



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location

402 Senate Office Building

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DATE	COMM	ACTION
12/2/11	SM	Favorable
2/23/12	RC	Favorable

December 2, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 70 (2012)** – Senator Ronda Storms
Relief of Kristi Mellen, as personal representative of the estate of
Michael Munson

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR \$2,800,0000, BASED ON A CONSENT FINAL JUDGMENT BETWEEN THE ESTATE OF MICHAEL MUNSON AND THE NORTH BROWARD HOSPITAL DISTRICT, WHICH RESOLVED A CIVIL ACTION THAT AROSE FROM THE NEGLIGENCE PROVISION OF EMERGENCY MEDICAL SERVICES AT CORAL SPRINGS MEDICAL CENTER THAT RESULTED IN THE DEATH OF MR. MUNSON, WHO WAS EXPERIENCING TREATABLE CARDIAC DYSRHYTHMIA.

FINDINGS OF FACT:

On Sunday, September 21, 2008, Michael Munson, a married father of two minor children, was relaxing at home with his family. Shortly before 11:00 a.m., Mr. Munson complained to Kristi Mellen—his wife and the claimant in this proceeding—that he was experiencing chest pain, difficulty breathing, as well as nausea and vomiting. Mr. Munson further stated, "this is bad . . . we need to go to the hospital," at which point Ms. Mellen drove him to the emergency room at Coral Springs Medical Center ("Coral Springs"), a facility owned by the North Broward Hospital District.

Video surveillance footage demonstrates that at 11:11 a.m., Mr. Munson arrived at the emergency room—which was not

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busy at that time—and was evaluated by a triage nurse one minute later. Mr. Munson informed the nurse, Ms. Lynn Parpard, that he was experiencing tingling in his arms, burning in his chest, and difficulty breathing. Pursuant to hospital policy, as well as the acceptable standard of medical care, each of the foregoing symptoms required Ms. Parpard to classify Mr. Munson as a high priority "code heart" patient and to ensure that he received immediate treatment (e.g., continuous EKG monitoring). Inexplicably, however, Ms. Parpard erroneously determined—after merely checking Mr. Munson's pulse rate and oxygen saturation level and speaking to him for roughly one minute—that he was suffering from a panic attack. As a result, Mr. Munson was not treated as a high priority patient, and Ms. Parpard directed him to the registration desk, which was located adjacent to the triage area.

At 11:13 a.m., Mr. Munson and Ms. Mellen began the registration process with Mr. Craig Blair, a clerical worker employed by the hospital. During the registration, Ms. Mellen referenced Mr. Munson's symptoms, the nature of which so concerned Mr. Blair that he tapped Ms. Parpard on the shoulder and repeated what Ms. Mellen had told him. Unfortunately, Ms. Parpard ignored Mr. Blair's concerns and stated that Mr. Munson had already been assessed. Mr. Blair continued with the registration, which concluded at 11:23 a.m.

At 11:26 a.m., while seated in the waiting area with his wife, Mr. Munson suffered a massive heart attack and lost consciousness. Ms. Mellen screamed for help, at which point several nurses—other than Ms. Parpard, who never got out of her chair—responded and discovered Mr. Munson in full cardiac and respiratory arrest. Moments later, a "code blue" was called, and at 11:29 a.m.—some 18 minutes after he arrived at the hospital—Mr. Munson was placed on a stretcher and removed to the treatment area.

During the treatment that ensued, Mr. Munson's EKG showed that he was suffering from ventricular fibrillation. Over the next 30 minutes, the emergency physician, Dr. Ingrid Carter, made aggressive efforts to resuscitate Mr. Munson, which included intubation, repeated attempts at defibrillation, and the administration of Amiodarone, Epinephrine, Atropine, and Sodium Bicarbonate. Tragically,

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Mr. Munson could not be revived and was pronounced dead at approximately 12:10 p.m., leaving behind his two children, ages 14 and 17, and his wife of 20 years. Four days later, on September 25, 2008, the Coral Springs Medical Center terminated Ms. Parpard's employment.

An autopsy was subsequently performed, which revealed that the cardiac dysrhythmia that resulted in Mr. Munson's death was caused by three vessel coronary artery disease—a treatable condition. The autopsy report and Mr. Munson's hospital records were later reviewed by two physicians: Dr. Alen Gelb and Dr. Richard Gray, who specialize, respectively, in the fields of emergency medicine and cardiology. Collectively, the experts concluded that Mr. Munson's condition was manageable, that Ms. Parpard's failure to properly assess Mr. Munson and designate him as a high priority patient fell below the acceptable standard of care, and that Mr. Munson more likely than not would have survived had he received prompt treatment from the Coral Springs emergency staff.

