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DATE: 3/24/2021

March 24, 2021

SPECIAL MASTER'S FINAL REPORT

The Honorable Chris Sprowls
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: CS/HB 6511 - Representative DiCeglie
Relief/Estate of Crystle Marie Galloway/Hillsborough County Board of County Commissioners

THIS IS AN UNCONTESTED EXCESS JUDGMENT CLAIM FOR $2,450,000 BASED ON A SETTLEMENT AGREEMENT IN WHICH THE HILLSBOROUGH COUNTY BOARD OF COUNTY COMMISSIONERS AGREED TO COMPENSATE THE ESTATE OF CRYSTLE MARIE GALLOWAY A TOTAL AMOUNT OF $2,750,000 RELATING TO THE WRONGFUL DEATH OF CRYSTLE MARIE GALLOWAY BECAUSE OF THE COUNTY'S NEGLIGENCE. THE COUNTY HAS PAID THE STATUTORY LIMIT OF $300,000.

FINDINGS OF FACT: On June 27, 2018, Crystle Marie Galloway, a resident of Hillsborough County and mother of two, gave birth to her third child via Cesarean section (C-section). On July 4, 2018 at 3:02 a.m., Ms. Galloway's mother, Nicole Black (Claimant), called 911 seeking medical assistance and an ambulance for her daughter. She informed the dispatcher that she had found her daughter unconscious in the bathroom drooling with a swollen lip.[1] The

[1] Audio recording of 911 call placed on July 4, 2018.

nature of the call was classified as "stroke/CVA."[2,3,4] Hillsborough County Sheriff's Deputy Michael Grace was the first to arrive on scene; he was met by Claimant and escorted to the third floor where he found Ms. Galloway. On the way up to the third floor, Claimant explained that her daughter was complaining of a headache, stomachache, and sensitivity to light and sound.[5] He also learned that she had had a C-section a few days before. Deputy Grace asked whether Ms. Galloway had consumed any drugs, prescription medications, or alcohol and that was denied.[6] Deputy Grace found Ms. Galloway lying in bed, crying loudly in pain.[7] A second deputy, Jacob Lamb, arrived on scene before Rescue 43 and Squad 1 arrived at approximately 3:17 a.m.[8] Rescue 43 was occupied by Lieutenant John Morris and Fire Medic Andrew Martin and Squad 1 was occupied by Acting Lieutenant Courtney Barton and Fire Medic Justin Sweeney - all four were paramedics.[9] One of them brought the Lifepak 15[10] to Ms. Galloway's bedroom. Deputies Grace and Lamb briefed the medics on the information that they had received, including that Ms. Galloway was complaining of a headache, stomachache, and sensitivity to light and sound. They also informed the medics that she had recently undergone a C-section and had not ingested any drugs, medication, or alcohol.[11]

According to Deputy Grace, the medics interacted with Ms. Galloway who was crying hysterically and continued complaining of a headache and stomachache.[12] Fire Medic Sweeney asked her whether she wanted to be transported to the hospital, to which she nodded affirmatively.[13] Because she was not

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[2] Amd. Statement of Charges - Justin Sweeney, p. 1.
[3] CVA stands for cerebrovascular attack. *See* Arbitrator's Report at 15 (Dec. 30, 2019). It is also referred to as cerebrovascular accident, which is the medical term for stroke. *See* Acute Stroke (Feb. 16, 2021) https://www.ncbi.nlm.nih.gov/books/NBK535369/.
[4] In addition to the dispatch, members of the Hillsborough County Fire Department (HCFR) would have also been advised of "stroke/CVA" on the "tear and go" and on their personal pagers. The "tear and go" is a document printed at the fire station that contains information from dispatch, including the address to respond to and the general complaint relayed. (Barton Dep. 9:12-9:20, Feb. 18, 2020.)
[5] Grace Dep. 9:8-9:18, Feb. 6, 2020.
[6] *Id*. at 10:2-10:12.
[7] *Id*. at 13:6-13:20.
[8] Lamb Dep. 12:13-12:17, Feb. 6, 2020.
[9] Interview of John Morris, RE: John Morris, FMCS Case No.: 191115-01560, 6:4-6:7, Aug. 6, 2018; Interview of Andrew Martin, RE: John Morris, FMCS Case No.: 191115-01560, 7:4-7:9, Aug. 6, 2018; Interview of Cortney Barton, RE: John Morris, FMCS Case No.: 191115-01560, 5:20-5:32 and 23:17-23:19, Aug. 6, 2018; Sweeney Dep. 3:18-3:23, Feb. 18, 2020.
[10] A Lifepak 15 is a piece of medical equipment used to obtain vitals, such as blood pressure and pulse rate. It can also perform EKGs. (Barton Dep. 59:22-60:3)
[11] Interview of Deputy Michael Grace, RE: John Morris, FMCS Case No.: 191115-01560, 6:19-7:16, Aug. 9, 2018; Interview of Deputy Jacob Lamb, RE: John Morris, FMCS Case No.: 191115-01560, 7:19-7:24, Aug. 9, 2018.
[12] Interview of Deputy Michael Grace, 8:11-8:23 and 13:2-14:6.
[13] Interview of Justin Sweeney, 44:2-44:11.

