



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

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DATE	COMM	ACTION
3/14/25	SM	Favorable
	JU	
	CA	
	RC	

March 14, 2025

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 20** – Senator Burgess
HB 6529 – Representative Alvarez
Relief of Relief of J.N., a minor, by Hillsborough County

SPECIAL MASTER’S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR LOCAL FUNDS IN THE AMOUNT OF \$400,000. THIS AMOUNT IS THE REMAINING UNPAID BALANCE OF A \$600,000 SETTLEMENT AGREEMENT FOR INJURIES AND DAMAGES CAUSED BY THE ALLEGED NEGLIGENCE OF HILLSBOROUGH COUNTY.

FINDINGS OF FACT:

The Accident

On June 7, 2019, Claimant J.N., an eleven-year-old child, at the time of the incident, was riding her bicycle on a sidewalk owned and operated by Hillsborough County. The Claimant was accompanied by her stepfather, Gabriel Soto. The sidewalk is located along the east side of East Bay Road and adjacent to the East Bay Lakes subdivision in Gibsonton, Florida.

As J.N. was riding her bicycle, her bicycle wheel came into contact with an uneven area of concrete slab sidewalk.¹ causing her to lose control of her bicycle and travel down the

¹ Special Master’s Hearing at 0:11:02-11:04; 0:12:34-0:13:01; See also, Claimant’s exhibit 2.

steep slope located next to the sidewalk. J.N., while wearing a helmet, fell face-forward into an open drainage ditch and struck a concrete drainage culvert with her face.

Evidence was presented that the County received notice of the uneven sidewalk prior to the Claimant's injury on June 7, 2019. Testimony was admitted that service requests regarding that portion of the sidewalk were entered into the County's MaintStar work order tracking software system on February 13, 2018.²

The impact caused significant lacerations, sliced through portions of her gums, fractured her jaw, and avulsed multiple adult teeth. Mr. Soto observed J.N. lying on the ground in a state of shock with a large open laceration to her face. She was bleeding profusely from her head, face, and mouth. Mr. Soto picked J.N. up and took her back to their home.

J.N. was immediately taken to the emergency room at St. Joseph's Hospital where she was admitted and underwent a CT scan which showed a fracture of the nasal bone, fracture of the maxilla and fracture of superior alveolus. J.N. remained in the hospital for 3 days undergoing extensive surgery to her face including her mouth, lip, nose, and jaw. Following discharge from the hospital. She had additional oral surgery and medical care and treatment in the weeks and months that followed.³

On June 10, 2019, J.N. was seen for a consult regarding facial trauma. She presented with facial swelling and discomfort.

On June 14, 2019, J.N. underwent her second surgery consisting of a closed reduction of her nasal fracture.

On February 20, 2021, J.N. was seen by a Pediatric Epilepsy and Neurology Specialist as a result of headaches that had started five to six months previously, which was shortly after the accident. She was noted to have headaches as frequently as once or twice a week, and sometimes every two weeks. The pain was described as occipital and felt like pounding, throbbing and, aching pain. The headaches are

² Hillsborough County Response to RTP, filed Dec. 1, 2021, Work Request #WR00196599 created Feb. 13, 2018, Bates stamped "HC0007."

³ Medical Records Summary, June 7, 2019. (Claimant's Exhibit #3).

associated with light and sound sensitivity along with nausea.

She reported difficulty sleeping. J.N. was placed on rizatriptan and clonidine. She reported no prior medical history of migraine headaches.

J.N.'s Current Condition

On March 16, 2022, J.N. had a consultation with the oral surgeon at Moffett Oral Surgery and Dental Implant Center. J.N. was informed that she would need a bone graft. Dr. Moffett expects J.N. to be ready for the bone graft process when she is 16 or 17 years old. She will then start the process for implants.

J.N. is 16 years old and wears a Maryland bridge. She is preparing for the bone graft. The process will take four to five months to heal before she can go back to her dentist for them to install her crowns.

