this type of surgery is so they can be
42 observed for complications, and
43 WHEREAS, the negligence in this case occurred in the
44 failure of the employees of Memorial Hospital to provide Mark
45 Jurgrau with appropriate postoperative care, and
46 WHEREAS, following his operation, the management of Mark
47 Jurgrau's care was entrusted to a nurse, Kathy Kater, ARNP, and
48 WHEREAS, the surgeon who operated on Mark Jurgrau never saw
49 him again, and Kathy Kater and the other hospital nurses became
50 Mark Jurgrau's health care team, and
51 WHEREAS, from the time of Mark Jurgrau's operation on
52 September 2, 1999, to the time of his death on September 6,
53 1999, Mark Jurgrau exhibited signs and symptoms of internal
54 bleeding, and
55 WHEREAS, in order to monitor for internal bleeding, blood
56 is drawn from a patient daily, and

57 WHEREAS, when a person is losing blood, laboratory values
58 drop as blood contents are used up, and
59 WHEREAS, Mark Jurgrau's hematocrit, hemoglobin, and
60 platelets were all dropping, each day registering much lower
61 than the day before, and
62 WHEREAS, in the 5 days he was in Memorial Hospital, Mark
63 Jurgrau's blood values fell to less than 30 percent of normal,
64 and
65 WHEREAS, also, in order to determine if blood is
66 accumulating in a patient's chest, X-rays are taken daily and
67 the patient's breathing is monitored daily, and
68 WHEREAS, Mark Jurgrau's X-rays showed his lungs filling
69 with blood, more each day than the day before, and
70 WHEREAS, his breathing decreased each day as the portions
71 of his lungs which were full of blood could no longer transfer
72 oxygen, and
73 WHEREAS, as Mark Jurgrau's blood became depleted and his
74 lungs filled with blood, he became deprived of oxygen, which
75 made him weak, dizzy, and disoriented, as evidenced by the fact
76 that his oxygen saturation fell precipitously, and
77 WHEREAS, despite the fact that all appropriate tests were
78 administered and all the results of those tests indicated
79 problems, no intervention was ordered based upon Mark Jurgrau's
80 test results, and
81 WHEREAS, by September 5, 1999, Mark Jurgrau was dying,
82 slowly bleeding to death and drowning in his own blood, and
83 WHEREAS, as he became disoriented from lack of oxygen, the
84 hospital nurses called Nurse Kater, and

85 WHEREAS, without coming in to the hospital to observe Mark
86 Jurgrau, Nurse Kater diagnosed him as having a panic attack and,
87 over the telephone, ordered Xanax to be administered to Mr.
88 Jurgrau, and
89 WHEREAS, on September 6, 1999, Mark Jurgrau's condition
90 became critical, and
91 WHEREAS, Mark Jurgrau was gasping for air, turning pale and
92 cold, and writhing in pain, and
93 WHEREAS, Nurse Kater was again contacted, and again, via
94 telephone, Nurse Kater diagnosed Mark Jurgrau as having a panic
95 attack, and
96 WHEREAS, Mark Jurgrau arrested and a code blue was called,
97 but it was too late, and
98 WHEREAS, Mark Jurgrau died at the age of 38, leaving his
99 wife of 8 years, Sharon Jurgrau, and a 4-year-old daughter,
100 Megan Jurgrau, and
101 WHEREAS, upon performing an autopsy, the medical examiner
102 confirmed that Mark Jurgrau died from undiagnosed internal
103 bleeding, and
104 WHEREAS, the case was also reviewed by a recognized
105 authority in cardiac surgery, Dr. Dudley Johnson, regarded as
106 the father of cardiac surgery and, along with Dr. Michael
107 DeBakey, the co-inventor of the modern coronary bypass
108 operation, and
109 WHEREAS, Dr. Johnson confirmed that Mark Jurgrau's death
110 was unnecessary and unreasonable, and
111 WHEREAS, at the time of his death, Mark Jurgrau was in the
112 beginning stages of a very successful career as an architect,

