



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location

409 The Capitol

Mailing Address

404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
1/5/26	SM	Favorable
1/12/26	JU	Favorable
1/20/26	CA	Favorable
2/3/26	RC	Favorable

January 5, 2026

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

Re: **SB 14** – Senator Ana Maria Rodriguez
HB 6521 – Representative Blanco
Relief of Jose Correa by Miami-Dade County

SPECIAL MASTER'S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR \$4.1 MILLION. THE CLAIMANT, JOSE CORREA, SEEKS DAMAGES FROM MIAMI-DADE COUNTY FOR PERSONAL INJURIES CAUSED BY THE NEGLIGENT OPERATION OF A MIAMI-DADE COUNTY BUS DRIVEN BY A COUNTY EMPLOYEE.

UPDATE TO PRIOR REPORT:

On January 30, 2025, a de novo hearing was held on a previous version of this bill, SB 6 (2025). After the hearing, a report was issued containing findings of fact and conclusions of law. The report found the requested amount of \$4,100,000 was reasonable. That report is attached as an addendum to this report.

Since that time, the Senate President has reassigned the claim to the undersigned to review records and determine whether any changes have occurred since the hearing that, if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

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According to information received, no such changes have occurred since the hearing.

Respectfully submitted,

/s/ Carter McMillan
Senate Special Master

cc: Secretary of the Senate



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March 20, 2025

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

Re: **SB 6** – Senator Ana Maria Rodriguez
HB 6517 – Representative Busatta
Relief of Jose Correa by Miami-Dade County

SPECIAL MASTER'S FINAL REPORT

THIS IS A SETTLED CLAIM BILL FOR \$4.1 MILLION. THE CLAIMANT, JOSE CORREA, SEEKS DAMAGES FROM MIAMI-DADE COUNTY FOR PERSONAL INJURIES CAUSED BY THE NEGLIGENT OPERATION OF A MIAMI-DADE COUNTY BUS DRIVEN BY A COUNTY EMPLOYEE.

FINDINGS OF FACT:

Jose Correa, a 61-year-old, was a pedestrian injured in a bus accident involving an in-service Miami-Dade County bus that was driven by an on-duty Miami-Dade County bus driver. Mr. Correa's injuries include a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain. A Miami-Dade County bus driver, Traci Constant, contributed to the injuries Mr. Correa sustained.

The Accident on December 16, 2021

At approximately 12:00 p.m., on December 16, 2021, Jose Correa was walking home and crossing the street at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when he was struck by a bus operated by Traci

SPECIAL MASTER'S FINAL REPORT – SB 6

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Constant, an on-duty Miami-Dade County bus driver.¹ Mr. Correa was crossing the roadway within the crosswalk at the time of the accident, and witnesses indicated that it was a clear and sunny day.²

Prior to the accident, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out onto the intersection to wait for northbound traffic to clear, however, when she made the left turn, the traffic light was red.³

Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus.⁴ The Traffic Homicide Report indicates that Mr. Correa walked across the crosswalk with a “do not cross” red hand (to stop/do not cross).⁵ However, during the claim bill hearing held on January 30, 2025, the claimant’s attorney asserted that the pedestrian crosswalk traffic signal was not working properly.⁶

At collision, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa’s left leg until the bus came to a controlled stop.⁷ The Coral Gables Fire Rescue (Engine #4 and Rescue #2) responded to the accident and administered first aid. Mr. Correa was then transported to Jackson Memorial Hospital – Ryder Trauma Unit.⁸

¹ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

³ See *Id*; see also Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁴ *Id*.

⁵ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁶ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 18:08-19:32. During the claim bill hearing, the claimant’s attorney indicated that they hired a private investigator to take a video of the traffic signal not working properly. This video was not taken on the day of the accident but on a later date. However, the Special Masters never received this video to add into evidence.

⁷ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁸ Patient Care Record, Coral Gables Fire Department, Incident Number 21008649 (Dec. 16, 2021).

Prior to the Accident

During the claim bill hearing, the respondent's counsel stated that on the morning of the accident at approximately 11:45 a.m., Mr. Correa walked to a nearby 7-Eleven where a police officer, Officer Smith, witnessed Mr. Correa "swaying" and indicated that Mr. Correa was visibly intoxicated.⁹ However, Mr. Correa stated that he did not have any alcohol on the day of the accident.¹⁰

Disciplinary Action Report and Hearing

Ms. Constant was suspended for 10 days following a "Miami-Dade County Disciplinary Action Report" dated January 13, 2022, and a "Disciplinary Hearing" that was held on March 4, 2022. The report indicates that Ms. Constant's actions on the day of the "accident" constituted a violation of Miami-Dade County Personnel Rules, and the accident was deemed preventable by the Accident Grading Committee.¹¹

Traffic Homicide Report

The traffic homicide report provides that the roadway was free of defects or obstructions which would have affected the collision, the bus appeared to have been in good operating condition, and Ms. Constant was operating the bus with no apparent impairments.¹² Additionally, the homicide report indicates that Mr. Correa violated the visible red "do-not-walk" crosswalk traffic signal.¹³ During a deposition taken on August 10, 2023, the traffic homicide detective, Detective Quinones, stated that he took a video on the day of the accident to demonstrate that the crosswalk traffic signal was working

⁹ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 1:09:01-1:11:47. During the claim bill hearing, respondent's counsel read Officer Smith's statement aloud. See also Officer Smith recorded statement from the scene of the accident (Dec. 16, 2021).

