



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

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DATE	COMM	ACTION
3/20/25	SM	Favorable
3/25/25	JU	Favorable
3/28/25	CA	Pre-meeting

March 20, 2025

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

Re: **SB 24** – Senator DiCeglie
HB 6503 – Representative Nix
Relief of Mande Penney-Lemmon by Sarasota County

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED EXCESS JUDGMENT CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$2,291,364.63. THIS AMOUNT IS THE REMAINING UNPAID BALANCE OF A \$2,491,364.63 JURY VERDICT REGARDING THE NEGLIGENCE OF SARASOTA COUNTY, WHICH RESULTED IN THE INJURY OF MANDE PENNEY-LEMMON.¹

FINDINGS OF FACT:

The Accident on October 1, 2018

On the afternoon of October 1, 2018, Mande Penney-Lemmon was driving her elderly companion, Mary-Helen, to a doctor's appointment. While traveling on East Venice Avenue, traffic came to a halt and Ms. Penney-Lemmon followed suit. Around the same time, Jill Marie Parnell was driving behind Ms. Penney-Lemmon in her Sarasota County-issued parks-and-recreation truck, which was equipped with an industrial winch and steel brush guard. Without warning, Ms. Parnell struck the rear of Ms. Penney-Lemmon's car at approximately

¹ Sarasota County sent Ms. Penney-Lemmon a check for \$200,000 to satisfy its statutorily authorized obligation, but she did not deposit it as she did not want to give the impression that the check was being accepted as full satisfaction of the \$2,491,364.63 judgment. Regardless of the outcome of the claim bill, the County said it would send another check.

25 mph, knocking Ms. Penney-Lemmon's vehicle into two stopped vehicles in front of her. Both Ms. Penney-Lemmon and her companion were wearing their seatbelts at the time of the collision.

LITIGATION HISTORY:

A lawsuit was filed in June of 2022 with a claim of vicarious liability negligence on behalf of Mande Penney-Lemmon against Sarasota County.² The complaint alleged that the County's employee, Jill Marie Parnell, negligently rear-ended Ms. Penney-Lemmon, causing Ms. Penney-Lemmon to sustain life-altering injuries and preventing her from being able to work.

Trial

At trial, Ms. Penney-Lemmon called her neurologist (Dr. Sanjay Yathiraj) to testify that he diagnosed her with a traumatic brain injury.³ He conducted a physical exam, reviewed her scans, and reviewed her medical history, and he determined that she had chemical changes and electrical changes on the brain arising from a trauma. Ms. Penney-Lemmon also presented evidence that her symptoms—migraines, shoulder pain, neck pain, inability to focus, inability to recall, and pain radiating on her left side—only began after the accident.

The County contested the claim at trial and raised concerns with the causation and damages elements of the claim.⁴ Specifically, the County argued that Ms. Penney-Lemmon's scans showed signs of multiple sclerosis that may have pre-existed the accident; this medical opinion raised questions as to the cause of her symptoms, which the County argued warranted more testing.

Regarding damages, the County believed⁵ that more testing was required to determine if Ms. Penney-Lemmon had a traumatic brain injury or multiple sclerosis; therefore, it argued no damages should be awarded to Ms. Penney-Lemmon unless and until she has a definitive diagnosis.

² See *Penney-Lemmon v. Sarasota County*, 2022 CA 2865, Complaint (June 6, 2020).

³ See Trial Transcript, 239-260 (Apr. 8, 2024).

⁴ The County otherwise admitted that Ms. Parnell, its employee, was negligently operating her vehicle.

⁵ The County expressly reaffirmed this position at the special master hearing.

Jury Verdict

Ms. Penney-Lemmon presented evidence in the form of a Life Care Plan (“Plan”) that detailed the future medical expenses Ms. Penney-Lemmon was expected to incur for the treatment of her injuries.⁶ This Plan included recommended treatment from doctors of various specialties, including:

- Mental Health/Behavioral Health
- Physical Therapy
- Neurospine
- Orthopedic Surgery
- Neurology
- Primary Care

The Plan included projected future expenses totaling \$851,851 and medication totaling \$74,118.24.

The jury, after considering both parties’ presented evidence, rendered a verdict⁷ awarding Ms. Penny-Lemmon:

- \$71,364.63 for past medical expenses
- \$500,000 for future medical expenses

The jury also awarded Ms. Penney-Lemmon:

- \$120,000 in past lost wages
- \$300,000 in future lost wages
- \$400,000 for past pain and suffering
- \$1,100,000 for future pain and suffering

After the jury rendered its verdict, the court entered a final judgment in favor of Ms. Penny-Lemmon in the amount of \$2,491,364.63.

