



STORAGE NAME: h6545.CJC

DATE: 3/16/2017

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

Bill #: HB 6545; Relief/Jerry Cunningham/Broward County

Sponsor: Raburn

Companion Bill: SB 314 by Farmer

Special Master: Parker Aziz

Basic Information:

Claimants: Jerry Cunningham

Respondent: Broward County

Amount Requested: \$550,000

Type of Claim: Local equitable claim; result of a settlement agreement

Respondent's Position: Broward County does not oppose passage of the claim bill.

Collateral Sources: None reported.

Attorney's/Lobbying Fees: Claimant's attorney has an agreement with Claimant to take a fee of 25% of Claimant's total recovery. Claimant's attorney has hired a lobbyist and has agreed to pay 5% of any amount of the claim bill in lobbying fees; such payment is included in the attorney's 25% fee. There are no outstanding costs remaining.

Prior Legislative History: This is the first time this claim has been introduced to the Legislature

Procedural Summary: On December 3, 2013, Gerard and Lilliam Cunningham, individually and as parents of Jerry Cunningham, ("Claimant") filed a complaint in the Circuit Court of the 17th Judicial Circuit in Broward County alleging negligence against Broward County ("County"). On August 15, 2016, the parties entered into a settlement agreement in the amount of \$850,000. The County has paid the \$300,000 statutory cap payment.

Facts of Case: On May 10, 2013, a fourteen year-old Jerry Cunningham was walking with his mother, Lilliam, to a Broward County Transit bus stop. Jerry attended a charter school and rode the Broward County Transit bus instead of a regular school bus due to his proximity to the school. Jerry and his mother were walking to the bus stop on Sample Road in the City of Pompano Beach when Lilliam's shoe fell off. Nervous about missing the bus, Lilliam instructed Jerry to go on ahead to the

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bus stop. Dutifully, Jerry ran towards the bus stop.

Reinaldo Soto, a Broward County Transit bus driver, was driving the bus Jerry intended to ride. Soto pulled up to the Sample Road bus stop at the intersection of NE 12th Avenue. From the surveillance video of the bus, multiple passengers can be heard instructing Soto that "a runner is coming" or "we have a runner." Soto acknowledges the passengers comments by raising his left hand but never turns around to check for a runner. Soto opens the bus doors and two women, who were waiting at the bus stop, board the bus. As they begin to board, Jerry approaches the bus. The two women enter the bus but do not move to the aisle to find a seat. They can be seen standing in front of the "standee line" and blocking Soto's view of the door.

Jerry is standing right behind the women attempting to board the bus when Soto begins to accelerate the bus and contemporaneously shuts the door. Jerry reaches out with his right arm as to block the doors from closing. Soto closes the door and Jerry's arm is apparently trapped between the two doors. Brian Clark, sitting in the first seat on the passenger side of the bus and directly in front of the doors, stated Jerry's arm was caught between the doors. As the bus moves and continues on its route, Jerry attempts to run alongside the bus and banging on the glass doors with his free left hand. The bus begins to increase in speed as it goes through the intersection of NE 12th Avenue and Jerry is still running along side the bus. As the bus approached 18 mph, Jerry's arm becomes dislodged and he falls straight down on the road. After the several passengers scream and yell in reaction to seeing Jerry hitting the road, Soto brings the bus to a stop. It is unclear if Jerry was ran over by any of the bus's tires or if the force of falling on the roadway's pavement caused his injuries.

Jerry was transported to Broward Health North and was subsequently airlifted to the pediatric intensive care unit at Broward Health Medical Center. As a result of the accident, Jerry suffered a traumatic brain injury, multiple skull fractures, facial fractures, rib fractures, a right clavicle fracture, a right scapular fracture, a right pulmonary contusion, and was placed in a medically induced coma. On June 2013, Jerry was transferred to Jackson Memorial Hospital's family centered pediatric rehabilitation program in order to receive intensive occupational, physical, speech, and neuropsychological therapy. Dr. Suzan Tanner, a neuropsychologist who treated Jerry at Jackson Memorial Hospital, diagnosed Jerry with a cognitive disorder and that his cognitive functioning had significantly declined following his traumatic brain injury. Dr. Cynthia Stephens, a financial economist, estimates that Jerry has suffered economic losses due to loss of future earning potential in the amount of \$1,057,400 to \$1,734,800. Jerry spent a year in Broward County's hospital home bound program before returning to school. He is senior at Deerfield Beach High School and plans to attend Broward College.

Two months before the accident, the County issued memorandum to all bus operators to clarify that state law requires bus operators to not move the bus with passengers in front of the standee line. Soto possessed a Commercial Driver's License (CDL) and the Florida CDL Driver Manual provides no rider may stand forward of the rear of the driver's seat. Buses designed to allow standing must have two-inch line on the floor. This line is called the standee line and all standing riders must stay behind it. The Broward County Transit's own operator's manual instructs drivers to afford all passengers at a bus stop the opportunity to board the bus. Brooks Rugemer, a Commercial Transportation Specialist, found that Soto willfully failed to follow the policies and fell below the standard of care for a CDL licensed bus operator. Rugemer found Soto's reckless actions caused Jerry's injuries.

Soto was initially suspended for 15 days following the accident and demoted. Following his appeal of his demotion, he was reinstated and allowed to drive buses again. In the ten years before the accident, Soto was found at fault for nine accidents while operating a Broward County Transit bus.

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Recommendation: I respectfully recommend that House Bill 6545 be reported **FAVORABLY**.

Parker Aziz, Special Master

Date: March 16, 2016

cc: Representative Raburn, House Sponsor
Senator Farmer, Senate Sponsor
Adam Stallard, Senate Special Master