ambulatory, the medics intended to use a stair chair[14] to get her down from the third floor of her home. Ms. Galloway got out of bed, walked towards the stair chair, and vomited.[15] The medics placed her in the stair chair and she was transported downstairs. Once she was at the bottom of the stairs, medics removed her from the stair chair and assisted her into Claimant's vehicle. Once she was in the vehicle, Claimant left the scene.

Despite the call coming in as "stroke/CVA" and Ms. Galloway's symptoms and complaints, no one from the Hillsborough County Fire Rescue took Ms. Galloway's vitals or performed any assessment or examination of her to determine if transportation to the hospital or any medical treatment was necessary. None of the medics on scene ever asked Ms. Galloway why she wanted to go to the hospital.[16]

Thirteen minutes after arriving on scene, Hillsborough County Fire Rescue (HCFR) went back into service; Rescue 43 reported the call to Ms. Galloway as "Non Transport/No Patient Found" and Squad 1 reported it as "Non Transport/Cancel." In the narrative for the call, Rescue 43 reported that it, along with Squad 1, arrived on scene "to find no medical complaint patient in need of help." Squad 1's narrative indicated the request for assistance had been cancelled on scene by Rescue 43 as "no medical attention [was] needed."[17]

Claimant immediately began driving Ms. Galloway to the hospital and Ms. Galloway began seizing in the car. Claimant drove her daughter to the emergency room at Temple Terrace; upon arrival, Ms. Galloway was noted to be unresponsive and still experiencing seizures.[18] A CT scan of her brain was conducted. That scan revealed an acute subarachnoid hemorrhage,[19] most likely secondary to an aneurysm. After being at Temple Terrace for approximately two hours, Ms. Galloway was intubated and transported via helicopter to Tampa General Hospital because Temple Terrace did not possess the equipment or specialists necessary to address Ms. Galloway's condition.[20] She was

[14] A stair chair is a device used to assist in transporting a patient down a flight of stairs without having to lift the patient. *See* Stair-PRO (Feb. 9, 2021) https://www.stryker.com/us/en/emergency-care/products/stair-pro.html.
[15] Interview of Justin Sweeney, 54:14-54:17.
[16] Interview of John Morris, 69:20-70:4. *See also* Interview of Cortney Barton, 57:21-58:2; Interview of Justin Sweeney, 67:10-67:18; Interview of Andrew Martin, 42:11-42:19.
[17] HCFD Emergency Call/Dispatch Notes re: Incident No. 0055108. Rescue 43's narrative also stated that the "resident stated that all she wanted help with was getting her daughter down from the third story and into her vehicle."
[18] Brandon Regional Hospital Emergency Patient Record p. 7, 17. (Note: Temple Terrace ER is a department of Brandon Regional Hospital but is more of an urgent care facility than a true emergency room.)
[19] A subarachnoid hemorrhage is bleeding in the space between the brain and surrounding membrane, commonly referred to as a stroke. The primary symptom is a sudden, severe headache. The headache is sometimes associated with nausea, vomiting, and a brief loss of consciousness. *See* Subarachnoid hemorrhage (Feb. 15, 2021) https://www.mayoclinic.org/diseases-conditions/subarachnoid-hemorrhage/symptoms-causes/syc-20361009.
[20] Brandon Regional Hospital Emergency Patient Record p.1-2.

admitted to Tampa General Hospital in critical condition, displaying minimal response to stimuli; there, Ms. Galloway underwent a cerebral angiogram with coil placement into the aneurysm.[21] Despite these efforts, Ms. Galloway passed away on July 9, 2018, having never regained consciousness.[22]

Medics' Sworn Testimony Concerning the Events

According to Lt. Morris and Fire Medic Sweeney, Deputy Grace, followed by Claimant, approached them as they arrived on scene and advised them that she needed assistance getting Ms. Galloway downstairs to her vehicle so she could transport her to the hospital.[23,24] This, they believed, was the only reason they were there. Lt. Morris and Fire Medic Sweeney have maintained that it was their intention to take Ms. Galloway's vitals and complete an informed refusal[25] while she was seated in Claimant's vehicle, but Claimant unexpectedly drove off before they could.[26] Lt. Morris admitted, however, that he never relayed this information to Claimant or Ms. Galloway.[27]