113 and
114 WHEREAS, based on his age and proven earning potential,
115 economic damages alone were over $10 million, and
116 WHEREAS, Mark and Sharon Jurgrau's daughter, Megan Jurgrau,
117 now 10 years of age, has experienced emotional distress as a
118 result of the death of her father, and
119 WHEREAS, recognizing this as a case involving malpractice
120 and catastrophic damages, the South Broward Hospital District
121 settled the matter, tendering $200,000 pursuant to the limits of
122 liability established pursuant to section 768.28, Florida
123 Statutes, and agreeing to support a claim bill in the amount of
124 $500,000, NOW, THEREFORE,
125
126 Be It Enacted by the Legislature of the State of Florida:
127
128 Section 1. The facts stated in the preamble to this act
129 are found and declared to be true.
130 Section 2. The South Broward Hospital District is
131 authorized and directed to appropriate from funds of the
132 district not otherwise appropriated and to draw a warrant in the
133 sum of $500,000 payable to Sharon Jurgrau, wife of Mark Jurgrau,
134 deceased, as compensation for the death of Mark Jurgrau as a
135 result of the negligence of the South Broward Hospital District.
136 After payment of fees, costs, and authorized expenses, 75
137 percent of the proceeds recovered through the passage of this
138 act shall be apportioned to Sharon Jurgrau, wife of Mark
139 Jurgrau, and 25 percent of the proceeds recovered through the
140 passage of this act shall be deposited into the guardianship

141 account of Megan Jurgrau, minor child of Mark and Sharon
142 Jurgrau, for the exclusive use and benefit of Megan Jurgrau.
143 Section 3. This act shall take effect upon becoming a law.

**STORAGE NAME:** h0877.CLAM
**DATE:** February 8, 2006

**Florida House of Representatives**
**Committee on Claims**
**Summary Claim Bill Report**

**Bill #:** **HB 877**
**Sponsor:** **Rep. Seiler**
**Companion Bill:** **SB 60 by Sen. Fasano**
**Special Master:** **Stephanie Birtman**

## Basic Information:

**Claimants:** Megan Jurgrau, a minor, and Sharon Jurgrau as mother of Megan and wife of Mark Jurgrau, deceased

**Respondent:** South Broward Hospital District (hospital district)

**Amount Requested:** $500,000

**Type of Claim:** Equitable, based on a settlement agreement.

**Respondent's Position:** Supports the passage of the bill.

**Collateral Sources:** Claimants received $200,000 from the insurance company of the late Dr. Thomas Jacob. Claims against Dr. Rosenbloom and Dr. Perryman were dropped.

**Attorney's Fees:** Claimant's attorney has submitted an affidavit certifying that attorney's fees are limited in accordance with s. 768.28(8), F.S. Outstanding costs are $2,749.28. Lobbying fees are reported to be 5% of the award, to be paid in addition to the attorney's fees.

**Prior Legislative History:** HB 1359 (2004) was filed by Rep. Seiler. The bill died in the subcommittee on claims as it did not have a timely filed Senate companion as required by Senate Rule 4.81.

HB 705 (2005) was filed again by Rep. Seiler, and died on the House calendar. SB 18 (2005) by Sen. Fasano was never considered by any Senate committee.

**Procedural Summary:** A wrongful death complaint was filed by Sharon Jurgrau as personal representative of the estate of Mark Jurgrau, deceased, in the Circuit Court for the 17th Judicial Circuit in and for Broward County, Florida. The complaint was filed on March 21, 2002, and named Dr. Rosenbloom, the estate of Dr. Jacob, Dr. Perryman, Nurse Kater, and the South Broward Hospital District as defendants. Doctors Rosenbloom and Perryman were released from the suit, as further discovery indicated no negligence on their part. Dr. Jacob's estate settled for $200,000. As an employee of the hospital district, Nurse Kater's negligence is attributable to the hospital district. Prior to trial, the parties agreed to the entry of a consent final judgment wherein the hospital district agreed to pay Sharon Jurgrau a total of $700,000, and support passage of the instant claim bill. $200,000 has already been paid pursuant to the statutory limit. A guardian ad litem has reported that the proper distribution of the funds is 25% to the minor, Megan, to be deposited into her guardianship account. Sharon Jurgrau is the plenary guardian.

