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**Florida House of Representatives
Summary Claim Bill Report**

Bill #: HB 765; Relief/Salazar/City of Lake Worth
Sponsor: Representative Seiler
Companion Bill: SB 50 by Senator Baker
Special Master: Tom Thomas

Basic Information:

Procedural Summary: The Claimants filed a negligence suit against the City of Lake Worth in the
Claimants: Lisa Freeman-Salazar, Andy Salazar, and the Estate of Alexandria Salazar

Respondent: City of Lake Worth

Amount Requested: \$342,208

Type of Claim: Equitable; result of a settlement agreement.

Respondent's Position: Consents to and agrees to support the claim bill in the requested amount.

Collateral Sources: The Claimants received a settlement of \$185,000 from Daimler-Chrysler. Although not considered collateral sources, the Claimants did receive funds from various sources to cover some of the expenses related to this tragic accident. The City paid \$157,792, which was the remainder of the statutory limit authorized under s. 768.28, F.S. (the city had paid \$42,208 to the other driver in the accident). The Salazar's automobile insurance policy paid \$10,000 in Personal Injury Protection (PIP) benefits towards medical bills resulting from the accident.

Attorney's/Lobbying Fees: The claimant's attorney has submitted documentation that his fees are limited to 25% of the recovery, and lobbying fees are limited to an additional 6% of the recovery. Outstanding costs are estimated to be \$9,114.51.

Prior Legislative History: This claim has been filed in one prior legislative session (see House Bill 1619 by Representative Seiler and Senate Bill 68 by Senator Baker from the 2007 Regular Legislative Session). A hearing was held on this claim on December 14, 2006.

In preparation for the 2008 session, both parties have been given the opportunity to supplement the record for this claim. The Claimants responded by stating that there had been no change in circumstances of the Claimants since the hearing. The Respondent provided a letter confirming its position of support.

Fifteenth Judicial Circuit in and for Palm Beach County on December 9, 2005. Prior to trial, the parties entered into a settlement agreement whereby the City agreed to pay the Claimants a total of \$500,000, of which \$157,792 has already been paid pursuant to the cap on government liability in s. 768.28(5), F.S. (the city had paid \$42,208 to the other driver in the accident). The settlement includes costs and attorney's fees.

Facts of Case: On October 26, 2004, Alexandria Salazar died from fatal injuries she sustained in a motor vehicle accident that occurred in Lake Worth, Florida. Alexandria was a five-year-old kindergarten student when the accident occurred. Alexandria's mother is Lisa Freeman-Salazar and her father is Andy Salazar. Alexandria's mother had picked her daughter up from South Grade Elementary School where she was attending an after school program. Mrs. Salazar normally traveled on Sixth Avenue South to get home from Alexandria's school, but on this day, Sixth Avenue South at

the intersection of the F.E.C. railroad tracks was closed due to construction and maintenance of the tracks. This forced Mrs. Salazar to find an alternate route that was not familiar to her. She began heading west on Seventh Avenue South approaching the intersection of South H Street. There were no traffic devices, such as a stop sign or a traffic signal, at this intersection. Mrs. Salazar continued through the intersection at less than thirty miles-per-hour. Another vehicle was traveling north on South H Street and entered the intersection at the same time as Mrs. Salazar. There were no traffic devices directing this vehicle to stop either. There were no painted stop bars in either direction, thus, giving vehicles in both directions the indication that they had the right-of-way. A crash occurred whereby the left front corner of Mrs. Salazar's vehicle impacted the right front of the other vehicle. Mrs. Salazar's vehicle rotated counter-clockwise and the other vehicle rotated clockwise. The Lake Worth Police Department responded to the scene. The driver and passenger side airbags deployed. The Lake Worth Fire Rescue was summoned and transported Alexandria to Delray Community Hospital where she was pronounced dead shortly thereafter. Alexandria's cause of death was atlanto-occipital disarticulation due to blunt trauma of the head and neck.

The southwest corner of the intersection of Seventh Avenue South and South H Street normally has a posted stop sign. At the time of the accident, the stop sign was missing. At 9:12 a.m. on the morning of the day before the accident, two cars collided at the very same intersection, following which, the Lake Worth Police Department reported to the City's Public Works Department that the stop sign was missing and needed to be replaced. The record indicates that the Public Works Department had adequate staff and resources available to replace the stop sign prior to the Salazar's accident, but the request to replace the stop sign did not get communicated in the proper manner internally. When Mrs. Salazar drove through that intersection the following afternoon at 5:28 p.m., the stop sign had not been replaced.

Alexandria was in the front seat of the vehicle and was not secured in a child restraint device or by a seat belt as required by law when the accident occurred. An engineering report was submitted that stated that had the front seat belt been secured, due to the low speed and slow deceleration at the time of the accident, it would not have prevented the injuries sustained by Alexandria because the belt would not have locked and would have spooled allowing her to go forward. Further, s. 316.613(3), F.S., provides that the "failure to provide and use a child passenger restraint shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence." Finally, the requested amount of damages is low for the loss of a child and appears to be substantially reduced because of this factor.

Special Master _____ Date _____

cc: Representative Seiler
Senator Baker
Judge Bram Canter, Senate Special Master