The undersigned has reviewed a report prepared by Dr. David Williams, an economist retained by Mr. Munson's estate. Dr. Williams calculated that the economic damages (reduced to present value) from the death of Mr. Munson—a licensed attorney and certified public accountant at the time of the tragedy—totaled \$1,656,581.00. Dr. Williams' report, which the undersigned credits, has not been challenged.

Had the negligence action against the North Broward Hospital District proceeded to trial, it is likely that a jury would have returned an award substantially in excess of the amount sought through the instant claim bill. Accordingly, the undersigned concludes that the settlement is both reasonable and responsible.

LITIGATION HISTORY:

On June 30, 2009, in the circuit court for Broward County, Ms. Mellen, as the personal representative of the estate of Mr. Munson, filed a Complaint for Wrongful Death against the North Broward Hospital District, Phoenix Emergency Medicine of Broward, and Dr. Ingrid Carter. The matter subsequently proceeded to mediation, at the conclusion of which the parties elected to settle the matter for \$3,010,000.00. In particular, the North Broward Hospital District agreed to "use its best efforts and recommend to its

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Board and its claims bill carrier to secure approval of payment of Three Million Dollars," and, if successful, to jointly support the passage of a claim bill in an amount above its self-insured retention "to reach a payment of Three Million Dollars." The mediation agreement further provided that the estate of Mr. Munson would accept \$10,000 in exchange for the dismissal of Dr. Carter as a party.

Subsequently, on July 15, 2011, a consent final judgment was entered against the North Broward Hospital District in the amount of \$3,000,000. Pursuant to the judgment, the North Broward Hospital District was directed to pay Mr. Munson's estate \$200,000 within 30 days, and further ordered to support the passage of a claim bill in the amount of \$2,800,000.

CLAIMANT'S POSITION:

The North Broward Hospital District is vicariously liable for the negligent acts of its employee, Ms. Lynn Parpard, which include, but are not limited to: the erroneous assessment of Mr. Munson's condition; the failure to designate Mr. Munson as a high priority patient and ensure that he received timely, appropriate treatment; and the failure to properly observe Mr. Munson while he was seated in the waiting room.

RESPONDENT'S POSITION:

The North Broward Hospital District supports the instant claim bill.

CONCLUSIONS OF LAW:

As provided in s. 768.28, Florida Statutes (2008), sovereign immunity shields the North Broward Hospital District against tort liability in excess of \$200,000 per occurrence. See Eldred v. North Broward Hospital District, 498 So. 2d 911, 914 (Fla. 1986) (holding s. 768.28 applies to special hospital taxing districts); Paushter v. South Broward Hospital District, 664 So. 2d 1032, 1033 (Fla. 4th DCA 1995). Accordingly, unless a claim bill is enacted, Mr. Munson's family will not realize the full benefit of the settlement agreement reached with the district.

Under the doctrine of respondeat superior, the North Broward Hospital District is vicariously liable for the negligent acts of its agents and employees, when such acts are within the course and scope of the agency or employment. See Roessler v. Novak, 858 So. 2d 1158, 1161 (Fla. 2d DCA 2003). Ms. Lynn Parpard, the triage nurse involved in Mr. Munson's treatment, was an employee of the North Broward

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Hospital District acting within the scope of her employment. Accordingly, Ms. Parpard's negligence is attributable to the district.

Ms. Parpard had a duty to provide Mr. Munson with competent medical care—namely, the proper assessment of his condition, which required immediate medical treatment. Tragically, however, Ms. Parpard breached her duty to Mr. Munson by erroneously concluding that he was suffering from a panic attack and failing to classify him as a high priority cardiac patient. Ms. Parpard's negligence was a direct and proximate cause of Mr. Munson's death.

LEGISLATIVE HISTORY:

This is the first claim bill presented to the Senate in this matter.

ATTORNEYS FEES:

The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), Florida Statutes.

FISCAL IMPACT:

Should this bill be approved, a portion of the claim would be paid from the North Broward Hospital District's general operating fund up to the limits of its self-insured retention (\$1,000,000), less monies expended. The remaining funds necessary to satisfy the claim bill would be provided by Respondent's excess insurance coverage through CNA Insurance. The CEO of the North Broward Hospital District, Frank Nask, has attested that the payment of the instant claim will not adversely affect the provision of healthcare services to the residents of Broward County.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 70 (2012) be reported FAVORABLY.

Respectfully submitted,

Edward T. Bauer
Senate Special Master

cc: Senator Ronda Storms
Debbie Brown, Interim Secretary of the Senate
Counsel of Record