**Facts of Case:** In the summer of 1999, Mark Jurgrau, then a 38 year-old architect, was playing basketball when he became short of breath. Routine tests indicated that he needed to have his aortic valve replaced with part of his own pulmonic valve – the Ross procedure. The operation was performed ably and correctly. After the surgery he bled internally, a common risk. However, the nurse in charge of his post-operative care, Nurse Kater, failed to recognize clear symptoms of internal bleeding (progressive anemia, progressive bleeding into chest, difficulty breathing, decreased oxygen saturation, dizziness, progressive weight gain, inability to urinate) and instead diagnosed him over the phone as having a panic attack and prescribed Xanax. He died in the hospital of undiagnosed internal bleeding. Experts reported that his death was unnecessary and unreasonable.

SM: _____ SD: _____ Date: 3/2/06

Stephanie O. Birtman Stephanie O. Birtman

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY

SHARON JURGRAU, as the Personal Representative of the Estate of MARK A. JURGRAU, Deceased

Plaintiff

vs.

MICHAEL ROSENBLOOM, M.D.;
MICHAEL ROSENBLOOM, M.D., P.A.;
ANN JACOB, as Personal Representative of The Estate of THOMAS JACOB, M.D.;
THOMAS JACOB, M.D., P.A.;
RICHARD A. PERRYMAN, M.D.;
RICHARD A. PERRYMAN, M.D., P.A.;
KATHYRN M. KATER, ARNP; and
SOUTH BROWARD HOSPITAL DISTRICT;

Defendants

CASE NO.: 01-017495 (02)

FLORIDA BAR NO.: 0986720

_____/

**CONSENT FINAL JUDGMENT**

THIS MATTER having come before the Court pursuant to the agreement of the parties for the entry of Final Judgment in favor of the Plaintiff, SHARON JURGRAU, as Personal Representative of the Estate of Mark A. Jurgrau, and against the Defendants, the SOUTH BROWARD HOSPITAL DISTRICT and KATHRYN KATER, ARNP, it is

ORDERED AND ADGUDGED that Final Judgment by Consent is hereby entered in favor of the Plaintiff, SHARON JURGRAU, as Personal Representative of the Estate of Mark A. Jurgrau, and against the Defendants, the SOUTH BROWARD HOSPITAL DISTRICT and KATHRYN KATER, ARNP, in the total amount of $700,000.00 which shall be reported to the Legislature and paid as follows:

1. Defendant, the SOUTH BROWARD HOSPITAL DISTRICT, will forthwith pay to Plaintiff, SHARON JURGRAU, as Personal Representative of the Estate of Mark A. Jurgrau, the sum of Two Hundred Thousand Dollars ($200,000.00).

2. Defendant, the SOUTH BROWARD HOSPITAL DISTRICT, shall agree to, cooperate with, and support in every way the legislative approval of this Consent Final Judgment and the passage of a claims bill for an additional Five Hundred Thousand Dollars ($500,000.00).

3. Each party shall bear their own costs and attorneys' fees, and this action shall remain in full force and effect against all Defendants to this action other that the SOUTH BROWARD HOSPITAL DISTRICT and KATHRYN KATER, ARNP.

DONE and ORDERED in Chambers, Fort Lauderdale, Broward County, Florida this _____ day of _____, 200___.

VICTOR TOBIN
FEB 04 2003
A TRUE COPY

Honorable Victor Tobin

Copies to counsel of record.

HB 1075

1 A bill to be entitled
2 An act for the relief of Ashraf Kamel and Marguerite
3 Dimitri by the Palm Beach County School Board; providing
4 for an appropriation to compensate Ashraf Kamel and
5 Marguerite Dimitri for the wrongful death of their minor
6 child, Jean A. Pierre Kamel, as a result of the negligence
7 of the Palm Beach County School Board; providing an
8 effective date.
9
10 WHEREAS, Jean A. Pierre Kamel, age 13, was killed on
11 January 27, 1997, when he was shot by 14-year-old Tronneal
12 Mangum in front of Conniston Middle School, a Palm Beach County
13 public school, and
14 WHEREAS, Jean A. Pierre Kamel's surviving father, Ashraf
15 Kamel, brought a wrongful-death action against the Palm Beach
16 County School Board, seeking damages for Marguerite Dimitri,
17 Jean's mother, and himself for their anguish and mental pain and
18 suffering due to the tragic death of their minor son, and
19 WHEREAS, before the shooting occurred, Tronneal Mangum and
20 Jean Kamel, both of whom were students at Conniston, had a prior
21 confrontation, namely Mangum's kicking Jean Kamel in his
22 prosthetic leg, and
23 WHEREAS, Jean Kamel and Tronneal Mangum met with a guidance
24 counselor and told the counselor that Mangum had a watch that
25 belonged to Jean Kamel, and
26 WHEREAS, Jean Kamel told an agent or employee of the school
27 board that "Tronneal is out to get me" just days before he was
28 shot and killed, and

