

CHAMBER ACTION

1 The Justice Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act for the relief of Sharon Jurgrau, wife of Mark
8 Jurgrau, deceased, and Megan Jurgrau, minor child of Mark
9 and Sharon Jurgrau, by the South Broward Hospital
10 District; providing for an appropriation to compensate
11 them for the death of Mark Jurgrau as a result of the
12 negligence of the South Broward Hospital District;
13 providing an effective date.

14
15 WHEREAS, in the summer of 1999, Mark Jurgrau, an architect,
16 38 years of age and a resident of Broward County, underwent
17 medical tests after exhibiting weakness and shortness of breath
18 while engaging in athletic activity, and

19 WHEREAS, the tests revealed that Mark Jurgrau had a problem
20 with the aortic valve of the heart, and as a result of the
21 diagnosis, he was advised to have surgery to replace the aortic
22 valve, and

23 WHEREAS, Mark Jurgrau's doctors recommended a surgical
24 procedure known as the "Ross procedure" in which the patient's
25 own pulmonic valve is used to replace the aortic valve, and

26 WHEREAS, the procedure, commonly used in younger patients,
27 was chosen due to the fact that it is effective for a very long
28 period of time and does not require the patient to take
29 medications subsequent to surgery, and

30 WHEREAS, the Ross procedure was performed on Mark Jurgrau
31 on September 2, 1999, at Memorial Hospital, part of the South
32 Broward Hospital District, and

33 WHEREAS, Mark Jurgrau tolerated the procedure well and
34 appeared to be doing fine, and

35 WHEREAS, the decision to replace Mark Jurgrau's aortic
36 valve was a good decision, the choice of the Ross procedure was
37 a sound choice, and the operation was performed ably and
38 correctly, and

39 WHEREAS, however, one of the risks of this procedure is the
40 possible occurrence of internal bleeding at the location of the
41 operation, and

42 WHEREAS, internal bleeding following this procedure does
43 occur from time to time, is easily recognizable and readily
44 treatable, and is not an indication of negligence per se, and

45 WHEREAS, one of the primary reasons patients are kept in
46 the hospital following this type of surgery is so they can be
47 observed for complications, and

48 WHEREAS, the negligence in this case occurred in the
49 failure of the employees of Memorial Hospital to provide Mark
50 Jurgrau with appropriate postoperative care, and

51 WHEREAS, following his operation, the management of Mark
 52 Jurgrau's care was entrusted to a nurse, Kathy Kater, ARNP, and
 53 WHEREAS, the surgeon who operated on Mark Jurgrau never saw
 54 him again, and Kathy Kater and the other hospital nurses became
 55 Mark Jurgrau's health care team, and
 56 WHEREAS, from the time of Mark Jurgrau's operation on
 57 September 2, 1999, to the time of his death on September 6,
 58 1999, Mark Jurgrau exhibited signs and symptoms of internal
 59 bleeding, and
 60 WHEREAS, in order to monitor for internal bleeding, blood
 61 is drawn from a patient daily, and
 62 WHEREAS, when a person is losing blood, laboratory values
 63 drop as blood contents are used up, and
 64 WHEREAS, Mark Jurgrau's hematocrit, hemoglobin, and
 65 platelets were all dropping, each day registering much lower
 66 than the day before, and
 67 WHEREAS, in the 5 days he was in Memorial Hospital, Mark
 68 Jurgrau's blood values fell to less than 30 percent of normal,
 69 and
 70 WHEREAS, also, in order to determine if blood is
 71 accumulating in a patient's chest, X-rays are taken daily and
 72 the patient's breathing is monitored daily, and
 73 WHEREAS, Mark Jurgrau's X-rays showed his lungs filling
 74 with blood, more each day than the day before, and
 75 WHEREAS, his breathing decreased each day as the portions
 76 of his lungs which were full of blood could no longer transfer
 77 oxygen, and

