



STORAGE NAME: h6007e.JDC

DATE: 4/19/2023

April 19, 2023

SPECIAL MASTER'S FINAL REPORT

The Honorable Paul Renner
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: CS/HB 6007 - Representative Abbott
Relief/Molly Parker/Department of Transportation

THIS IS AN UNCONTESTED EXCESS JUDGMENT CLAIM FOR \$5.95 MILLION BASED ON A SETTLEMENT AGREEMENT IN WHICH THE FLORIDA DEPARTMENT OF TRANSPORTATION AGREED TO COMPENSATE THE ESTATE OF MOLLY PARKER A TOTAL AMOUNT OF \$6.25 MILLION RELATING TO THE DEATH OF AND INJURIES SUSTAINED BY MOLLY PARKER BECAUSE OF THE DEPARTMENT'S NEGLIGENCE. THE DEPARTMENT OF TRANSPORTATION HAS PAID THE STATUTORY LIMIT OF \$300,000.

FINDINGS OF FACT:

On December 12, 2019, at approximately 9:16 a.m., a dump truck registered to the Florida Department of Transportation (FDOT) in Tallahassee, fully loaded with dirt weighing over 40,000 pounds, was traveling south on County Road 167 in Jackson County. The FDOT dump truck pulled out from its stop sign at CR 167 to cross SR 2 and violated the right of way of a sport utility vehicle (SUV) causing a "T-bone" type collision with the SUV. The collision resulted in severe injuries and the death of Molly Parker, a resident of Santa Rosa Beach, Walton County, Florida.

SR 2 runs east-west; CR 167 intersects SR 2 and runs north-

south. There are stop signs and stop bars/stop lines on CR 167 on each side of its intersection with SR 2. The stop sign is approximately forty feet behind the stop bar/stop line. Both roads are straight, flat, paved two-lane roadways.

Molly Parker was wearing her seatbelt at the time of the collision and was not under the influence of any substances, was not using her cell phone, and was not otherwise distracted while driving her SUV. Mrs. Parker was not driving at an excessive speed; the speed limit posted on SR 2 was 55 miles per hour.

At the time of the collision, the FDOT dump truck – a yellow 2005 Sterling Industrial Corp. LT 7500 Dump Truck – was being driven by an FDOT employee, Jesmond Russ. Mr. Russ was driving the dump truck in his capacity as an employee of the FDOT transporting loads of dirt from the dirt stockpile in Malone, Florida, to the FDOT maintenance yard in Marianna, Florida. Mr. Russ was wearing his seatbelt and was not under the influence of drugs or alcohol at the time of the collision. There were no visual obstructions that would have obstructed the view of vehicles traveling eastbound and westbound on SR 2. The roadway was safely designed, properly constructed, and adequately maintained. The weather conditions on the day of the collision were daylight with cloudy skies and visibility of around 10 miles; no environmental conditions contributed to the collision.

Molly Parker had to be extricated from her SUV with the aid of the “jaws of life.” Mrs. Parker suffered critical injuries from the collision including complex comminuted depressed left cranium skull fractures, severe traumatic brain injury, extensive mid-face fractures, a fractured sternum, several broken vertebrae, bruised lungs, a bruised kidney, and a break in her right foot as a result from depressing the brake with her foot at the time of impact. Mrs. Parker was transported by helicopter to Dothan, Alabama where she underwent emergency brain surgery. Mrs. Parker remained in the hospital in Dothan in a coma for ten days following the accident. Mrs. Parker never recovered from her coma and died on December 22, 2019, from the injuries she suffered in the collision.

Florida Highway Patrol (FHP) Investigation

The FHP conducted a traffic homicide investigation of the collision and determined the facts cited above. FHP determined that the FDOT dump truck entered the intersection when unsafe and into the path of Mrs. Parker's SUV. Mr. Russ, the driver of the dump truck, was in violation of s. 316.123(2)(a), F.S., and was the sole cause of the crash and all property damage as well as the injuries and death of Mrs. Parker.

Molly Parker (Claimant)

Molly Parker was 39 years old at the time of her death. She was married to Tom Parker, with whom she shared one child ("A.P."). The family lived in Santa Rosa Beach, Florida. Mrs. Parker worked as a professional photographer doing real estate, portrait, nature, and family photography.

The claimant's estate has an outstanding subrogation lien for medical bills of \$159,624.44.

At the time of her death, Mrs. Parker had a remaining work life expectancy of 27.61 years. Based upon prior tax and wage records, the claimant's lost earnings, when adjusted to reflect present value, are estimated at \$3,040,393.

LITIGATION HISTORY:

On December 11, 2020, Thomas James Parker, as the personal representative for the Estate of Molly Parker (Claimant), filed a complaint against the Florida Department of Transportation (Respondent) in the Second Judicial Circuit in Leon County, Florida. The complaint was filed on behalf of Mr. Parker and his minor son, A.P., pursuant to ss. 768.16-768.26, F.S., the "Florida Wrongful Death Act." The complaint alleged that the death of Molly Parker caused permanent and continuing harm and damages to Mr. Parker and A.P., as well as financial damages to the Estate of Molly Parker.

The parties entered into a stipulated settlement agreement which was approved and ordered by final judgment of the court on June 23, 2022. Pursuant to the settlement, the parties agreed to the entry of a Consent Final Judgment in the gross amount of \$6,250,000 as a full and complete settlement of any and all claims against FDOT. The State of Florida has already paid out the statutory limit of \$300,000 per incident to Mr. Parker (individually and on behalf of the Estate and A.P.). As such, the remaining amount owed under the settlement is \$5,950,000.