LITIGATION HISTORY:

Settlement

The Claimant and Hillsborough County have entered into a settlement agreement for a total of \$600,000. Claimant has received \$200,000 from Hillsborough County and seeks the remaining \$400,000.⁴

An order granting the settlement agreement was entered on March 7, 2023.⁵

All proceeds of the settlement agreement are to be paid through a structured settlement/annuity and held in a trust that has been established for the benefit of the Claimant. The proceeds are to be disbursed in accordance with the details of the structured settlement/annuity and terms of the trust.

Claimant's attorney has submitted a future needs analysis based on a treatment plan developed for J.N..⁶ The future needs produced an estimated total of lifetime costs to be

⁴ Settlement Agreement between Stephany Grullon, parent/guardian of J.N., a minor and Hillsborough County, September 20, 2022, pgs. 1-4 (Claimant's Exhibit 5).

⁵ Claimant's supplemental record marked *Settlement Annuity Contract*.

⁶ Treatment Plan (Claimant's Exhibit 4).

between \$700,000 and \$1 million. Claimant's attorney testified that the cost estimate was based on upcoming surgeries, future medical care, past and future pain and suffering, as well as mental anguish.⁷

As part of the agreement, the respondent agreed to not oppose the claim bill.

CLAIM BILL HEARING:

On January 27, 2025, the House and Senate special masters held a half-day *de novo* hearing in the matter of SB 20 (2025), relief of J.N., a minor, by Hillsborough County.

Both parties stipulated to all exhibits submitted into evidence by the Claimant. Respondent's attorney made it clear that Hillsborough County was in support of the claim bill and would not be presenting any evidence counter to the Claimant or settlement agreement.⁸ Both parties cooperated fully with the House and Senate and responded to all requests for information.⁹

Claimant's Case-in-Chief

Claimant's attorney presented a narrative recitation of the facts as stipulated by the parties detailing the Claimant's life before the accident, the accident, the details of her life after the accident, injuries, recovery, and the related elements of a negligence claim.¹⁰

Witness Gabriel Soto

Mr. Soto testified that the Claimant was an experienced bike rider and was wearing a helmet. He testified that this was not a path that the two had previously traveled or with which they were familiar. Mr. Soto also testified that he was riding four to five feet behind the Claimant and witnessed her hit an uneven surface that sent her down the steep slope and into the drainage ditch. He testified that when he reached her, she was awake but in shock and may have lost consciousness at the scene. The Claimant's nose was broken, lip was split open, and teeth were missing. He testified that he immediately

⁷ Special Master Hearing at 43:25:00-46:10:00; 1:38:26-1:40:00.

⁸ *Id.* at 2:32:00-2:35:00.

⁹ *Id.* at 1:50:00-2:05:00.

¹⁰ *Id.* at 7:24:00-11:24:00.

rushed the Claimant to their house, and she was transported to the hospital.¹¹

Witness Stephany Grullion

Ms. Grullion, parent and natural guardian of the Claimant, testified regarding J.N.'s medical treatment. Ms. Grullion testified that the Claimant has headaches that were reported one month after the accident. The Claimant visited a pediatric neurologist who determined that the headaches were due to the collision. Ms. Grullion also testified that the Claimant still had the headaches twice a week but she no longer takes prescription medication; rather, uses over-the-counter medication for relief.¹²

Claimant still experiences numbness on one side of her lip, as well as a lip twitch. The Claimant has nose sensitivity and cannot wear her glasses because the weight of the glasses bothers her.

Ms. Grullion testified that the Claimant's medical expenses were paid by insurance.¹³

Witness J.N.

J.N. testified that since the accident, she has developed many insecurities. She feels uncomfortable speaking because her lip twitches, and she avoids smiling due to her dissatisfaction with her teeth and the scar on her lip.¹⁴

J.N. testified that she still experiences facial numbness and that she still frequently has headaches. She testified that she has missed school due to migraines but that she does well in school.¹⁵ She is unable to play sports or do extracurricular activities because the physical activity causes her to have headaches.¹⁶ J.N. testified that she has migraines three to four times per week with noise and light sensitivity.