Acting Lt. Barton and Fire Medic Martin have maintained that they assumed vitals had been taken and assessments conducted by the other medics.[28]

Claimant's Recollection of the Events

Claimant did not appear at the special master hearing as she was reportedly still too upset to relive the moments of July 4, 2018. In response to questions posed by the Special Master about the conversations that led to Claimant driving Ms. Galloway to the hospital, Claimant's counsel stated that the medics told Claimant that she and her daughter could not afford an ambulance; and that in response, Claimant told the medics

[21] Endovascular coil placement into an aneurysm is a procedure performed to block blood flow into an aneurysm. During endovascular coiling, a catheter is passed through the groin up into the artery containing the aneurysm. Platinum coils are then released. The coils induce clotting of the aneurysm, which prevents blood from getting into it. *See* Endovascular Coiling for Brain Aneurysms (Feb. 15, 2021) https://www.hopkinsmedicine.org/neurology_neurosurgery/centers_clinics/aneurysm/treatment/aneurysm_endovascular_coiling.html.
[22] Tampa General Hospital Record p. 30.
[23] Interview of John Morris, 37:17-37:20; Morris Dep. 58:16-58:17, March 18, 2020. Interview of Justin Sweeney, 41:19-41:24. Acting Lt. Barton testified that she overheard Claimant make these statements. (Interview of Cortney Barton, 28:6-28:15.)
[24] Deputy Grace denied ever telling the medics that Claimant simply wanted assistance in getting her daughter to her vehicle. (Interview of Deputy Michael Grace, 12:12-12:23.) Deputy Lamb also denied that. (Interview of Deputy Jacob Lamb, 8:6-8:11.)
[25] Informed refusal is documentation reflecting that a patient is refusing medical care or, as in this case, refusing transport via a HCFR vehicle. HCFR SOP 360.01 requires medics to document their entire encounter with the patient; that a thorough evaluation of the patient was completed; and that all efforts were employed to explain to the patient the need to seek a higher level of medical attention. As the senior officer on scene, it would have been Lt. Morris' duty to confirm that this was completed accurately.
[26] Interview of John Morris, 53:11-53:20 and 80:18-81:11; Arbitration Hr'g Tr. 56:16-56:23, Aug. 28-29, 2019;
[27] Interview of John Morris, 81:19-83:24.
[28] Interview of Cortney Barton, 30:24-31:4, 32:3-32:22. 35:23-35:25; Interview of Andrew Martin, 23:5-23:22.

that she did not care about the cost. When it became apparent to Ms. Black that the medics would not be transporting her daughter to the hospital, she begged them to assist her in getting Ms. Galloway down the three flights of stairs and to her car so that she could bring her to the hospital.

Although the medics denied that any discussion of Ms. Galloway's ability to afford the ambulance fee occurred,[29] records show that Claimant initially inquired as to the cost of an ambulance ride with Deputy Lamb, who advised that there was a fee associated with transport via an ambulance. He also directed her to the medics for additional questions.[30]

The statements made by Claimant's attorney at the special master hearing are supported by statements Claimant made to Temple Terrace Emergency Room staff on July 4, 2018. Medical records reflect that she stated that EMS personnel told her that it would be cheaper if she drove Ms. Galloway to the hospital.[31] Claimant expressed her frustration over the denial of treatment by the medics who responded to the chaplain at Tampa General Hospital. Chaplain Snowden documented that Claimant was forced to drive Ms. Galloway to the ER for help, in what he described as a "very troubling story of lack of care…."[32]

Claimant was also interviewed by a local ABC News affiliate shortly after her daughter's passing and stated, "[t]he whole conversation as the EMS drivers put my child in my car was this was what was best for us because we couldn't afford an ambulance."

Subsequent Events - Discipline Imposed Against Medics

On July 23, 2018, Dr. Michael Lozano, Jr.,[33] the Medical Director for Hillsborough County Fire Rescue, sent an email to Fire Chief Jason Dougherty advising that he had an opportunity to review the entire case; he opined that "the paramedics in question failed to perform the essential elements of their job." Specifically, Dr. Lozano pointed to three failures: "they failed to properly assess an individual who clearly should have been assessed"; "[t]hey allowed a patient to leave a scene without executing an appropriate informed refusal"; and "their failure to properly document the true nature of the call was so egregious this [sic] it likely rises to the level of falsification of records." He concluded his email by stating that he could "not trust these individuals to work under [his] medical license" and felt "that they [did] not meet