78 WHEREAS, as Mark Jurgrau's blood became depleted and his
79 lungs filled with blood, he became deprived of oxygen, which
80 made him weak, dizzy, and disoriented, as evidenced by the fact
81 that his oxygen saturation fell precipitously, and

82 WHEREAS, despite the fact that all appropriate tests were
83 administered and all the results of those tests indicated
84 problems, no intervention was ordered based upon Mark Jurgrau's
85 test results, and

86 WHEREAS, by September 5, 1999, Mark Jurgrau was dying,
87 slowly bleeding to death and drowning in his own blood, and

88 WHEREAS, as he became disoriented from lack of oxygen, the
89 hospital nurses called Nurse Kater, and

90 WHEREAS, without coming in to the hospital to observe Mark
91 Jurgrau, Nurse Kater diagnosed him as having a panic attack and,
92 over the telephone, ordered Xanax to be administered to Mr.
93 Jurgrau, and

94 WHEREAS, on September 6, 1999, Mark Jurgrau's condition
95 became critical, and

96 WHEREAS, Mark Jurgrau was gasping for air, turning pale and
97 cold, and writhing in pain, and

98 WHEREAS, Nurse Kater was again contacted, and again, via
99 telephone, Nurse Kater diagnosed Mark Jurgrau as having a panic
100 attack, and

101 WHEREAS, Mark Jurgrau arrested and a code blue was called,
102 but it was too late, and

103 WHEREAS, Mark Jurgrau died at the age of 38, leaving his
104 wife of 8 years, Sharon Jurgrau, and a 4-year-old daughter,
105 Megan Jurgrau, and

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106 WHEREAS, upon performing an autopsy, the medical examiner
107 confirmed that Mark Jurgrau died from undiagnosed internal
108 bleeding, and

109 WHEREAS, the case was also reviewed by a recognized
110 authority in cardiac surgery, Dr. Dudley Johnson, regarded as
111 the father of cardiac surgery and, along with Dr. Michael
112 DeBakey, the co-inventor of the modern coronary bypass
113 operation, and

114 WHEREAS, Dr. Johnson confirmed that Mark Jurgrau's death
115 was unnecessary and unreasonable, and

116 WHEREAS, at the time of his death, Mark Jurgrau was in the
117 beginning stages of a very successful career as an architect,
118 and

119 WHEREAS, based on his age and proven earning potential,
120 economic damages alone were over \$10 million, and

121 WHEREAS, Mark and Sharon Jurgrau's daughter, Megan Jurgrau,
122 now 9 years of age, has experienced emotional distress as a
123 result of the death of her father, and

124 WHEREAS, recognizing this as a case involving malpractice
125 and catastrophic damages, the South Broward Hospital District
126 settled the matter, tendering \$200,000 pursuant to the limits of
127 liability established pursuant to section 768.28, Florida
128 Statutes, and agreeing to support a claim bill in the amount of
129 \$500,000, NOW, THEREFORE,

130

131 Be It Enacted by the Legislature of the State of Florida:

132

133 Section 1. The facts stated in the preamble to this act
 134 are found and declared to be true.

135 Section 2. The South Broward Hospital District is
 136 authorized and directed to appropriate from funds of the
 137 district not otherwise appropriated and to draw a warrant in the
 138 sum of \$500,000 payable to Sharon Jurgrau, wife of Mark Jurgrau,
 139 deceased, as compensation for the death of Mark Jurgrau as a
 140 result of the negligence of the South Broward Hospital District.
 141 After payment of fees, costs, and authorized expenses, 75
 142 percent of the proceeds recovered through the passage of this
 143 act shall be apportioned to Sharon Jurgrau, wife of Mark
 144 Jurgrau, and 25 percent of the proceeds recovered through the
 145 passage of this act shall be deposited into the guardianship
 146 account of Megan Jurgrau, minor child of Mark and Sharon
 147 Jurgrau, for the exclusive use and benefit of Megan Jurgrau.

148 Section 3. This act shall take effect upon becoming a law.