¹¹ *Id.* at 11:54:00-17:48:00.

¹² *Id.* at 1:00:00-1:04:28.

¹³ *Id.* at 1:10:19-1:10:44.

¹⁴ *Id.* at 1:15:07-1:19:37.

¹⁵ *Id.* at 1:31:00-1:33:00.

¹⁶ *Id.* at 1:16:00-1:19:07.

J.N. also testified that she has been wearing the Maryland bridge for three years and that it causes her discomfort when food gets stuck in it. She stated that it also hurts her gums.¹⁷

Respondent's Case-in-Chief

The Respondent did not present or contest any evidence, theories, or arguments.¹⁸

Respondent indicated that if the claim bill were to pass, payout to the Claimant was structured to have less of a financial impact on the county's budget, by structuring payments in increments to be paid over the next five (5) years.¹⁹

The county does not have any excess insurance and is self-insured.²⁰

CONCLUSIONS OF LAW:

The claim bill hearing was held on January 27, 2025, was a *de novo* proceeding to determine liability in a negligence claim for damages suffered by the Claimant and, if negligence is found, whether the amount of the claim is reasonable. This report is based on evidence presented to the special master prior to, during, and after the hearing. The Legislature is not bound by settlements or jury verdicts when considering a claim bill, the passage of which is an act of legislative grace.

Sovereign immunity limits the amount of damages a Claimant can collect from the state or any of its agencies as a result of its negligence or the negligence of its employees to \$200,000 for one individual and \$300,000 for all claims or judgments arising out of the same incident. Funds in excess of this limit may only be paid upon approval of a claim bill by the Legislature. Thus, the Claimant will not receive the full amount of the settlement unless the Legislature approves this claim bill authorizing the additional payment.²¹

In this matter, the Claimant alleges negligence on behalf of Hillsborough County.

¹⁷ *Id.* at 1:21:42-1:22:29.

¹⁸ *Id.* at 1:52:09-1:57:20.

¹⁹ *Id.* at 2:00:00-2:03:37; *see also*, Claimant's supplemental exhibit titled Schedule of Benefits and Payees.

²⁰ *Id.* at 2:03:37-2:04:44.

²¹ Section 768.28, F.S.

The plaintiff bears the burden of proving, by the greater weight of the evidence, that the defendant's action was a breach of duty that the defendant owed to the plaintiff. The "greater weight of the evidence" burden of proof "means the more persuasive and convincing force and effect of the entire evidence in the case."²²

"Negligence is described as the failure to use reasonable care, which is the care that a reasonably careful person would use under like circumstances";²³ and "a legal cause of loss, injury or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury or damage, so that it can reasonably be said that, but for the negligence, the loss, injury or damage would not have occurred."²⁴

To establish liability, a Claimant must prove four (4) elements, by the greater weight of the evidence:

- (1) Duty: where the defendant has a legal obligation to protect others against unreasonable risks.
- (2) Breach: which occurs when the defendant has failed to conform to the required standard of conduct.
- (3) Causation – where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and
- (4) Damages – actual harm.²⁵

In this case, the County's liability depends on whether the County breached its duty of care to Claimant and whether that breach caused her damages.

Duty

Under Florida law, "[W]hile a city is not an insurer of the motorist or the pedestrian who travels its streets and sidewalks, it is responsible, of course, for damages resulting from defects which have been in existence so long that they

²² Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

²³ Florida Civil Jury Instructions, 401.4 – Negligence.

²⁴ Florida Civil Jury Instructions, 401.12(a) – Legal Cause, Generally.

