



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
302 Capitol Building

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

DATE	COMM	ACTION
12/31/14	SM	Favorable
02/17/15	JU	Fav/CS
4/7/15	AHS	Favorable

December 31, 2014

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 40** – Judiciary Committee and Senator Ring
Relief of L.T.

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED EQUITABLE CLAIM FOR \$800,000 FROM GENERAL REVENUE BASED ON A SETTLEMENT AGREEMENT BETWEEN THE LEGAL GUARDIAN OF L.T. AND THE DEPARTMENT OF CHILDREN AND FAMILIES FOR THE SEXUAL ABUSE SUFFERED BY L.T. WHEN SHE WAS LEFT BY THE DEPARTMENT IN THE FOSTER CARE OF A REGISTERED SEX OFFENDER

CURRENT STATUS:

On December 14, 2010, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 18 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably with an amendment to correct an erroneous claim amount. (The 2012 bill failed to account for the \$200,000 that DCF had already paid; therefore, the proper claim amount was \$800,000 rather than \$1,000,000.) The 2012 report is attached as an addendum to this report. The amount claimed in SB 40 (2015) on the date of this report is \$800,000.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, Mary K. Kraemer. My

responsibilities were to review the records relating to the claim bill, be available for questions from the members, and determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

According to counsel for the claimant, no changes have occurred since the hearing which might have altered the findings and recommendations in the report. There was no response provided to me by the Department of Children and Families.

The provisions of SB 40 (2015) address and update the circumstances (with additional detail) upon which the claim for relief is based, but it should be noted that the prior claim bill, SB 18 (2012), sought relief sought for the relief of the claimant **as a minor**. The record reflects that the claimant is now over the age of eighteen. There are no longer references to the claimant's "Permanent Custodian." Online public records in Pasco County indicate that a Plenary Guardianship of Minor Person and Property was terminated in 2013 prior to the claimant's 19th birthday (Case No. 51-2009-GA-000006-GAAX-WS). The bill provides that the funds are to be paid to the claimant directly (Section 3, lines 127-132).

In a letter dated October 31, 2014, claimant's counsel stated that the claimant:

1. Is now 20 years old and living with her fiancée, the father of her baby;
2. Intends to attend school in Leon County, with a career goal of specializing in the psychiatric treatment and care of trauma patients;
3. Continues to have the same diagnoses; and
4. Remains on medication.

SB 40 (2015) includes language similar to the above (lines 94-99), and further indicates that the claimant is employed part-time and attending a university in Florida.

SPECIAL MASTER'S FINAL REPORT- SB 40 (2015)

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Respectfully submitted,

Mary K. Kraemer
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

CS by Judiciary on February 17, 2015:

The committee substitute provides for the proceeds of the claim bill to be paid into a special needs trust, the remainder of which will revert to the claimant when she reaches 30 years of age. Under the underlying bill, the proceeds of the claim bill would have remained in the trust for the duration of the claimant's life. The committee substitute also waives any applicable medical liens held by the state.



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

	COMM	ACTION
12/1/11	SM	Fav/1 amendment

December 1, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-110

Re: **SB 18 (2012)** Senator Jeremy Ring
Relief of L.T., a Minor

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED EQUITABLE CLAIM FOR \$800,000 FROM GENERAL REVENUE BASED ON A SETTLEMENT AGREEMENT BETWEEN THE LEGAL GUARDIAN OF L.T. AND THE DEPARTMENT OF CHILDREN AND FAMILIES FOR THE SEXUAL ABUSE SUFFERED BY L.T. WHEN SHE WAS LEFT BY THE DEPARTMENT IN THE FOSTER CARE OF A REGISTERED SEX OFFENDER.

FINDINGS OF FACT:

In August 1995, when LT. was less than two years old, the Department of Children and Families (DCF) removed LT. and her brother from their mother and placed them in the foster care of their great uncle, Eddie Thomas, and his wife, who lived in Gadsden County. Less than a year after the placement, Thomas was charged with sexually molesting a 13-year-old girl. He plead no contest to lewd, lascivious, or indecent assault upon a child and was sentenced to five years' probation and required to receive sex abuse counseling. He was also registered as a sex offender.