Section 768.28, of the Florida Statutes, limits the amount of damages that a claimant can collect from a local government 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.

⁶ See Future Medical Treatment and Cost Tables.

⁷ See *Penney-Lemmon v. Sarasota County*, 2022 CA 2865, Verdict (Apr. 10, 2024).

The County does not support the relief of Ms. Penney-Lemmon, and it is contesting the entire amount of damages.⁸

CONCLUSIONS OF LAW:

The claim bill hearing held on January 17, 2025, was a *de novo* proceeding to determine whether Sarasota County is liable in negligence for damages caused by its employee, Jill Marie Parnell, acting within the scope of her employment, to the claimant, and, if so, 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.

Under the legal doctrine of *respondeat superior*, Sarasota County is responsible for the wrongful acts of its employees when the acts are committed within the scope of their employment. Being that Ms. Parnell was operating a parks-and-recreation vehicle in the course and scope of her employment at the time of the collision, and because the vehicle was owned by Sarasota County, the County is responsible for negligence committed by Ms. Parnell.

Negligence

There are four elements to a negligence claim: (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.⁹

The plaintiff bears the burden of proving, by the greater weight of the evidence, that the defendant’s action was a breach of the duty that the defendant owed to the plaintiff.¹⁰ 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.

⁸ The undersigned asked counsel for the County if there was a number his client would be comfortable compromising with, and he responded that he was not authorized to provide a number. Special Master Hearing, 4:38:05-4:38:33.

⁹ *Clay Elec. Co-op., Inc. v. Johnson*, 873 So. 2d 1182, 1185 (Fla. 2003).

¹⁰ *Alachua Lake Corp. v. Jacobs*, 9 So. 2d 631, 632 (Fla. 1942).

In this case, Sarasota County's liability depends on whether Ms. Parnell negligently operated her parks-and-recreation truck and whether that negligent operation caused Ms. Penney-Lemmon's resulting injuries.

Duty

A legal duty may arise from statutes or regulations; common law interpretations of statutes or regulations; other common law precedent; and the general facts of the case.

In this case, Ms. Parnell was responsible for exercising the duty of reasonable care to others while driving her parks-and-recreation vehicle. Any person operating a vehicle within the state "shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section."¹¹

Breach

The undersigned finds that Ms. Parnell breached the duty of care owed to Ms. Penney-Lemmon.

Ms. Parnell was wearing a headset while driving¹² to hear the navigation directions to her next work meeting. She also testified that nothing was functionally wrong with her vehicle before the crash and that she did not realize the cars in front of her were even stopped until she collided with them. The weather was reportedly clear, and there was nothing obstructing Ms. Parnell's vision; she simply was not paying attention to the halted traffic in front of her and rear-ended Ms. Penney-Lemmon's vehicle.

Causation

Ms. Penney-Lemmon's injuries were the natural and direct consequence of Ms. Parnell's breach of her duty. Ms. Parnell was acting within the scope of her employment at the time of the collision. Sarasota County, as the employer, is liable for damages caused by its employee's negligent act.

¹¹ Section 316.1925, F.S. Ms. Parnell was cited for careless driving in violation of section 316.1925, of the Florida Statutes. See Florida Traffic Crash Report , 4 (Oct. 1, 2018)..

¹² Though she was not cited for this under section 316.304, of the Florida Statutes, Ms. Parnell testified that she was indeed wearing a headset for navigation purposes while driving.

Sarasota County contests the causation element and argues that more testing needs to be conducted to determine what Ms. Penney-Lemmon's injury is. The County had a doctor testify before the special masters,¹³ and that doctor believes there are signs in Ms. Penney-Lemmon's scans that suggest she was misdiagnosed with traumatic brain injury when she shows signs of multiple sclerosis, which the County argues pre-existed the accident.

Ms. Penney-Lemmon explained that, after the accident, her chiropractor referred her to the neurologist for: acute post-traumatic headaches, acute pain due to trauma, post-concussive syndrome, TMJ disorder, radialopathy—cervical region, and spinal enthesopathy—cervical region. Ms. Penney-Lemmon, herself, testified that she had none of these symptoms prior to the accident. Additionally, she was not seeking treatment for any of these symptoms prior to the accident.