29 WHEREAS, on the day of the shooting, Tronneal Mangum
30 traveled to Conniston Middle School on the school bus with a
31 loaded firearm and entered school property carrying the weapon,
32 and
33 WHEREAS, the Palm Beach County School Board was on notice
34 that students had brought firearms to Conniston Middle School on
35 previous occasions, and
36 WHEREAS, on February 8, 2002, a Palm Beach County jury
37 found that the Palm Beach County School Board was negligent and
38 80-percent liable for the death of Jean Kamel, and that Jean
39 Kamel was 20-percent comparatively negligent for his own death,
40 and
41 WHEREAS, the same jury determined that the amount of
42 damages of Ashraf Kamel and Marguerite Dimitri for their anguish
43 and mental pain and suffering as a result of the negligence of
44 the Palm Beach County School Board was $2 million, and
45 WHEREAS, on February 22, 2002, the circuit court reduced
46 the jury verdict to final judgment in the sum of $1,602,400,
47 based on the offset for 20-percent comparative negligence, and
48 WHEREAS, on May 14, 2002, the circuit court entered a cost
49 judgment in favor of Ashraf Kamel in the amount of $13,490, and
50 WHEREAS, the Palm Beach County School Board appealed the
51 final judgment, and the Fourth District Court of Appeal rejected
52 the appeal in a per curiam affirmed opinion issued on February
53 12, 2003, and
54 WHEREAS, on February 27, 2003, the Palm Beach County School
55 Board filed a Motion for Rehearing and Certification of Issues
56 of Great Public Importance, which was denied by the Fourth

57 District Court of Appeal on March 20, 2003, and
58 WHEREAS, on April 17, 2003, the Palm Beach County School
59 Board tendered to Ashraf Kamel, as personal representative of
60 the Estate of Jean A. Pierre Kamel, a payment of $200,000, in
61 accordance with the statutory limits of liability set forth in
62 s. 768.28, Florida Statutes, and
63 WHEREAS, Ashraf Kamel and Marguerite Dimitri and the Palm
64 Beach County School Board agreed to settle the claim for a total
65 of $560,000, and
66 WHEREAS, Ashraf Kamel, as personal representative of the
67 Estate of Jean A. Pierre Kamel, seeks satisfaction of the
68 $360,000 balance of the settlement agreement, NOW, THEREFORE,
69
70 Be It Enacted by the Legislature of the State of Florida:
71
72 Section 1. The facts stated in the preamble to this act
73 are found and declared to be true.
74 Section 2. The Palm Beach County School Board is
75 authorized and directed to appropriate from funds of the school
76 board not otherwise encumbered and to draw a warrant payable to
77 Ashraf Kamel, as personal representative of the Estate of Jean
78 A. Pierre Kamel, for the total amount of $180,000, to compensate
79 Ashraf Kamel for injuries and damages sustained due to the death
80 of Jean A. Pierre Kamel, minor son of Ashraf Kamel and
81 Marguerite Dimitri, as a result of the negligence of the school
82 board.
83 Section 3. The Palm Beach County School Board is
84 authorized and directed to appropriate from funds of the school

85 board not otherwise encumbered and to draw a warrant payable to
86 Marguerite Dimitri for the amount of $180,000, to compensate
87 Marguerite Dimitri for injuries and damages sustained due to the
88 death of Jean A. Pierre Kamel, minor son of Ashraf Kamel and
89 Marguerite Dimitri, as a result of the negligence of the school
90 board.
91 Section 4. This act shall take effect upon becoming a law.

**STORAGE NAME:** h1075.CLAM
**DATE:** March 2, 2006

**Florida House of Representatives**
**Committee on Claims**
**Summary Claim Bill Report**

**Bill #:** HB 1075
**Sponsor:** Rep. Seiler
**Companion Bill:** SB 1960 by Sen. Haridopolos
**Special Master:** Stephanie Birtman, Esq.

