



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

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DATE	COMM	ACTION
3/2/07	SM	Fav/1 amendment
4/12/07	CA	Fav/CS

April 12, 2007

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

Re: **CS/SB 80 (2007) – Community Affairs and Senator Alex Diaz de la Portilla**
HB 629 (2007) – Representative Ed Bullard
Relief of Norka Laureiro

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED EQUITABLE CLAIM FOR \$1 MILLION BASED ON A SETTLEMENT AGREEMENT IN WHICH MIAMI-DADE COUNTY AGREED TO COMPENSATE NORKA LAUREIRO FOR INJURIES SHE RECEIVED AS A RESULT OF A COLLISION WITH A MIAMI-DADE COUNTY BUS.

FINDINGS OF FACT:

A brief video teleconference hearing on this claim was held between sites in Miami and Tallahassee, Florida, on January 3, 2007, to allow the Claimant to present supplemental information concerning her current condition. Based on that hearing and my de novo review of the record, the findings of fact set forth in the report prepared by the prior Senate Special Master are, in substantial portion, adopted as set forth below.

Mrs. Norka Laureiro was a 64-year-old woman who owned her own business driving children to and from school 5 days a week. Her van was clearly marked with her name and phone number painted on the sides and the words "Caution Transporting Children" on the back. On March 25, 1998, while driving the van and transporting children, Mrs. Laureiro was driving southbound and approaching the intersection of

S.W. 3rd Street and S.W. 113th Avenue in Miami-Dade County. Mrs. Laureiro had the right-of-way. A Miami-Dade County bus traveling eastbound and approaching the intersection failed to stop at the stop sign at S.W. 3rd Street and struck Mrs. Laureiro's van on the right front side. Several children and Mrs. Laureiro were severely injured in the collision.

As a result of the collision, Mrs. Laureiro suffered a blow to her head which caused bone and nerve damage. The trauma to her skull caused a fractured right orbital wall which had to be reconstructed so that her eye would not be sunken into the orbit. Mrs. Laureiro has permanent numbness on the right side of her face because of the damage to her cranial nerves. Mrs. Laureiro also suffered several fractures to her right leg and has a permanent injury to her Achilles tendon which required two major orthopedic surgeries.

On March 30, 1998, while she was still hospitalized, Mrs. Laureiro underwent surgery to repair a joint dislocation of her right foot. The affected joint connects the ankle bone to the bones in the lower and back part of the foot forming the heel. Because of the extent of the break and the fragmentation of the bone, the surgeon was not able to achieve a complete alignment.

In November 2002, Mrs. Laureiro underwent a second surgery in an attempt to alleviate her pain and control the development of progressive arthritis. During the surgery, Mrs. Laureiro's ankle joint was fused, and a screw inserted through the bones to align the joint. It is anticipated that the screw will remain in the bone indefinitely. Although the surgery did not increase the normal function of the ankle and was not intended to do so, it did help lessen the debilitating pain.

Mrs. Laureiro remains unable to use her right foot normally. It is anticipated that she may need additional surgeries in the future. Her foot continues to swell and she is constantly in pain which causes her to limp. Her limp has altered her gait and has caused pain in her hips, back, and legs. She has been under the care of a neurologist since the collision for these conditions, as well as the nerve damage to her face. She continues to be under a doctor's care for the treatment of depression caused by the ongoing pain and debilitating

injuries suffered in the accident. The nature of her foot injury has rendered her unable to drive professionally, and she has not worked since the accident. She still lives in Miami-Dade County.

Mrs. Laureiro has been forced to refinance her house to pay off debts and avoid bankruptcy, but still has substantial debts that may cause her to lose her home.

LITIGATION HISTORY:

Mrs. Laureiro filed a lawsuit in Miami-Dade County Circuit Court in June 2000, alleging that the driver of the Miami-Dade County bus negligently ran a stop sign and caused the collision with Mrs. Laureiro's van. As a direct and proximate result of the negligence of the Miami-Dade County bus driver, Mrs. Laureiro suffered serious and permanent injuries.

Miami-Dade County admitted liability in the case and the case proceeded to trial in September 2003, solely on the issue of the amount of damages.

On October 3, 2003, the court entered a final judgment on the jury verdict in the sum of \$1,000,000 for past and \$150,000 for future non-economic losses, bodily injury, pain and suffering, disfigurement, mental anguish and loss of capacity for the enjoyment of life; \$137,985.38 for past medical expenses; \$78,750 for lost earnings; \$150,000 for future medical expenses; \$33,950 for future cleaning help; and \$50,000 to Mrs. Laureiro's husband, Fredy Laureiro for loss of consortium. The total amount of the jury verdict for both Mr. and Mrs. Laureiro was \$1,600,685.38, of which \$1,550,685.38 was for Mrs. Laureiro and, of that, \$400,685.38 was the sum of the economic damages.

Miami-Dade County appealed the verdict to the Third District Court of Appeal, which vacated and remanded the case on a narrow evidentiary issue regarding the admission of evidence on the amount of medical bills in excess of those paid by Medicare, but otherwise affirmed the award. Miami-Dade County v. Laureiro, 894 So. 2d 268 (Fla. 23rd DCA 2004).

The parties mediated the case and reached a settlement agreement that obligates the County to pay the Claimant

\$1,000,000, as approved by the Circuit Court's consent judgment of September 24, 2005, merging judgments of \$968,750 to Norka Laureiro and \$31,250 to Fredy Laureiro into a single sum for Mrs. Laureiro.

Miami-Dade County paid Mrs. Laureiro \$900 of the \$200,000 cap, as limited by Section 768.28(5), Florida Statutes. The remainder of the fund was used to compensate the injured children. The prior Senate Special Master recommended, therefore, that an amendment to the claim bill reduce the \$1 million to \$999,100.

CLAIMANT'S AND COUNTY'S POSITION:

The County agreed to cooperate with the Claimant in the claim bill process. The full amount of the settlement is reserved in a trust fund in the County's transit budget.

CONCLUSIONS OF LAW:

The Claimant, Norka Laureiro, has established by a preponderance of evidence, that the defendant, Miami-Dade County owed a duty of care to stop at the stop sign; that a Miami-Dade County bus driver breached that duty of care by failing to stop at the stop sign; and that the Claimant's injuries and damages were a direct and proximate cause of that breach of the duty of care.

ATTORNEY'S FEES AND LOBBYIST'S FEES:

In compliance with Section 768.28(8), Florida Statutes, Claimant's attorney has submitted a closing statement affirming that the attorney's fees are 25 percent of the amount of the award, or \$250,000 for a \$1,000,000 award. Costs total \$49,994.05. The lobbyist's fees are an additional 5 percent or \$50,000 for a \$1,000,000 award.

LEGISLATIVE HISTORY:

A claim bill to compensate Mrs. Laureiro was filed in 2006.

RECOMMENDATIONS:

The previous Senate Special Master recommended an amendment for this bill and I concur.

For the reasons set forth above, I recommend that Senate Bill 80 be reported FAVORABLY, as amended.

Respectfully submitted,

Eleanor M. Hunter
Senate Special Master

cc: Senator Alex Diaz de la Portilla
Representative Ed Bullard
Faye Blanton, Secretary of the Senate
House Committee on Constitution and Civil Law
Counsel of Record

The CS makes the following changes:

- Reduces the amount of the claim bill from \$1 million to \$999,100.
- Provides a limitation on payment of fees and costs.