



STORAGE NAME: h3531.CJS

DATE: 4/3/2015

April 3, 2015

SPECIAL MASTER'S FINAL REPORT

The Honorable Steve Crisafulli
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: HB 3531 - Representative Fullwood
Relief/Sharon Robinson/Central Florida Regional Transportation Authority

THIS IS AN EQUITABLE CLAIM BASED ON A SETTLEMENT AGREEMENT, WHEREIN THE CENTRAL FLORIDA REGIONAL TRANSPORTATION AUTHORITY D/B/A LYNX HAS AGREED TO PAY \$3,200,000 TO SHARON ROBINSON, INDIVIDUALLY, AS GUARDIAN OF MARK ROBINSON AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF MATTHEW ROBISON FOR DAMAGES THEY RECEIVED AS A RESULT OF AN ACCIDENT WITH A BUS DRIVEN BY AN EMPLOYEE OF THE AUTHORITY AS THEY CROSSED THE STREET. THE AUTHORITY HAS PAID \$200,000 PURSUANT TO THE STATUTORY CAP LEAVING, \$3,000,000 TO BE PAID PURSUANT TO THIS CLAIM BILL.

FINDING OF FACT:

On November 4, 2010, Mark and Matthew Robinson, aged 12 and 10 years respectively, were walking home from a trip to the gas station.

The boys waited until they were given the signal to walk across the street and began to cross at the intersection of Columbia Avenue and Dyer Street.

At the same time a LYNX public transportation bus was northbound on Dyer Street and making a left turn to travel west

on Columbia Avenue. The bus operator failed to yield to the pedestrians in the crosswalk and struck both of the brothers.

Mark took hold of the bike rack on the front of the bus to prevent himself from being pulled under the bus. Matthew was pulled under the bus, and the waist band of his jeans was caught on the end of a bolt that fasten a large air dam to the undercarriage.

Matthew was pronounced dead at the scene. Mark was transported to the Arnold Palmer Hospital Emergency Room and subsequently diagnosed with an L5-S1 spondylolisthesis which is the forward displacement of vertebrae due to a stress fracture of the vertebrae. Mark was treated nonoperatively with a thoracolumbar spinal orthosis brace and released on November 6, 2010.

In its investigation LYNX found that the accident was preventable, terminated the bus driver's employment on December 14, 2010, and admitted liability in the case on December 17, 2010. The settlement agreement was approved by the Honorable John E. Jordan on July 16, 2014. The funds to pay for the total amount of the settlement, including the claim bill amount, will be drawn from LYNX's risk reserve account which has adequate funds to pay the total amount of the claim bill.

In 2013, claimants' counsel retained Jerry Adatos, M.S., CVE, CRC, CCM to determine an earning capacity assessment of Matthew Robinson. Mr. Adatos estimated that Matthew Robinson would have earned \$54,187.87 annually which equates to \$2,167,514.80 in lifetime earnings.

LITIGATION HISTORY:

Sharon Robinson, individually, as Guardian of Mark Robinson and as Personal Representative of the Estate of Matthew Robinson filed a lawsuit against Central Florida Regional Transportation Authority d/b/a LYNX in the Ninth Judicial Circuit in and for Osceola County.

Prior to trial LYNX admitted liability and the parties settled for \$3,200,000.

LYNX, in accordance with statutory limits of liability in s. 768.28, Florida Statutes, paid \$200,000 to the claimants. From those monies, attorney's recovered \$50,000.00 in attorney fees and \$29,512.66 in costs and expenses. The attorney's fees were divided between King & Markman, P.A. and Kelvin Soto, Esq. which received \$37,500 and \$12,500, respectively.

After the deductions for attorneys' fees and costs, the claimants' net settlement was \$91,568.34. The net settlement was divided as follows: \$2,747.05 to Sharon Robinson as personal representative; \$22,205.32 to Sharon Robinson as mother and survivor; \$22,205.32 to Warren L Robinson, Jr. as

father and survivor, (of this \$12,179.45 was garnered to satisfy past due child support payments); and \$44,410.65 to Mark Robinson with half paid to the Guardian and half to be invested in the PA529 Guaranteed Savings Plan (a Pennsylvania education fund).

CONCLUSION OF LAW:

I concur with the Authority's finding that their employee was in the course and scope of his employment and had a duty to yield the right of way to the pedestrians in the crosswalk. This duty was breached and was the proximate cause of both the injuries suffered by Mark Robinson and the death of Matthew Robinson. I find the damages to be appropriate and based on competent substantial evidence. Because settlement agreements are sometimes entered into for reasons that may have very little to do with the merits of claim or the validity of a defense, stipulations or settlement agreements between the parties to a claim bill are not necessarily binding on the Legislature or its committees, or on the Special Master. However, all such agreements must be evaluated. If found to be reasonable and based on equity, then they can be given effect, at least at the Special Master's level of consideration. I find that the settlement agreement in this case is reasonable and equitable and recommend it be given effect by the Legislature.

RESPONDENT'S ABILITY TO PAY:

The funds to pay for the total amount of the settlement, including the claim bill amount, will be drawn from the Authority's reserve account which are adequate funds to pay the total amount of the claim bill.

ATTORNEY'S/LOBBYING FEES:

The attorney in this case submitted an affidavit that the Petitioner retained his firm based on a fee of 25% of the total recovery from the claim bill, contingent on upon the bill becoming law and payment received. Closing Statement A was submitted showing costs of \$29,512.66. However, the terms of the bill limit the total award of attorney's fees, lobbying fees, costs, and other similar expenses relating to this claim to no more than 25 percent of the total amount awarded by the bill.

LEGISLATIVE HISTORY:

This is the first time House Bill 3531 by Representative Fullwood Senate Bill 84 by Senator Soto has been introduced to the Legislature.

RECOMMENDED AMENDMENTS:

On lines 67-68 the bill appropriates funds from the General Revenue Fund. This should be amended to appropriate the award from the Authority's general revenue fund.

In addition, the bill allocates the entire amount of the award to Sharon Robinson, individually and as Personal Representative

of the estate. The bill should be amended to award the funds as provided in the settlement agreement, pursuant to the terms of Closing Statement B: Sharon Robinson, as Personal Representative, is to receive \$58,429.34; Sharon Robinson, as mother and survivor, is to receive \$821,838.99; Warren Robinson, as father and survivor, is to receive \$61,250.00; and Mark Robinson, individually, is to receive \$1,308,481.67.

RECOMMENDATIONS:

I respectfully recommend that the bill be reported **FAVORABLY**.

Respectfully submitted,

PARKER AZIZ

House Special Master

cc: Representative Fullwood, House Sponsor
Senator Soto, Senate Sponsor
James Knudson, Senate Special Master