## Basic Information:

**Claimants:** Ashraf Kamel, as father and personal representative of the Estate of Jean A. Pierre Kamel, and Marguerite Dimitri, mother of Jean A. Pierre Kamel.

**Respondent:** Palm Beach County School Board

**Amount Requested:** $360,000 as a result of a settlement agreement for a total of $560,000, $200,000 of which has already been paid pursuant to s. 768.28, F.S.

**Type of Claim:** Equitable, based on a settlement agreement.

**Respondent's Position:** Does not oppose the claim bill.

**Collateral Sources:** None.

**Attorney's Fees:** The claimant's attorney has provided documentation verifying that attorney fees are capped at 25% in accordance with s. 768.28, F.S. Lobbying fees are included within the 25%. Costs total $1,158.84.

**Prior Legislative History:** HB 1353 (2004) was filed by Rep. Seiler, and died in the Subcommittee on Claims. The Senate companion, SB 38 by Senator Dawson died on the Senate calendar. At that time the claim had not yet been settled and was highly contested.

HB 771 (2005) was again filed by Rep. Seiler. After the claim settled in March, 2005, the Claims Committee adopted a Committee Substitute reflecting the settlement. The bill died in the Choice and Innovation Committee. SB 44 (2005) by Sen. Dawson was never considered in any Senate Committee.

**Procedural Summary:** On May 21, 1999, Ashraf Kamel, on his own behalf and as personal representative of the estate of Jean Pierre Kamel, filed a wrongful death suit against the Palm Beach County School Board. The case was tried in the Fifteenth Judicial Circuit, and the jury returned a verdict for a total of $2,003,000 finding the Palm Beach County School Board 80% negligent and Jean Pierre 20% negligent. The final judgment was reduced to $1,602,400 based on the comparative negligence offset. The shooter, Tronneal Mangum, was not included on the jury verdict form; thus the jury had no opportunity to apportion any fault to the intentional criminal tortfeasor.[1] The School Board's motions for directed verdict and/or new trial were denied. On appeal the Fourth District Court of Appeal affirmed the case per curiam.[2] After the trial, the parties entered into a settlement agreement wherein the Palm Beach County School Board agreed to pay Ashraf Kamel and Marguerite Dimitri a total of $560,000. Of this amount, $200,000 has already been paid pursuant to s. 768.28, F.S., leaving $360,000 to be paid via claim bill.

**Facts of Case:** On Monday, January 27, 1997, Jean Pierre Kamel, a 13-year old student at Conniston Middle School in West Palm Beach, arrived at school on his bike. At 8:40 a.m., while standing in front of the school, he was shot to death by Tronneal Mangum, a 14-year old classmate. The students were on city property at the time of the shooting. Tronneal Mangum was suspended from school, tried as an adult and sentenced to life without parole. He refuses to disclose where or how he obtained the gun used to kill Jean Pierre. The shooting was allegedly over the trade of an expensive watch traded by Jean Pierre to Tronneal Mangum in exchange for a bike, after Jean Pierre decided he wanted the watch back. On the Thursday before the shooting Tronneal kicked Jean Pierre in his prosthetic leg; the Assistant Principal met with both students, gave Tronneal a detention, and resolved the issue by Tronneal agreeing to bring the watch to school on Monday and deliver it to a school administrator. Jean Pierre did tell his math teacher on the Friday before the shooting that "Tronneal is after me." The teacher testified that Jean Pierre did not want to talk to an assistant principal, or tell his father, and that he did not seem scared or upset. The teacher did not report the conversation because Jean Pierre told her that the problem had been taken care of.

SM: Stephanie O. Birtman SD: Stephanie O. Birtman Date: 3/2/06

[1] Section 768.81(4)(b), F.S., and Merrill Crossings Associates v. McDonald, 705 So.2d 560 (Fla. 1997).
[2] Palm Beach County School Board v. Kamel, 840 So.2d 253 (Fla. 4th DCA 2003), rehearing denied (Mar. 20, 2003).