CLAIMANT'S POSITION:

Claimant, Mr. Tom Parker, on behalf of the estate of Molly Parker, argues that he is entitled to the remaining amount of \$5,950,000 under the settlement agreement.

RESPONDENT'S POSITION:

Pursuant to the terms of the settlement agreement, FDOT supports the claim bill. FDOT believes the claim bill is a fair settlement for the State of Florida, an appropriate resolution of the action, and in the state's best interest.

CONCLUSIONS OF LAW:

Regardless of whether there is a jury verdict, each claim bill is reviewed *de novo* in light of the elements of negligence.

Duty

The driver of a vehicle has a duty to take reasonable care and to follow all applicable laws to prevent injury to others within the vehicle's path.

Section 316.123(2)(a), F.S., requires every driver of a vehicle approaching a stop sign to stop at a clearly marked stop line, but if no stop line is present, to stop before entering the crosswalk on the near side of the intersection so that the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.¹ After stopping at the stop line, the driver is required to yield the right of way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when the driver is moving across the intersection.²

Additionally, FDOT policy requires all employees to operate FDOT vehicles and heavy industrial equipment in a safe manner.³

Breach

The evidence presented, including the FHP Traffic Homicide Report and Mr. Russ's own testimony in his deposition, demonstrate that Mr. Russ, an employee of the FDOT, breached the required standard of care and violated s. 316.123(2)(a), F.S., when he failed to stop at the marked stop line before entering the intersection of CR 167 and SR 2. Mr. Russ's failure to comply with traffic laws violated Mrs. Parker's right-of-way and resulted in the collision.

Mr. Russ was cited for his violation of s. 316.123(2)(a), F.S., by the FHP and was found guilty of said violation at a hearing held on March 11, 2021. Mr. Russ was driving a dump truck owned and registered to the FDOT in his capacity as an FDOT employee at the time of the collision. Thus, Respondent, FDOT, is liable for Mr. Russ's actions under the doctrine of respondeat superior.

The FDOT issued Mr. Russ an official written reprimand for his violation of the FDOT Disciplinary Standards of Conduct, which ultimately required him to exercise due care and reasonable diligence in the performance of his duties and responsibilities.

Causation

Molly Parker's death was the direct and proximate result of Mr. Russ's breach. But for Mr. Russ's failure to stop at the stop line and subsequent failure to yield the right of way to Mrs. Parker,

¹ S. 316.123(2)(a), F.S.

² *Id.*

³ Florida Department of Transportation, *Safety and Loss Prevention Manual*, Policy 13.5.1(C)(1), (May 16, 2018), https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/safety/safety/industrialsafety/slpm.pdf?sfvrsn=8d21dd2a_0 (last visited Feb. 27, 2023); see also *FDOT Safety and Loss Prevention Manual*, Policy 10.11.1.

the collision would not have occurred. As such, but for the driver's actions, Mrs. Parker would not have sustained her critical injuries and, ultimately, would not have died on December 22, 2019.

Mr. Russ was an employee of FDOT and was acting within the course and scope of his employment at the time of the collision. As such, FDOT is liable for the damages caused by its employee's negligence.

Damages

Molly Parker was a full-time photographer and served as the primary earner in her household. Both she and her husband worked full-time jobs and shared in the care and rearing of their son, A.P. The present value of the combined past and future loss of dependent support and services to Mr. Parker and A.P. suffered as a result of Mrs. Parker's death is estimated to be \$3,040,393.⁴

The estimated value of remaining lifetime earnings of Mrs. Parker, based on wage and tax records and a remaining work life expectancy of 27.6 years is estimated to be \$2,208,478.⁵

Claimant's estate has outstanding subrogation liens for medical expenses in the amount of \$159,624.44.

Claimant's estate and the FDOT have agreed to settle this matter for \$6,250,000. I believe the settlement amount is reasonable based on the evidence presented, case law, and comparable jury awards. The unpaid settlement amount of \$5,950,000 owed in excess of the statutory cap already paid, shall be appropriated from the State Transportation Trust Fund to the Department of Transportation to the Estate of Molly Parker.

The lives of Mr. Parker and A.P. have been tragically and drastically changed since the loss of Molly Parker on December 22, 2019. Mr. Parker and A.P. continue to suffer economic and emotional trauma relating to the loss of Mrs. Parker. A trust for the protection of settlement fund proceeds for A.P. has been established and one third of the settlement proceeds received to date have been placed in said trust.

ATTORNEY'S/
LOBBYING FEES:

If the claim bill passes, the attorney fee will not exceed \$1,190,000, and the lobbying fee will not exceed \$295,000. Outstanding costs are \$125,728.96.

COLLATERAL SOURCES:

After Mrs. Parker's death, a GoFundMe account was created to cover the expenses of the funeral and assist with relocation expenses for Mr. Parker and A.P. The GoFundMe account

⁴ Estimated values are based upon findings made by Raffa Consulting Economists as detailed in the *Economic Damages Analysis for Molly Parker* (May 20, 2022).

⁵ *Id.*

raised \$61,437. Additionally, the claimant's estate received a \$25,000 settlement from Geico for uninsured motorist coverage.

RECOMMENDATION:

I recommend that House Bill 6007 be reported **FAVORABLY**.

Respectfully submitted,



SARAH R. MATHEWS

House Special Master

cc: Representative Abbott, House Sponsor
Senator Hooper, Senate Sponsor
Jessie Harmsen, Senate Special Master