¹⁰ See *id.* at 24:10-24:20. Additionally, no evidence was submitted to demonstrate that a blood alcohol test was ever administered to Mr. Correa after the accident.

¹¹ See Disciplinary Action Report, Miami-Dade County, Transportation and Public Work Department, Division Number 06771031, Traci Constant (Jan 13, 2022). See also Memorandum, Miami-Dade County, MDT Bus Operations, Disciplinary Hearing, Bus Operator Traci Constant (March 4, 2022).

¹² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

¹³ *Id.*

properly.¹⁴ The traffic homicide report also lists “severe signs of impairment” as “probable cause,” and states that Officer Smith observed Mr. Correa as being intoxicated moments before the collision.¹⁵ Ultimately, the traffic homicide report attributes fault to Ms. Constant and Mr. Correa.¹⁶

Medical Injuries

Mr. Correa suffered extensive injuries, including a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain.¹⁷ During the claim bill hearing, Mr. Correa indicated that Medicare covered most of his medical expenses.¹⁸ However, the claimant’s attorney provided financial data and projected Mr. Correa’s total past medical liens to be approximately \$339,416.¹⁹

Current and Future Needs

Currently, Mr. Correa is living in an assisted living facility, but he would like to live on his own again.²⁰ During the claim bill hearing, Mr. Correa explained that his prosthetic does not fit him properly due to skin integrity issues.²¹ However, he hopes to get those problems addressed and corrected.²² The claimant’s attorney provided a life care evaluation that estimates Mr. Correa’s “present value of future loss” to be approximately \$4,051,261.²³ Additionally, Mr. Correa and his sister testified that the claimant’s quality of life has dramatically decreased since the accident in December of 2021.²⁴

¹⁴ See Quinones Deposition, 27-30 (Aug. 10, 2023).

¹⁵ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

¹⁶ *Id.*

¹⁷ See Claimant’s Summary of the Case; see also Special Master Claim Bill Hearing (Jan. 30, 2025).

¹⁸ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 51:28.

¹⁹ See *id.* at 55:00. In the Claim Bill Hearing the Claimant’s attorney stated that Mr. Correa’s Medicaid lien was approximately \$339,416, and all other past expenses have been satisfied. The “Claimant’s Summary of the Case” indicates that Mr. Correa’s past medical bills are approximately \$1,300,000.

²⁰ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 44:38-48:07.

²¹ See *id.* at 38:40-42:00.

²² *Id.*

²³ See Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023).

²⁴ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025). Mr. Correa and his sister testified regarding the claimant’s quality of life. Prior to the accident, Mr. Correa enjoyed being

LITIGATION HISTORY:

A lawsuit was filed in July of 2022, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, case no. 2022-013508-CA-01, styled *Jose Correa v. Miami-Dade County*. The complaint asserted vicarious liability negligence claims on behalf of Mr. Correa against Miami-Dade County. The complaint further alleged that Miami-Dade County's employee, Traci Constant, carelessly and negligently struck Mr. Correa while she was driving a Miami-Dade County passenger bus. As a result, the complaint provides that Mr. Correa suffered great bodily injury, pain, disability, disfigurement, mental anguish, and the loss of the capacity for the enjoyment of life.

Release of all Claims and Settlement Agreement

On March 25, 2024, Mr. Correa signed a "release" to release and discharge Miami-Dade County from liability related to the facts in Circuit Court Case 2022-013508-CA-01.²⁵ Pursuant to that "release," the claimant received \$200,000 from Miami-Dade County, and the respondent agreed to support a claim bill in the amount of \$4,100,000.²⁶

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.

On November 25, 2024, a "notice of voluntary dismissal with prejudice" was entered in Circuit Court Case 2022-013508-CA-01.

On March 13, 2025, the attorneys for both parties executed and signed a letter stating that everything enclosed in the March 25, 2024, "Release" is considered a settlement agreement between Miami-Dade County and Mr. Correa.

active and had an active lifestyle. Additionally, both the claimant and his sister testified that Mr. Correa has had a difficult time mentally and emotionally post-accident.