# COMPLETE RELEASE

STATE OF FLORIDA

COUNTY OF PALM BEACH

WHEREAS, the undersigned, ASHRAF KAMEL, as Personal Representative of the Estate of JEAN A. PIERRE KAMEL, has a claim against SCHOOL BOARD OF PALM BEACH COUNTY, based upon the contentions made in the Complaint filed in this matter and;

WHEREAS, the undersigned has instituted and there is now pending in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, an action numbered 98-007572 AG in said court, upon said claim against SCHOOL BOARD OF PALM BEACH COUNTY as Defendant in said cause; and

WHEREAS, the parties to this Release desire to compromise and settle said claim and said action rather than to incur the expense and uncertainty of the result of the litigation of said action; and

WHEREAS, the nature, character, and extent of the injury to and damages claimed by the undersigned are severally at this date largely unknown, and that fact is one of the major factors in the minds of the parties hereto in determining that said claim and said action should be compromised and settled:

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, in the absence of any of which this Release would not be executed and delivered by the undersigned nor accepted by said Defendant, and of the benefits and advantages anticipated by the undersigned and by said Defendant from the compromise and settlement of said claim and said action, and in consideration also of the total sum of THREE HUNDRED SIXTY THOUSAND DOLLARS AND NO/100 DOLLARS ($360,000.00) of which ASHRAF KAMEL, as Personal Representative of the Estate of JEAN A. PIERRE KAMEL, acknowledges receipt this date ($200,000 has previously been paid to the Plaintiff pursuant to Florida Statutes), and ASHRAF KAMEL, as Personal Representative of the Estate of JEAN A. PIERRE KAMEL, will seek the

passage of a claims bill in the Florida legislature, and that the SCHOOL BOARD OF PALM BEACH COUNTY will not oppose the passage of said claims bill. The undersigned has acquitted, released, exonerated, and discharged, and does hereby acquit, release, exonerate, and discharge said SCHOOL BOARD OF PALM BEACH COUNTY, and its employers, employees, agents, principals, legal assigns, successors, legal representatives, and assigns, of and from any and all obligations, liability, or responsibility under the laws of the State of Florida, and of any other State of the United States, and of the United States of America, for, from, upon, under, on account of or growing or arising out of said claim or said action, including (but not by these specific references excluding any other elements of obligation, liability, or responsibility in respect to said occurrence) all damages, losses, costs, charges, and expenses, of every kind, nature, and character, now existing or hereafter arising, known or unknown or hereafter becoming known, accrued or hereafter accruing, resulting directly or indirectly, proximately or remotely, from all and any of the matters and things embraced in said claim and in said action, and do hereby acknowledge full and complete compromise and settlement, accord and satisfaction and payment thereof and therefore.

The hereinabove recited consideration is the full, complete, and entire consideration for this Release, and there is no agreement, oral or written, express or implied, whereby the undersigned are to receive at any time or in any event or upon the happening of any contingency or upon the development or discovery of any fact, circumstance, or condition any further consideration of any kind whatsoever from said SCHOOL BOARD OF PALM BEACH COUNTY or F.A. RICHARD & ASSOCIATES, INC., for or on account of any other matter, circumstance, or thing whatsoever; and in consideration of the premises, the undersigned hereby agree that they will not, and that their heirs, legal representatives, and assigns shall not, hereafter file or institute in any court any other suit against said SCHOOL BOARD OF PALM BEACH COUNTY or F.A. RICHARD & ASSOCIATES, INC., for or on account of or in respect of said claim or any of the matters and things alleged in said action, and that to any other suit or action

which nevertheless may be hereafter brought on account or in respect of any of the matters and things involved in said claim and in said action this Release shall be a complete and conclusive defense.

The undersigned has read this Release in the presence of his undersigned attorney in said cause, and understands the purport, tenor and effect of this Release. It contains and sets forth the entire agreement between the parties hereto, and there is no part of the agreement between them in respect of the premises which is not fully, completely, accurately, and truly set forth herein.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, in the City of West Palm Beach, in the State of Florida, on this ____ day of March, 2005.

Signed, sealed and delivered
in the presence of:

Witness

Witness

ASHRAF KAMEL, as Personal Representative of the Estate of JEAN A. PIERRE KAMEL

The execution and delivery of the foregoing document is approved this 18th day of March, 2005.

