

STORAGE NAME: h0801.cla
DATE: March 13, 2001

Florida House of Representatives
Committee on Claims
Summary Claim Bill Report

Bill #: HB 801
Sponsor: Representative Diaz de la Portilla
Companion Bill: SB 30 by Senator Jones
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

1. **Claimants:** Joshua England, a minor, by and through his mother and legal guardian, Zerhade Jackson.
2. **Respondent:** District School Board of Monroe County.
3. **Amount Requested:** \$2,500,000 structured as follows: \$1,500,000 payable to the special needs trust upon passage of the bill; \$200,000 per year payable to the special needs trust for five years (an additional total of \$1million); forfeiture of any unpaid sums should Joshua die prior to the final payment.
4. **Type of Claim:** Equitable – based on a settlement agreement.
5. **Respondent's Position:** The School District agreed to affirmatively support, cooperate with, and assist the claimant in the passage of the bill.
6. **Collateral Sources:** None.
7. **Prior Legislative History:** None.

B. Procedural Summary: In March of 2000, the claimant brought suit against the District School Board of Monroe County for negligent hiring, training, and supervision of special education teachers involved in a near-drowning accident at the Key West High School pool. The parties reached a settlement agreement at the pre-trial mediation, and a consent judgment was entered for the total sum of \$3,500,000. Of this award, Joshua's mother has been paid \$1 million, which represents the insurance limits. This \$1 million has been used to satisfy the Medicaid lien, and pay other hospital bills. The remaining \$2,500,000 as contemplated in the claim bill, is to be structured as noted in number 3 above, and is payable solely to the special needs trust.

C. Facts of Case: Joshua England is a mildly mentally retarded 15 year old boy who was attending special education classes at Key West High School. On September 3, 1999, Joshua's class of ten students was using the school pool under the direct supervision of five teachers. The teachers admitting to knowing that Joshua did not know how to swim. Joshua was found at the bottom of the pool, and was transported to the Florida Keys Hospital and ultimately airlifted to Miami Children's Hospital. Joshua remained in pediatric neurological intensive care for three months. He has been recently transferred to Mount Sinai Hospital in the Special Care Unit, where he remains in a coma. Experts have testified that he will require full-time around the clock nursing care for the remainder of his life, which is approximately 40 years. Unpaid medical bills total approximately \$500,000; Medicaid should cover his future medical care.

SM: _____ SD: _____ Date: _____
Stephanie O. Birtman Stephanie O. Birtman