[29] Interview of John Morris, 79:16-80:6; Interview of Justin Sweeney, 109:2-109:7; Interview of Cortney Barton, 82:18-82:23.
[30] Lamb Dep. 15:1-19:13; 21:10-21:15.
[31] Brandon Regional Hospital Emergency Patient Record p. 15.
[32] Tampa General Hospital Record at 37.
[33] Dr. Lozano, licensed in Florida, is board certified in emergency medicine, emergency medical services and clinical informatics. (Lozano Dep. 4:4-4:8) As Medical Director for HCFR, he is responsible for the medical aspects of the care delivered by HCFR employees. (*Id*. at. 8:20-8:24)

the minimum standards set by [him]self and the department."[34] In a subsequent deposition, Dr. Lozano testified that all of the symptoms relayed to the medics by the dispatcher and the deputies on scene, which included drooling, severe headache, and sensitivity to light, were indicative of an ongoing stroke.[35]

Also on July 23, 2018, Beverly Waldron, Director of the Human Resources Department of Hillsborough County, sent Gregory Horwedel, Deputy County Administrator, a memo concluding that, based on a review of Hillsborough County Fire Rescue Standard Operation Procedures (SOPs), several procedures were violated during the call, including SOP 345.18 - Patient Assessment; SOP 360.01 - General Standards for Documentation; and SOP 360.03 - Electronic Patient Care Report - Rescue Companies.[36]

Later that day, Lt. Morris, Fire Medic Martin, Acting Lt. Barton and Fire Medic Sweeney were served with their initial statement of charges in which they were charged with: (1) gross neglect of duty by failing to assess the patient; (2) failure to obtain an informed refusal; and (3) falsification of the electronic patient care report. During their interviews, all four employees testified, in part, that the pagers were unreliable and that they could not recall what they heard on the radio. Medics Barton, Morris and Sweeney acknowledged seeing the tear and go information before arriving to Ms. Galloway's home.[37] Aside from the dispatch information, all four maintained that the only other information they had at the scene was that Claimant wanted to drive Ms. Galloway to the hospital; Ms. Galloway had recently had a C-section; and she was "generally" not feeling well and needed assistance getting down the stairs. None of the medics asked the others whether an assessment of Ms. Galloway had been conducted.[38] All medics, with the exception of Medic Martin, maintained that based on all the events that transpired in Ms. Galloway's home they did not have to transport her to the hospital.[39]

County Administrator Merrill consulted with a group of ten advisors who unanimously recommended that all four employee be terminated. Instead, only Lt. Morris' employment was terminated.[40] Acting Lt. Barton received a 30-day suspension, a one-year demotion and retraining; Fire Medic Sweeney was

[34] Email from Michael Lozano to Jason Dougherty (July 23, 2018, 11:54 a.m.).
[35] Lozano Dep. 26:13-26:25.
[36] Memorandum from Beverly Waldron to Gregory Horwedel (July 23, 2018).
[37] Barton Dep. 26:12-27:15; Arbitration Hr'g Tr. 376:20-376:25; Interview of Justin Sweeney, 35:13-35:21.
[38] Barton Dep. 20:2-20:12; Arbitration Hr'g Tr. 440:12-440:14; Interview of Andrew Martin, 23:9-23:22.
[39] Interview of Andrew Martin, 26:1-26:8.
[40] The union filed a grievance to protest Lt. Morris' termination. The arbitrator concluded that there was just cause to support a significant degree of discipline as a result of Lt. Morris' failure to meet his responsibilities as a Fire Rescue Lieutenant but not just cause to terminate him in light of his overall excellent record with HCFR and because no one else involved was terminated. *See* Arbitration Report at 28-29. Lt. Morris returned to work on January 1, 2020. (Morris Dep. 10:1-10:20.)

demoted with a 30-day suspension; and Fire Medic Martin received a 30-day suspension.[41]

In October 2019, the Department of Health filed Administrative Complaints against Lt. Morris, Acting Lt. Barton and Fire Medic Sweeney[42] for their conduct at Ms. Galloway's residence on July 4, 2018. All three reached settlements with the Department in which they agreed to receive a reprimand against their paramedic certifications, pay administrative fines and the costs of investigation and prosecution, and complete continuing education courses. In addition, Lt. Morris and Acting Lt. Barton were placed on twelve months of probation and six months of probation, respectively.[43]

Expert Witnesses

Two medical experts and an economist were hired by Claimant in preparation for the civil suit against the Hillsborough County Board of County Commissioners.