²⁵ Release of All Claims, Jose Correa v. Miami-Dade County, Case No. 22-013508-CA-01 (Mar. 25, 2024).

²⁶ *Id.*

Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000.²⁷

CONCLUSIONS OF LAW:

The claim bill hearing held on January 30, 2025, was a *de novo* proceeding to determine whether Miami-Dade County is liable for negligence damages caused by its employee, Traci Constant 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*, Miami-Dade County is responsible for the wrongful acts of its employees when the acts are committed within the scope of their employment. Because Ms. Constant was operating a bus in the course and scope of her employment at the time of the accident and because the bus was owned by Miami-Dade County, the County is responsible for any wrongful acts, including negligence, committed by Ms. Constant.

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.²⁸

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. 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."²⁹

²⁷ Miami-Dade County's Summary, Positions, and Insurance Statement, Senate Bill 6; see also Correa Special Master Claim Bill Hearing (Jan. 30, 2025).

²⁸ *Williams v. Davis*, 974 So.2d 1052, at 1056-1057 (Fla. 2007); see also Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

²⁹ Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

In this case, Miami-Dade County's liability depends on whether Ms. Constant negligently operated the County's bus and whether that negligent operation caused Mr. Correa'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.³⁰

In this case, Ms. Constant was responsible for the duty of reasonable care to others while driving her Miami-Dade County bus. In accordance with Miami-Dade County Personnel Rules, Ms. Constant had a reasonable duty to observe "safe driving practices," including a duty against "making right or left turns on red traffic signals," a duty to "use caution before entering intersections," and a duty to give pedestrians the right-of-way. Additionally, in accordance with the Metrobus Operation Rules and Procedures Manual, Ms. Constant had a reasonable duty to not enter an intersection unless she knew the bus could get completely across if the signal changed to red, and a duty to never run a red or yellow light.

Section 316.075(1)(c), of the Florida Statutes, provides that:

[t]he driver of a vehicle facing a steady red signal shall stop before entering the crosswalk and remain stopped to allow a pedestrian, with a permitted signal, to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger...[u]nless otherwise directed by a pedestrian control signal..., pedestrians facing a steady red signal must not enter the roadway.

Section 316.075(1)(a), of the Florida Statutes, provides that:

[v]ehicular traffic facing a circular green signal may proceed cautiously straight through or turn right or left unless a sign at such place prohibits

³⁰ *McClain v. Florida Power Corp.*, 593 So.2d 500, 503 n. 2 (Fla. 1992).

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either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

Section 316.075(1)(b), of the Florida Statutes, provides that “[v]ehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic must not enter the intersection.”

Breach

The undersigned finds that Ms. Constant breached the duty of care owed to Mr. Correa.

As stated above, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out into the intersection to wait for northbound traffic to clear; however, when she made the left turn, the traffic light was red. Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus. Then, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa's left leg until the bus came to a controlled stop.

Causation

Mr. Correa's injuries were the natural and direct consequence of Ms. Constant's breach of her duty. Ms. Constant was acting within the scope of her employment at the time of the accident. Miami-Dade County, as the employer, is liable for damages caused by its employee's negligent act.

Damages

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

Economic Damages

- Past Medical Expenses

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- Future Medical Expenses

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 and projected Mr. Correa's total past medical liens to be approximately \$339,416, and projected his total future medical expenses to be approximately \$4,051,261.³¹

No evidence was presented or available indicating the damages authorized by the settlement agreement are excessive or inappropriate.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 goal of proving a successful comparative negligence defense is to hold other people responsible for the injuries they cause to a plaintiff. By apportioning damages among all who are at fault, it will ultimately reduce the amount of damages owed by a defendant.³³

If this case had proceeded to trial, it would likely have been disputed that Ms. Constant was solely at fault in the collision or solely responsible for Mr. Correa's injuries and

³¹ In the Claim Bill Hearing the Claimant's attorney stated that Mr. Correa's Medicaid lien was approximately \$339,416. The "Claimant's Summary of the Case" indicates that Mr. Correa's past medical bills are approximately \$1,300,000. See also Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). The "Summary of the Past and Present Value of Future Economic Loss to Jose Correa" states that the estimated total of future loss is \$4,051,261, however, this is the amount Mr. Correa is expected to be billed but does not factor in any potential outside assistance (i.e. Medicare). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023). See also s. 409.910(11)(f), F.S., which provides for recovery in a tort action when Medicaid has provided medical goods and services to a plaintiff who is a Medicaid recipient.

³² See *Estate of Dougherty v. WCA of Florida, LLC*. (Fla. Cir. Ct. 2018). See also *Fernandez v. BFI Waste Systems of North America, Inc.* (Fla. Cir. Ct. 2000). See also *Gold v. Duncan; Sara Lee; Bryan Foods, Inc.* (Fla. Cir. Ct. 1991),

³³ Section 768.81, of the Florida Statutes, is the comparative fault statute. The apportionment of damages is established in section 768.81(3), of the Florida Statutes.

damages.³⁴ Miami-Dade County raised the affirmative defense of comparative negligence in its Answer to the Plaintiffs' Complaint to reduce the County's liability in causing the accident and its responsibility for Mr. Correa's damages.

