



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
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DATE	COMM	ACTION
3/10/03	SM	Favorable
	TR	Favorable
	FT	

March 10, 2003

The Honorable James E. "Jim" King, Jr.
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 214 (2003)** – Senator Michael S. "Mike" Bennett
HB 95 (2003) – Representative Joe Negrón
Relief of John W. Martz

SPECIAL MASTER'S FINAL REPORT

THIS IS AN EQUITABLE CLAIM FOR \$500,000 BASED ON A SETTLEMENT AGREEMENT BETWEEN THE CLAIMANT AND HERNANDO COUNTY TO COMPENSATE THE CLAIMANT FOR INJURIES HE SUFFERED IN AN AUTOMOBILE ACCIDENT ON POWELL ROAD IN HERNANDO COUNTY.

FINDINGS OF FACT:

The Accident: On February 20, 2000, then 16-year old Mr. Martz and his friend were traveling on Powell Road (CR 572) which is owned and maintained by Hernando County. Mr. Martz was driving his mother's automobile and traveling between 50-55 mph, when the vehicle's passenger side tires left the pavement and went into a large rut (8 inches deep and 60 feet long) immediately adjacent to the roadway. While attempting to return the vehicle to the proper lane, Mr. Martz lost control of the vehicle and struck a tree located on the opposite side of the roadway. As a result of the accident, Mr. Martz is a quadriplegic.

At the time of the accident, Mr. Martz and his friend were wearing seat belts. The posted speed limit for the roadway in the area of the accident is 50 mph.

Liability: The Florida Traffic Crash Report indicated careless driving by Mr. Martz was a contributing cause of the accident; however, the citation was later withdrawn.

Hernando County knew of the rutting condition on Powell Road at least 6 weeks prior to the accident, but had not repaired the rutting condition as of the date of the accident.

Damages: As a result of the accident, Mr. Martz sustained a C5 and C7 fracture and is left with a C5-C6 quadriplegia. Mr. Martz's past medical expenses total approximately \$612,835.57 to date. Evidence was presented that Mr. Martz's life expectancy is 75.5 years. The projected lifetime medical care is estimated to range from \$11,705,575 to \$11,749,013. In addition, his lost earning capacity is estimated to range from \$1,069,973 to \$1,653,702.

Legal Proceedings: In 2000, Mr. Martz's mother filed suit, individually and on behalf of Mr. Martz, against Hernando County. Prior to trial, the parties settled for \$2,500,000. ITT Hartford, Hernando County's insurance carrier, paid the policy limits of \$2,000,000 to Mr. Martz. The sum of \$1,000,000 was structured, and the sum of \$1,000,000 was paid in cash. Mr. Martz and Hernando County also agreed to seek an additional \$500,000 through this claim bill. Hernando County does not contest this bill. Subsequent to the settlement, \$500,000 was transferred from Hernando County's Reserve for Future Claims to its Reserve for Capital Legal Cases in anticipation of this bill being enacted.

Additional Sources of Income: In addition to the \$2,000,000 mentioned above, Mr. Martz has received \$20,000 through automobile liability insurance PIP and medical payments. Blue Cross/Blue Shield had a subrogation interest of \$144,757.76 which was negotiated down to \$87,402.39.

CONCLUSIONS OF LAW:

There is competent and substantial evidence to support a finding of liability on the part of Hernando County and to support the damages of Mr. Martz in the amount of \$500,000. I find Hernando County knew of the rutting condition and had a duty to properly maintain the road right of way or had a duty to warn the traveling motorists of a known dangerous condition.

ATTORNEYS FEES:

Claimant's attorney has submitted an affidavit confirming attorneys fees in this case are capped at 25 percent of any recovery, pursuant to §768.28, F.S. In fact, attorney's fees have been limited to 25 percent of the initial \$2,000,000 settlement; Mr. Martz's attorney has reduced his fee to 10 percent of the remaining \$500,000. Costs total \$45,071.08. Attorney's fees and costs are included in the settlement amount.

RECOMMENDATIONS:

It is my recommendation that Hernando County pay \$500,000 to Mr. Martz from funds of Hernando County.

Based upon the foregoing, I recommend Senate Bill 214 be reported FAVORABLY.

Respectfully submitted,

Reynold Meyer
Senate Special Master

cc: Senator Michael S. "Mike" Bennett
Representative Joe Negrón
Faye Blanton, Secretary of the Senate
House Subcommittee on Claims