In March 2019, John B. Everlove executed an affidavit under penalty of perjury stating that he holds a national license as a paramedic, is currently employed and licensed in California, and has been a paramedic for the last 27 years. One of the positions he currently holds is that of Associate Paramedic Supervisor. Previously, in his capacity as Paramedic Operations Supervisor and Clinical Manager, he implemented training standards related to assessment, treatment and transportation of patients; investigated incidents related to patient care and transportation; and oversaw and managed the Clinical Quality Assurance and Clinical Quality Improvement programs related to the standard of care for paramedics concerning care, treatment, and transportation of patients.[44]

He reviewed records from Hillsborough County Emergency Dispatch Center, HCFR, and Tampa General ER notes, along with various news videos dealing with disciplinary action taken against the medics involved in the call to Ms. Galloway's home.[45] He opined within a reasonable degree of medical probability that the four medics fell below the prevailing standard of care for emergency medical services personnel in their response to the emergency medical call for service for Ms. Galloway by (1) failing to perform a thorough primary and secondary medical assessment and physical examination of Ms. Galloway; (2)

[41] Arbitration Report at 28.
[42] Medic Martin has not been disciplined by the State. It is unknown whether the State will pursue discipline.
[43] Settlement Agreement, DOH v. John Michael Morris, PMD, 2018-17589, Feb. 3, 2020; Settlement Agreement, DOH v. Cortney Sea Barton, PMD, 2018-17590, Dec. 13, 2019. Her probation has been satisfied. *See* Department of Health License Verification, (Feb. 15, 2021) https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthcareProviders/LicenseVerification?LicInd=36235&Procde=2502&org=%20. Settlement Agreement, DOH v. Justin Todd Sweeney, PMD, 2018-17588, Aug. 23, 2020.
[44] Everlove Aff. ¶ 2.
[45] *Id*. at ¶ 3.

failing to obtain baseline vital signs, ongoing vital signs and reassessment of Ms. Galloway's medical complaints; (3) failing to provide any emergency medical treatment or interventions for Ms. Galloway who presented neurological signs and symptoms consistent with CVA/TIA; (4) failing to promptly transport Ms. Galloway to the closest appropriate medical facility staffed and equipped to treat emergency medical patients with neurological complaints and signs and symptoms consistent with a CVA/TIA; and (5) failing to complete a thorough and comprehensive patient case report documenting the totality of Ms. Galloway's emergency medical condition, assessment findings, treatment provided to the patient, response to treatment or interventions provided to Ms. Galloway and changes in her condition over time, as required for a patient with neurological signs and symptoms.[46]

In February 2020, Matthew R. Moore, MD, executed an affidavit under penalty of perjury detailing his lengthy medical education and experience and stating that he is licensed to practice in Florida and has experience in caring for patients like Ms. Galloway. After reviewing HCFR Dispatch records, HCFR records, Brandon-Temple Terrace ER records, and Tampa General Hospital records, Dr. Moore opined "within a reasonable degree of medical probability, that the failure of Hillsborough County Fire Rescue personnel to perform a physical examination, obtain vital signs, stabilize and transport Crystle Galloway to an appropriate facility caused or significantly contributed to her demise."[47]

In April 2020, Raffa Consulting Economists, Inc. (owned and operated by F.A. Raffa, Ph.D.) prepared a report determining the economic loss resulting from the death of Ms. Galloway. Dr. Raffa calculated the economic loss by combining the estimated present value of the loss of support to Ms. Galloway's children with the loss of household and childcare services sustained as a result of her death.[48] Concerning the estimated present value of the loss of support to Ms. Galloway's children, Dr. Raffa estimated Ms. Galloway's remaining lifetime after-tax earnings to be $1,614,991.[49] This estimation assumes that Ms. Galloway had a remaining work-life expectancy of 35.92 years at her death and that her expected annual earnings would increase yearly by a rate equal to a cost-of-living wage adjustment of 2.33%.[50] Assuming that Ms. Galloway would have used a portion of her earnings to provide support to her surviving children until the age of 22, Dr. Raffa calculated the present value of the total loss of support to her children to be $554,616.[51] Concerning the loss of household and childcare services sustained as a result of Ms.

[46] *Id*. at ¶ 7.
[47] Moore Aff. ¶ 9.
[48] Raffa Consulting Economics, Inc. Report, dated April 17, 2020.
[49] *Id.* at 6.
[50] *Id.* at 5.
[51] *Id.* at 6-7.

Galloway's death, Dr. Raffa concluded that the most effective means of replacing her services would be through the use of a live-in mother surrogate/home health aide who would provide 16 hours of care daily until the her youngest child reaches the age of 18.[52] Dr. Raffa calculated the present value of the costs associated with these services to be $2,301,580.[53] Combining the present value estimate of the loss of support to Ms. Galloway's children with the loss of household and childcare services sustained as a result of her death, Dr. Raffa calculated the total economic loss sustained as a result of Ms. Galloway's death to be $2,856,196.[54]

LITIGATION HISTORY:

On October 17, 2019, Claimant, as Personal Representative of the Estate of Crystle Marie Galloway, filed a civil suit against the Hillsborough County Board of County Commissioners alleging negligence as a result of the failure to use reasonable care in Ms. Galloway's treatment.