²⁵ *Hodges v. United States*, 78 F.4th 1365, 1375 (11th Cir. Aug. 18, 2023); and *Clay Elec. Coop., Inc. v. Johnson*, 873 So.2d 1182, 1185 (Fla. 2003).

could have been discovered by the exercise of reasonable care, and repaired.”²⁶

A municipality “is required to exercise reasonable diligence in repairing defects after the unsafe condition of the street or sidewalks known or ought to have been known to the officers thereof having authority to act.”²⁷

In this case, the county does not dispute that it had a duty to use reasonable care in maintaining safe premises, free from dangers to the personal safety of its invitees.²⁸

Florida law defines “routine maintenance” required by the county to be performed on the sidewalk, drainage ditch, and culvert as follows:

(23) “Routine maintenance” means minor repairs and associated tasks necessary to maintain a safe and efficient transportation system. The term includes: pavement patching; shoulder repair; cleaning and repair of drainage ditches, traffic signs, and structures; mowing; bridge inspection and maintenance; pavement striping; litter cleanup; and other similar activities.²⁹

There was no evidence presented by the Respondent that challenged or countered the facts as presented above.

Breach

Based on the stipulated facts and exhibits presented by the Claimant, it is evident that Hillsborough County breached its duty of reasonable care by failing to maintain the sidewalk in a safe manner. The County had notice that the sidewalk was badly buckled and uneven. The Claimant’s evidence indicates that County employee Juan Olivero Lopez inspected the sidewalk prior to the date of the incident and noted that “the

²⁶ *Mullins v. City of Miami*, 60 So.2d 174, 176 (Fla. 1952) (citing *City of St. Petersburg v. Roach*, 4 So.2d 367,368 (Fla 1941) (holding “[t]here is no doubt that the injury suffered by the defendant in error was chargeable to a defect in the sidewalk and it was successfully argued in the trial court that it had been there for sufficient length of time for the city to have become aware of the imperfection and have remedied it”)).

²⁷ *City of Miami Beach v. Quinn*, 5 So.2d 593, 593 (Fla. 1942).

²⁸ Hillsborough County Answer and Affirmative Defenses Pleading, 3.

²⁹ Section 334.03, F.S.

section of sidewalk should have been removed and replaced prior to this incident.”³⁰

There was no evidence presented by the Respondent that challenged or countered the facts as presented above.

Causation

Negligence is “a legal cause of loss, injury or damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such loss, injury or damage, so that it can reasonably be said that, but for the negligence, the loss, injury or damage would not have occurred.”³¹

The Claimant presented evidence that the buckled sidewalk was the direct and precipitating cause of her injuries, and that it was a foreseeable outcome from the risk produced by the County’s failure to maintain the sidewalk. But for Hillsborough County’s negligence the accident would not have occurred, and the Claimant would not have been severely injured.³²

Comparative Negligence

Comparative negligence is the legal theory that a defendant may diminish his or her responsibility to an injured plaintiff by demonstrating that another person, sometimes the plaintiff and sometimes another defendant or even an unnamed party, was also negligent and that negligence contributed to the plaintiff’s injuries.

The Claimant presented evidence that the Claimant was wearing a helmet at the time of the accident, was experienced in riding a bicycle, and the bicycle was operationally sound at the time of the accident.³³

There was no evidence presented by the Respondent that challenged or countered the facts presented above. There was no evidence presented that would attribute any negligence to the Claimant or any other unnamed third party.

³⁰ Claimant’s complaint filed June 28, 2022, 5.; *see also* Claimant’s Exhibit 1(Photographs of sidewalk).

³¹ Florida Civil Jury Instructions, 401.12(a) –*Legal Cause, Generally*.

³² Special Master Hearing at 29:25-32:28.

³³ *Id.* at 16:01:00-16:25:00.

Based on the evidence and through review of all relevant material, the undersigned finds that the greater weight of evidence demonstrates that Hillsborough County had a duty of care, which it breached, and that breach was the legal or proximate cause of the accident and responsible for the Claimant's injuries.