Despite the fact that DCF was aware of Thomas' conviction and his registration as a sex offender, it

decided that the risk of harm to L.T. was low and did not remove L.T. from Thomas' care and custody. DCF also terminated protective supervision of L.T., meaning that a social worker no longer visited the Thomas home from time to time to see how L.T. was doing. Protective supervision is often terminated by DCF when a child is placed with a relative and DCF is satisfied that supervision is unnecessary.

In 2004, when L.T. was 10 years old, DCF placed an adolescent girl in the foster care of the Thomases. A few months after the placement, this minor girl ran away from the house in the middle of the night, claiming that Thomas had attempted to sexually molest her. DCF removed this girl from the Thomas home, but DCF did not re-evaluate the placement of LT. with Thomas.

In March 2005, when L.T. was 11 years old (and Thomas was 44), she ran away from home and told authorities that she had been repeatedly sexually abused by Thomas. She also said that Thomas and his wife used drugs. DCF then removed L.T. from the Thomas home.

It was later revealed by L.T. that she was roughly disciplined by the Thomases and that they were verbally abusive to her, frequently calling her derogatory names and telling her that she was worthless.

L.T. is now 17 years old and in a good foster home. However, as a result of the sexual abuse she endured while living with Thomas, L.T. suffers from post-traumatic stress disorder, depression, and low self-esteem. She has occasionally attempted suicide and for 10 months was a resident of Tampa Bay Academy, a mental health facility. She is receiving psychological counseling and will likely need counseling for many years. A trial consultant projected her future lost earnings as \$540,000. Her projected future medical expenses are \$760,000 to \$11,580,000, depending on the degree of psychological therapy and supervision she might need, the higher figure reflecting the costs of institutionalization. A conservative estimate of her total future economic losses is around \$2 million.

LITIGATION HISTORY:

In 2009, a lawsuit against DCF was filed in the Second Judicial Circuit by L.T.'s aunt and legal guardian. The case was successfully mediated and the parties entered into a settlement agreement pursuant to which L.T. would receive \$1,000,000. The sovereign immunity limit of \$200,000 was paid and the balance of \$800,000 is sought through this claim bill. The court order approving the settlement agreement requires that the net proceeds to L.T. be placed in a special needs trust. After deducting legal fees and costs from the \$200,000, and accounting for a Medicaid lien, \$11,084 remained to be placed in a special needs trust for L.T.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding for the purpose of determining, based on the evidence presented to the Special Master, whether DCF is liable in negligence for the injuries suffered by L.T., and, if so, whether the amount of the claim is reasonable.

DCF has a duty to exercise reasonable care when it places foster children and to protect them from known dangers. DCF breached that duty when it learned that Thomas had been convicted of a sexual offense on a child, but did not remove L.T. from the Thomas home. DCF acted negligently again when it did not remove L.T. following the charge of sexual abuse against Thomas made by another foster child in 2004. DCF knew or should have known that Thomas posed a serious risk of harm to L.T. These breaches of duty were the proximate cause of the injuries that L.T. suffered.

The amount of the claim is fair and reasonable.

ATTORNEY'S FEES:

In compliance with s. 768.28(8), Florida Statutes, L.T.'s attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature.

OTHER ISSUES:

The bill erroneously states that the claim is for \$1 million, failing to account for the \$200,000 that DCF has already paid. The bill should be amended to state that the claim is for \$800,000.

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RECOMMENDATIONS:

For the reasons set forth above, I recommend that Senate Bill 18 (2012) be reported FAVORABLY, as amended.

Respectfully submitted



Bram D. E. Canter
Senate Special Master

cc: Senator Ring
Debbie Brown, Secretary of the Senate
Counsel of Record

Bar Code
815506
(2012)

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LEGISLATIVE ACTION

Senate

House

The Special Master on Claim Bills recommended the following:

1 **Senate Amendment**

2
3 Delete line 147
4 and insert:
5 a warrant in the sum of \$800,000, payable to L.T., by and