On June 26, 2020, the Circuit Court entered an Order appointing a Guardian ad Litem to assure that the interests of Ms. Galloway's three minor children were protected. The Guardian ad Litem (GAL), Attorney David Alexander Villarreal, prepared a report reflecting that he had spoken with Claimant and counsel for the Estate and reviewed portions of the litigation file,[55] all expenses incurred by counsel, and counsel's proposed closing statement and determined that the case was a complex medical negligence case where an extensive pre-suit investigation and subsequent litigation was undertaken over the course of one and a half years. GAL Villarreal opined that "[b]ased upon the facts of this case and the Guardian ad Litem's review of comparable settlements and the fact that this case deals with complex medical issues requiring expert witness[es], the Guardian ad Litem believes that the settlement amount [$2,750,000] entered in this manner is fair, reasonable and in the best interest of the minors…." GAL Villarreal recommended that the proposed settlement be approved by the circuit court.[56]

Thereafter, the Hillsborough County Board of County Commissioners settled with Claimant for $2,750,000 and paid the statutory limit of $300,000 under section 768.28, Florida Statutes. As terms of the Settlement and Release Agreement, Hillsborough County acknowledged that Claimants would be presenting a claim bill for payment of the additional $2,450,000 to the legislature for passage as early as the 2021 session and the County agreed not to contest, object to or lobby for or against the enactment and/or passage of a claim bill authorizing the

[52] *Id.* at 7-9.
[53] *Id.* at 9, 17.
[54] *Id.* at 10.
[55] Portions of the file reviewed included: Fire Rescue records, medical records, the complaint and related pleadings, the Arbitration report, Notices of Discipline concerning the Fire Rescue personnel involved and the proposed release. *See* Report of Guardian ad Litem, July 10, 2020.
[56] GAL Report at 5.

additional payment of $2,450,000.[57] Following the settlement, on August 31, 2020, Claimant filed a notice of voluntary dismissal of her civil suit.[58]

CLAIMANT'S POSITION: Claimant argues she is entitled to the remaining amount of $2,450,000 under the settlement agreement.

RESPONDENT'S POSITION: Officially, Respondent neither supports nor opposes the claim bill. Respondent is taking a neutral position consistent with the terms of the settlement agreement.

CONCLUSIONS OF LAW: Regardless of whether there is a jury verdict or settlement, each claim is reviewed *de novo* in light of the elements of negligence.

Duty

All four medics had a duty to use reasonable care in Ms. Galloway's treatment. The minimal prevailing standards of acceptable practice for a paramedic require (1) a complete and accurate assessment of a patient to determine whether transportation to the hospital or any medical treatment is warranted; (2) the completion of a comprehensive and accurate assessment of the patient to be done prior to transporting a patient to a non-emergency vehicle; and (3) the receipt of an informed refusal when a patient refuses further care or transport to a receiving facility. These minimal prevailing standards of acceptable practice for a paramedic are also set forth in HCFR policies and protocols.

HCFR's Standing Order and Protocol 360.01 - General Standards for Documentation requires any response or encounter with a patient to have an electronic patient care report (ePCR) completed by all units. For a patient refusing transport to a hospital, medics are required to complete an informed refusal, which includes documenting the patient's age and competence; conducting and documenting all aspects of the patient encounter and care; obtaining at least two separate and complete sets of vitals; conducting a thorough evaluation; and documenting all efforts used to get the patient to seek a higher level of medical attention. If medics are responding to a citizen assist/lift assist type incident, a completed ePCR is required, including documentation of patient demographics, mental status, vital signs, evaluation performed to determine no illness/injury is present, and a description of the service provided.

HCFR's Standing Order and Protocol 360.03 - Electronic Patient Care Report (ePCR) requires that each response for a call by a rescue company be documented. It also requires the assigned rescue officer to ensure that the documentation fulfills all of the

[57] Hillsborough Co. Case No. 19-CA-010708 (Settlement and Release Agreement) (June 10, 2020).
[58] Hillsborough Co. Case No. 19-CA-010708 (Notice of Vol. Dismissal) (Aug. 31, 2020).

requirements of HCFR Standards of Medical Documentation, including patient demographics, past medical history, medications, assessment, vital signs, treatment, procedures, and correct dispositions. Finally, this protocol requires the Company Officer to ensure that all reports for the shift are completed and submitted properly prior to leaving the station.