Ms. Penney-Lemmon presented testimony and depositions from both her chiropractor and her neurologist. Regarding the multiple sclerosis theory, her neurologist testified that there was no indication of multiple sclerosis in her patient history or her symptom complaints.¹⁴ The neurologist also testified that Ms. Penney-Lemmon was also not being treated for multiple sclerosis and has never been treated for multiple sclerosis; she was being treated for traumatic brain injury and diffused axonal injury.¹⁵

The undersigned finds that Ms. Penney-Lemmon presented sufficient evidence to prove that the accident was the cause of her injuries.

Damages

A plaintiff's damages are computed by adding these elements together:

Economic Damages

- Past medical expenses¹⁶
- Future medical expenses

¹³ Special Master Hearing, 1:33:20-2:06:20.

¹⁴ See Trial Transcript, 259 (Apr. 8, 2024).

¹⁵ *Id.*

¹⁶ Counsel for the County stated that his client had no position to challenge the past medical expenses. Special Master Hearing, 4:33:30-4:33:46.

Non-Economic Damages

- Past pain and suffering and loss of enjoyment of life
- Future pain and suffering and loss of enjoyment of life

The claimant's attorney provided financial data that projected Ms. Penney-Lemmon's total past medical charges to be \$71,364.63 and presented evidence that her total medical expenses will be approximately \$417,000 to \$600,000.¹⁷ Additionally, her counsel calculated her past lost wages to be \$120,000 and her future lost wages to be \$300,000.¹⁸ The claimant's attorney also argued that Ms. Penney-Lemmon's past non-economic damages amount to \$400,000 and her future non-economic damages amount to \$1,100,000.¹⁹

The County argued that these damages were inappropriate because it is unclear if Ms. Penney-Lemmon suffers from traumatic brain injury or multiple sclerosis; the County believes there are signatures of multiple sclerosis, and it does not want to pay for a pre-existing condition. When asked if there was a number the County would compromise with, counsel for the County said no; it is contesting the damages in the entirety.²⁰

The undersigned finds that Ms. Penney-Lemmon presented evidence that was sufficient to prove that she suffers from a traumatic brain injury and requires current and future treatment for that injury.

IMPACT ON BUDGET:

Counsel for the County was asked what the impact would be on the County's budget if this claim bill were passed, to which he responded: "Every dollar can only be spent once. So if we are required to spend...whatever amount the Legislature determines on paying above the amount set by 768.28, [that is] money we can't use for other things."²¹

¹⁷ See Letter from Carl E. Reynolds, Esquire, To Special Masters Mawn and Thomas, 5 (Jan. 30, 2025).

¹⁸ See Trial Transcript, 223 (Apr. 9, 2024); see also *Penney-Lemmon v. Sarasota County*, 2022 CA 2865, Verdict (Apr. 10, 2024).

¹⁹ See *Penney-Lemmon v. Sarasota County*, 2022 CA 2865, Verdict (Apr. 10, 2024). Ms. Penney-Lemmon testified that, due to the accident, she has experienced a significant reduction in her quality of life, she cannot work, and she requires treatment for her ongoing health issues.

²⁰ Special Master Hearing, 4:38:05-4:38:33.

²¹ *Id.*, 4:38:34-4:39:02.

Counsel for the County was also asked if the funds were available to pay the claims bill, to which he responded: "We operate with a healthy county reserve system, but... it's a choice... it then constrains the ability of Sarasota County to be able to make other choices."²²

Counsel also stated that the County has claim bill insurance and believes the amount requested in this claim bill meets the threshold to trigger the insurance.²³

ATTORNEY FEES:

Attorney fees may not exceed 25 percent of the amount awarded.²⁴ The claimant's attorney has agreed to limit fees to 25 percent of any amount awarded by the Legislature.²⁵ Additionally, lobbying fees will be limited to 5 percent of any amount awarded by the Legislature.²⁶

RECOMMENDATIONS:

Based on the reasons above, the undersigned recommends that Senate Bill 24 be reported FAVORABLY.

Respectfully submitted,

Oliver Thomas
Senate Special Master

cc: Secretary of the Senate

²² *Id.* at 4:39:05-4:39:19.

²³ Special Master Hearing, 4:44:18-4:45:04.

²⁴ Section 768.28, F.S.

²⁵ See Sworn Affidavit Regarding Fees (Dec. 4, 2024).

²⁶ *Id.*