Damages

As a result of the accident the Claimant was admitted to the hospital with severe facial trauma. She underwent a CT scan which showed a fracture of the nasal bone, fracture of the maxilla, and fracture of superior alveolus.³⁴

The evidence indicated that the Claimant had multiple surgeries to her mouth, lip, nose, and jaw. According to testimony from the Claimant and her mother, Stephany Grullon, the Claimant will need to have a bone graft and surgery for dental implants in the future.

Economic Damages

The Claimant's attorney presented voluminous medical bills and statements. A copy of the annuity contract, settlement agreement and order approving the settlement were provided.³⁵

Noneconomic Damages

The Claimant suffered significant noneconomic damages in the form of pain and suffering, mental anguish and loss of enjoyment of life. The Claimant suffers frequent and continual migraines as a result of striking her head on the concrete culvert. In addition to her physical pain, the Claimant experiences low self-esteem and insecurity because of her scars and missing teeth. The Claimant is unable to engage in physical activities that she enjoyed prior to the accident and has insecurities about her appearance and dating. The Claimant testified to having a lip twitch and facial numbness, that she will likely experience for the rest of her life.

³⁴ Claimant's Exhibit 3 (Claimant's medical records).

³⁵ Claimant's supplemental record (Annuity contract, Settlement agreement, Order Approving Settlement).

Standard jury instructions provide that, “There is no exact standard” for measuring “[a]ny bodily injury sustained by [a plaintiff] any resulting pain and suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, or loss of capacity for the enjoyment of life experienced in the past or to be experienced in the future.”³⁶

As this was a settlement without the benefit of a jury trial, and because there is no formula or fixed criteria for an award, it is unknown how much a jury might have awarded had this matter gone to trial.³⁷

The claimant’s attorney submitted evidence that the claimant suffers migraines as a result of the accident. The migraines occur whenever she is active.³⁸ The claimant testified that she did not suffer migraines prior to the accident and that the migraines are ongoing and frequent in nature.³⁹

Counsel for the Claimant speculates that a jury would have awarded a verdict in excess of \$1,000,000.

Based on the settlement agreement and the total economic damages, the remaining difference of the settled amount is \$400,000.

There was no economic evidence presented by the Respondent to challenge or counter the reports and evidence submitted by the Claimant.

ATTORNEY FEES:

Section 768.28, of the Florida Statutes, limits the Claimant’s attorney fees to 25 percent of the total recovery reached by any judgment or settlement in a sovereign immunity claim. The Claimant’s attorney has acknowledged this limitation and

³⁶ Florida Civil Jury Instructions, 501.2a –Personal Injury and Property Damages – Elements.

³⁷ In *Parrish v. City of Orlando*, 53 So. 3d 1199, 1203, (Fla 5th DCA 2011), the plaintiff and her husband were walking to the Citrus Bowl when she tripped and fell on an uneven sidewalk, seriously injuring her left shoulder. Due to the severity of the injury, the plaintiff had to have shoulder replacement surgery and subsequently developed axillary nerve palsy. At trial, the plaintiff’s treating doctor testified that her shoulder injury was permanent and caused by the fall. The city presented no opposing testimony. The jury awarded damages for past medical expenses and future medical expenses, but no award for past or future noneconomic damages. The court determined that the “failure to make an award for future economic damages is unreasonable when there is evidence of permanent injury and a need for treatment in the future.” “[W]hen medical evidence on permanence or causation is undisputed, unimpeached, or not otherwise subject to question based on other evidence presented at trial, the jury is not free to simply ignore or arbitrarily reject that evidence and tender a verdict in conflict.” *Parrish at 1202*.

³⁸ Special Master Hearing at 1:24:00-1:25:30.

³⁹ *Id.*

verified in writing that nothing in excess of 25 percent of the gross recovery will be withheld or paid as attorney and lobbyist fees.

RECOMMENDATIONS:

Based upon the foregoing, I recommend that SB 20 be reported FAVORABLY.

Respectfully submitted,

Jovona I. Parker
Senate Special Master

cc: Secretary of the Senate