HCFR Standing Order and Protocol 345.18 - Patient Assessment provides that patient assessment will always begin with an assessment of the scene and the creation of a "general impression" of the patient. At a minimum, a medic must answer three questions while forming a general impression: (1) What is the appearance of the patient? (2) Are there any respiratory problems indicated? (3) Is there a mechanism of injury or environmental causes for the medical condition? Many times a priority/ALS (advanced life support) patient can be determined based on the general impression.[59]

Once a general impression has been made, the medic conducts a "primary assessment" of the patient to identify any immediate threat to life and to quickly determine if the patient needs any critical interventions.[60] At the conclusion of the primary assessment, the medic should determine whether the patient qualifies as a "priority/ALS patient," one who will need rapid transport to the hospital and/or one who needs or would benefit from paramedic level care while en route.

In late-December 2017, approximately six months before all four medics responded to Ms. Galloway's home, each was reminded of the standards of conduct when they attended a medical protocol update training which covered patient documentation, disposition, writing an accurate and specific narrative, informed refusals, and patient competency.[61]

Breach

All four medics testified under oath that they were required to obtain Ms. Galloway's vital signs, conduct an assessment, and obtain informed refusal pursuant to HCFR policies and procedures and that they violated those policies and procedures by failing to do so.[62]

In addition to these admissions, the facts demonstrate that all four medics breached the duty of care owed to Ms. Galloway. Deputy Grace testified that he notified all four medics of Ms. Galloway's symptoms, as reported by her mother, and that they were in the bedroom with him as he witnessed Ms. Galloway cry in pain. I give great weight to the testimony of Deputy Grace. The

[59] Arbitration Report at 3.
[60] The priorities within the primary assessment are: circulation, airway, breathing, disability and expose.
[61] Interview of Andrew Martin, 11:23-12:25; Interview of Cortney Barton, 9:11-9:13; Interview of Justin Sweeney, 13:5-13:11; Interview of John Morris, 10:5-12:5.
[62] Sweeney Dep. 13:20-15:1; Barton Dep. 21:1-21:11; Martin Dep. 25:4-26:22; Morris Dep. 61:7-61:10.

information relayed by Deputy Grace along with the information provided by dispatch, the "tear and go" information the medics received prior to the call, the fact that Ms. Galloway could not ambulate on her own, coupled with at least two medics' admissions that they witnessed Ms. Galloway vomit provided the medics with enough information that they should have asked Ms. Galloway questions, performed an assessment and evaluation, and ultimately transported her to an appropriate facility.

Instead, not one of them asked Ms. Galloway anything about her condition or medical history or why she desired to be transported to the hospital. None of them took her vitals, despite the Lifepak 15 being readily accessible as it sat in the bedroom within a few feet of them. As HCFR Personnel Chief Carnell later testified, "[v]ital signs are the basis for any diagnosis that a paramedic makes; that's why they are called vital signs."[63] They did nothing to reach a determination as to whether Ms. Galloway qualified as a "priority/ALS patient." None of them completed a patient assessment or an ePCR, in violation of SOPs 360.03 and 345.18. In summary, none took any vital signs, performed any assessment or examination,[64] or transported her to the hospital, although their protocol and training directed them to do so.

Acting Lt. Barton and Medic Sweeney testified that they thought the other medics had performed an assessment, yet neither bothered to ask whether they had done so. They proceeded through that thirteen minute call on an assumption.

Although Lt. Miller and Medic Sweeney have maintained that they were on scene to assist Claimant in getting Ms. Galloway downstairs and to her car (which could qualify as a call for lift assist), they failed to complete the ePCR to include patient demographics, mental status, vital signs, and an evaluation performed to determine if no illness/injury was present, and they failed to document the call as a lift assist, as required by SOP 360.01.

None of the medics obtained informed refusal from Ms. Galloway before she left in her mother's vehicle, in violation of SOP 360.01. In failing to obtain informed refusal, they also failed to form a competency determination; failed to document the encounter and exam of Ms. Galloway; failed to conduct a vital sign assessment; and failed to document all efforts used by the medics to get her to seek a higher level of medical attention.

Instead, Rescue 43 reported the call to Ms. Galloway as "Non Transport/No Patient Found" and "no medical complaint patient." Squad 1 reported it as "Non Transport/Cancel" and "no medical

[63] Arbitration Report at 27.
[64] Hillsborough County's Response to Pls.' Request for Admissions at ¶ 11-16, Nicole Black, as Personal Representative for the Estate of Crystle Marie Galloway v. Hillsborough County Board of County Commissioners, 2019-CA-10708, Feb. 16, 2021.

attention needed." Medics Sweeney and Martin failed to document the true nature of the call and Lt. Morris and Acting Lt. Barton failed to review the reports before they were submitted, as they were required to by SOP 360.03. Thus, all four medics violated SOP 360.03.