Attorney for Plaintiff

# COMPLETE RELEASE

STATE OF FLORIDA

COUNTY OF PALM BEACH

WHEREAS, the undersigned, MARGUERITE DIMITRI, as mother of JEAN A. PIERRE KAMEL, has a claim against SCHOOL BOARD OF PALM BEACH COUNTY, based upon the contentions made in the Complaint filed in this matter and;

WHEREAS, the undersigned has instituted and there is now pending in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, an action numbered 98-007572 AG in said court, upon said claim against SCHOOL BOARD OF PALM BEACH COUNTY as Defendant in said cause; and

WHEREAS, the parties to this Release desire to compromise and settle said claim and said action rather than to incur the expense and uncertainty of the result of the litigation of said action; and

WHEREAS, the nature, character, and extent of the injury to and damages claimed by the undersigned are severally at this date largely unknown, and that fact is one of the major factors in the minds of the parties hereto in determining that said claim and said action should be compromised and settled:

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES, in the absence of any of which this Release would not be executed and delivered by the undersigned nor accepted by said Defendant, and of the benefits and advantages anticipated by the undersigned and by said Defendant from the compromise and settlement of said claim and said action, and in consideration also of the total sum of THREE HUNDRED SIXTY THOUSAND DOLLARS AND NO/100 DOLLARS ($360,000.00) of which ASHRAF KAMEL, as Personal Representative of the Estate of JEAN A. PIERRE KAMEL, acknowledges receipt this date ($200,000 has previously been paid to the Plaintiff pursuant to Florida Statutes), and ASHRAF KAMEL, as Personal Representative of the Estate of JEAN A. PIERRE KAMEL, will seek the

passage of a claims bill in the Florida legislature, and that the SCHOOL BOARD OF PALM BEACH COUNTY will not oppose the passage of said claims bill. The undersigned has acquitted, released, exonerated, and discharged, and does hereby acquit, release, exonerate, and discharge said SCHOOL BOARD OF PALM BEACH COUNTY, and its employers, employees, agents, principals, legal assigns, successors, legal representatives, and assigns, of and from any and all obligations, liability, or responsibility under the laws of the State of Florida, and of any other State of the United States, and of the United States of America, for, from, upon, under, on account of or growing or arising out of said claim or said action, including (but not by these specific references excluding any other elements of obligation, liability, or responsibility in respect to said occurrence) all damages, losses, costs, charges, and expenses, of every kind, nature, and character, now existing or hereafter arising, known or unknown or hereafter becoming known, accrued or hereafter accruing, resulting directly or indirectly, proximately or remotely, from all and any of the matters and things embraced in said claim and in said action, and do hereby acknowledge full and complete compromise and settlement, accord and satisfaction and payment thereof and therefore.

The hereinabove recited consideration is the full, complete, and entire consideration for this Release, and there is no agreement, oral or written, express or implied, whereby the undersigned are to receive at any time or in any event or upon the happening of any contingency or upon the development or discovery of any fact, circumstance, or condition any further consideration of any kind whatsoever from said SCHOOL BOARD OF PALM BEACH COUNTY or F.A. RICHARD & ASSOCIATES, INC., for or on account of any other matter, circumstance, or thing whatsoever; and in consideration of the premises, the undersigned hereby agree that they will not, and that their heirs, legal representatives, and assigns shall not, hereafter file or institute in any court any other suit against said SCHOOL BOARD OF PALM BEACH COUNTY or F.A. RICHARD & ASSOCIATES, INC., for or on account of or in respect of said claim or any of the matters and things alleged in said action, and that to any other suit or action

which nevertheless may be hereafter brought on account or in respect of any of the matters and things involved in said claim and in said action this Release shall be a complete and conclusive defense.

The undersigned has read this Release in the presence of his undersigned attorney in said cause, and understands the purport, tenor and effect of this Release. It contains and sets forth the entire agreement between the parties hereto, and there is no part of the agreement between them in respect of the premises which is not fully, completely, accurately, and truly set forth herein.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, in Cairo, Egypt this 31 day of March, 2005.

Signed, sealed and delivered
in the presence of:

PC351641

Witness

MARGUERITE DIMITRI

PC687364

Witness

The execution and delivery of the foregoing document is approved this 5th day of ~~March~~ April, 2005.

Attorney for Plaintiff



MD