



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location

402 Senate Office Building

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
2/16/07	SM	Favorable
	CJ	

February 16, 2007

The Honorable Ken Pruitt
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 70 (2007)** – Senator Bill Posey
HB 293 (2007) – Representative John P. “Jack” Seiler
Relief of Anthony Angelillo

SPECIAL MASTER’S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR \$250,000 BASED ON A SETTLEMENT AGREEMENT BETWEEN CLAIMANT ANTHONY ANGELILLO AND MIAMI-DADE COUNTY FOR INJURIES CLAIMANT SUSTAINED WHEN THE MOTORCYCLE HE WAS RIDING WAS STRUCK BY A MIAMI-DADE COUNTY POLICE CAR.

FINDINGS OF FACT:

On April 30, 2002, Claimant Anthony Angelillo, aged 35, was riding his motorcycle to work because his car needed repair. He was heading east on NW 58th Street in Miami, traveling through the intersection at 107th Avenue, when he was struck by a police car driven by Miami-Dade County police officer Barry Savage, who was attempting to make a left (south) turn in the intersection. Officer Savage's vehicle struck the rear of the motorcycle which caused Mr. Angelillo to be thrown off and seriously injured.

Mr. Angelillo had extensive experience riding motorcycles. As a teenager he was sponsored to race dirt bikes in American Motorcycle Association motocross events. From that time to the date of the crash, Mr. Angelillo owned many motorcycles and continued to enjoy riding. He was wearing a helmet at the time of the crash.

Officer Savage, who was 51 years old at the time of the crash, had been employed by the Metro Dade Police Department for 31 years. He had 11 prior crashes in the line of duty, 5 of which were determined to be preventable. He was required to receive counseling and to attend a driver training program in 2001.

Some of Officer Savage's statements about the circumstances of the crash with Mr. Angelillo conflicted with the observations of an objective eyewitness who was in a vehicle behind Officer Savage. The crash report prepared by police investigators stated that the eastbound light turned red while Officer Savage was in the intersection, which is what Officer Savage alleged. The report stated that the eyewitness said the motorcycle was traveling at a high rate of speed, but the eyewitness denied making such a statement to the investigators. The report also stated that the motorcycle collided with the police car even though the damage to the motorcycle and the eyewitness report clearly indicated that the police car struck the rear of the motorcycle. An internal police Crash Review Panel subsequently determined that the crash was "non-preventable" and Officer Savage was not disciplined. Nevertheless, I am persuaded that Mr. Angelillo had the right of way and that Officer Savage was at fault for the crash.

The Department produced a driver record for Mr. Angelillo, dated June 27, 2002, that shows his license was suspended days before the crash for his failure to pay a parking ticket. Mr. Angelillo says he thought his license had been reinstated. He was not cited at the time of the crash for driving with a suspended license. The most current driver record for Mr. Angelillo, which indicates it is the "entire record," shows no suspension for 2002.

The crash caused serious fractures to Claimant's right shoulder and elbow. A steel plate had to be inserted to reinforce the connection between his arm and shoulder. These injuries resulted in extensive scarring and some disfigurement. He lost approximately 50 percent of the strength and range of movement in his right arm and shoulder. Claimant nearly lost his left foot in the crash. He underwent two operations on his foot, but has permanently lost flexibility in the foot. He must wear an enlarged shoe on

the left foot and often uses a cane to walk. The crash also caused Claimant's lungs to collapse and he has scars where tubes were inserted in his sides to drain blood from his lungs.

Before the crash, Mr. Angelillo was physically active. Now, there are many activities, such as riding a motorcycle, he can no longer enjoy. Almost every daily activity is affected by the permanent injuries to his shoulder, arm, and foot.

Mr. Angelillo has an infant son who was born 3 months after the crash and is now 4 years old. The child lost the care, comfort, and related services of his father during Claimant's extended hospitalization and recovery.

Mr. Angelillo's medical bills at Jackson Memorial Hospital totaled about \$470,000. In partial satisfaction of the Hospital's lien, it was paid \$28,500 from the \$100,000 Mr. Angelillo received from the City.

Mr. Angelillo was the manager of Gold Rush, an adult entertainment club in Miami. His employer, Galardi South Enterprises, continued to pay Claimant's salary of approximately \$25,000 without interruption during the period of Claimant's hospitalization and recovery.

Mr. Angelillo qualifies for Social Security disability payments which are now \$886 per month.

LITIGATION HISTORY:

Mr. Angelillo filed a lawsuit against Miami-Dade County in 2002 on behalf of himself and as guardian of his son. The case was mediated and a settlement was reached on April 12, 2004. The parties agreed to settle the claims of both Claimant and his son for \$450,000. Miami-Dade County has already paid \$100,000 to Claimant, from which he netted \$51,828. Another \$100,000 was paid to Claimant's son and, after subtracting \$25,000 in attorney's fees, was deposited into a guardianship account for the child's sole benefit. The settlement agreement includes a provision to pay Jackson Memorial Hospital \$92,500 in full settlement of its lien for unpaid medical expenses if this claim bill is paid by the Legislature.

CLAIMANT'S POSITION:

- Officer Savage was negligent and caused the crash. Miami-Dade County is liable for Claimant's injuries.

- The settlement agreement is fair and reasonable.

MIAMI-DADE COUNTY'S POSITION:

Miami-Dade County does not oppose the claim bill in the amount of \$250,000.

CONCLUSIONS OF LAW:

Officer Savage had a legal duty to operate his vehicle in a safe and prudent manner and to yield the right of way to Claimant before turning left at the intersection. He breached that duty when he failed to yield to Claimant, who was already in the intersection, and struck the motorcycle driven by Claimant. Officer Savage was acting in the course and scope of his duties and, therefore, Miami-Dade County as his employer shared his duty and is liable for the injuries that were proximately caused by the breach.

All of Mr. Angelillo's injuries were proximately caused by Officer Savage's negligence in failing to yield the right of way to Claimant.

There are many reasons for entering into a settlement agreement other than the perceived merits of the claim and, therefore, I am not precluded from reviewing the terms of the parties' settlement agreement in this matter and determining whether they are reasonable under the totality of the circumstances. Given the serious and permanent injuries suffered by Mr. Angelillo, the settlement for \$450,000 suggests that Claimant's suspended license might have been an important factor in the negotiation. The importance of that factor is debatable, but I will not disturb the parties' agreement.

ATTORNEY'S FEES AND LOBBYIST'S FEES:

In compliance with s. 768.28(8), F.S., Mr. Angelillo's attorneys will limit their fees to 25 percent of any amount awarded by the Legislature. His attorney's also have costs of approximately \$2,500. The lobbyist's fee will be an additional 5 percent of any award. If the claim bill is passed in the amount of \$250,000, Mr. Angelillo's attorneys would receive \$62,500 and his lobbyists would receive \$12,500. Mr. Angelillo would net \$90,000.

LEGISLATIVE HISTORY:

Claim bills for Anthony Angelillo were also filed in the 2004 and 2005 Sessions. Following a hearing held in 2004, the Senate Special Master recommended that the bill be

reported favorably. No report was issued in the 2005 Session.

RECOMMENDATIONS:

For the reasons set forth above, I recommend that Senate Bill 70 (2007) be reported FAVORABLY.

Respectfully submitted,

Bram D. E. Canter
Senate Special Master

cc: Senator Bill Posey
Representative John P. "Jack" Seiler
Faye Blanton, Secretary of the Senate
House Committee on Constitution and Civil Law
Counsel of Record