The actions of all four medics fell below the standard of care when they failed to complete a full and accurate assessment of Ms. Galloway to determine whether she needed medical treatment or transportation to the hospital; failed to complete a full and accurate assessment of Ms. Galloway prior to allowing her to be transported in a non-emergency vehicle; and failed to obtain informed refusal.

The breach of duty committed by all four medics is underscored by the discipline they received through their employer and through the State.

When the medics breached their duties, they were traveling in marked HCFR vehicles as Hillsborough County employees on duty responding to a call for medical assistance. Thus, Respondent is liable for the four medics' conduct under the doctrine of respondeat superior.[65]

Causation

Had just one of the four responding medics taken a moment to conduct an assessment, they would have likely determined that Ms. Galloway needed rapid transport to an appropriate stroke center and transported her. While at home and exhibiting the symptoms of a stroke, Ms. Galloway was still responsive, as indicated by her affirmative nod to Medic Sweeney's question about whether she wanted to go to the hospital. Had she been evaluated at this time, her condition would have been apparent and she would have been promptly taken to the appropriate facility, possibly with time left to spare further damage and/or death.

Instead, Claimant, not having the medical experience or training that the medics possessed, drove Ms. Galloway to a facility that was not equipped for her medical needs, wasting precious time. During that drive, Ms. Galloway began having seizures; had the medics assessed her and transported her in the ambulance, they would have been at her side to provide medical intervention as they traveled to the appropriate hospital/stroke center. Because Claimant did not know which facility was appropriate for Ms. Galloway's condition, more time was wasted at Temple Terrace before Ms. Galloway was airlifted to Tampa General. The delays

[65] The common law doctrine of respondeat superior provides that an employer may be held liable for the actions of its employee if the employee was acting within the scope of his employment when he committed the tortious act. This doctrine extends to negligent acts occurring within the scope of the employment. *Mercury Motors Exp., Inc. v. Smith*, 393 So.2d 545, 549 (Fla. 1981).

in getting Ms. Galloway to the appropriate medical facility likely contributed to her death. The delays were caused by the medics' breach of their duty to use reasonable care in Ms. Galloway's treatment.

Two medical experts provided sworn testimony that the four medics fell below the prevailing standard of care for emergency medical services personnel in their response to Ms. Galloway's home and that the failure of the medics to perform a physical examination, obtain vital signs, stabilize, and transport Ms. Galloway to an appropriate facility caused or significantly contributed to her demise.

The facts, coupled with these expert opinions, support the conclusion that the medics' conduct on July 4, 2018, was the sole and proximate cause of Ms. Galloway's death.

Damages

At the time of her death, Ms. Galloway was 30 years old and in her third year of studying to become a behavioral counselor. While attending school, she also worked full time as a manager at Envy Me Rentals performing administrative work, licensing, payroll, and finance work, earning $15.50 per hour.[66]

As a result of her death, three minor children have lost their mother and primary caregiver.

The settlement reached was based on the financial needs of Ms. Galloway's three minor children. Pain and suffering was not included in the settlement amount. Information received at the special master hearing indicated that an award for pain and suffering typically runs $1 to $2 million per survivor. With three survivors, a total award for pain and suffering could have been as much as $6 million in addition to the $2,856,196, representing the financial needs of Ms. Galloway's minor children, as estimated by Raffa Consulting, for an approximate total of $8.8 million. I find that the settlement of $2,750,000 in this case is reasonable and equitable in light of Ms. Galloway's death and its effects on her minor children.

At the special master hearing, Claimant's counsel explained that 100 percent of the net proceeds of the claim bill will go to the three minor children in the form of a guardianship or restricted trust that will be under the supervision of court-appointed trustees who will report to the probate court.

ATTORNEY'S/ LOBBYING FEES:

If the claim bill passes, the attorney fee will not exceed $612,500 and the lobbying fee will not exceed $122,500. Outstanding costs are $20,406.04.

[66] Raffa Report at 2.

RESPONDENT'S ABILITY TO PAY: : Respondent is self-insured and payment of this claim bill will not affect the operations of the County. This has been made possible in part by the agreement of the parties for structured payments over a period of three years. If this claim bill is passed, those payments would be made as follows: $1 million within 10 days of the County receiving notice that the claim bill has become law; $1 million within one year of receiving the notice; and $450,000 within two years of receiving the notice.

LEGISLATIVE HISTORY: This is the first time this claim bill has been presented to the Legislature.

RECOMMENDATIONS: I respectfully recommend that Committee Substitute for House Bill 6511 be reported FAVORABLY.

Respectfully submitted,

Carine Mitz

CARINE MITZ

House Special Master

cc: Representative DiCeglie, House Sponsor
Senator Cruz, Senate Sponsor
Jessie Harmsen, Senate Special Master