Section 768.36(2), of the Florida Statutes, provides that:

"[i]n any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured:

- (a) The plaintiff was under the influence of any alcoholic beverage...to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher; and
- (b) As a result of the influence of such alcoholic beverage the plaintiff was more than 50 percent at fault for his or her own harm.³⁵

Section 316.130(1), of the Florida Statutes., provides that a pedestrian must "obey the instructions of any official traffic control device specifically applicable to the pedestrian unless otherwise directed by a police officer." Additionally, section 316.075(1)(c), of the Florida Statutes, states that a pedestrian facing a steady red signal may not enter the roadway.

Mr. Correa violated s. 316.130(1), F.S., by entering the roadway with a steady red signal, and is no more than 50 percent at fault for his injuries. However, Ms. Constant had a heightened duty to adhere to the requirements of the Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way, and as stated above, Ms. Constant breached that duty.

Ultimately, the following was established by the greater weight of the evidence; Mr. Correa was negligent when he entered

³⁴ See Miami-Dade County's Summary, Positions, and Insurance Statement.

³⁵ See s. 768.36(2), F.S. It is unclear whether Mr. Correa had been drinking prior to the accident and on the day of the accident. The recorded statement by Officer Smith indicated that Mr. Correa was "swaying" and was potentially intoxicated, however, evidence of an alcohol toxicology was not entered into the record. Additionally, at the claim bill hearing, Mr. Correa testified that he did not have any alcohol on the day of the accident.

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the crosswalk with a steady red signal; and Ms. Constant was negligent when she pulled into the intersection and turned left when the traffic light was red.³⁶ The parties entered into a signed settlement agreement, and Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000. Thus, the settled claim amount of \$4,100,000 to be paid by Miami-Dade County seems reasonable based on the evidence presented, including any comparative negligence, and in taking into consideration the unpredictable nature of juries.³⁷

ATTORNEY FEES:

Attorney fees may not exceed 25 percent of the amount awarded. The claimant's attorney has agreed to limit fees to 25 percent of any amount awarded by the Legislature. Additionally, lobbying fees will be limited to 7 percent of any amount awarded by the Legislature.

RECOMMENDATIONS:

Based on the foregoing, the undersigned recommends that Senate Bill 6 be reported FAVORABLY.

³⁶ As stated above, Ms. Constant owed Mr. Correa a heightened duty of care as established by Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way.

³⁷ See *Estate of Dougherty v. WCA of Florida, LLC.*, 2018 WL 6925662 (Fla. Cir. Ct.), where a bicyclist was struck and killed by a truck as she was trying to get from the bike lane to the crosswalk and the truck driver failed to yield, failed to check his mirrors, failed to use his turn signal, and failed to slow down as he executed his turn. The Defense claimed that Dougherty made a sudden turn that put her bicycle in the path of the truck and that tests showed that Dougherty had both alcohol and cocaine in her system at the time of the crash. The jury found the plaintiff was "not under the influence of cocaine and/or alcohol to the extent that her normal faculties were impaired or that she had a blood alcohol level of 0.08 or higher" and was 20 percent negligent and the defendant was found to be 80 percent negligent, and awarded \$25,000,000 to the plaintiffs for the wrongful death of their daughter. See also *Fernandez v. BFI Waste Systems of North America, Inc.*, 2000 WL 33268233 (Fla. Cir. Ct.), where a 70 year old retired woman suffered injuries after she was struck while crossing a roadway outside of the crosswalk by the defendant recycling truck. In *Fernandez*, the jury found the plaintiff to be 50 percent negligent and the jury awarded \$1,487,000 to the plaintiff. The case was settled after trial for \$725,000. See also *Gold v. Duncan, Sara Lee, and Bryan Foods, Inc.*, 1992 WL 737190 (Fla. Cir. Ct.), where an 88 year old woman suffered an amputated right arm and her left arm was rendered useless as a result of being struck by a tractor-trailer driven by the defendant and owned by the co-defendants. The defendant had been stopped at a traffic light waiting to turn, and the plaintiff was waiting to cross the roadway. When the light turned green, the defendant started to execute a wide turn. When the plaintiff started to walk forward, she was struck, and the rear wheels of the trailer ran over her arms. The plaintiff contended that she did not think the truck was turning. The defendant alleged that the plaintiff walked into the truck, and two eyewitnesses stated that the plaintiff began walking after the truck was blocking the crosswalk. The plaintiff was found 50 percent negligent, and the award was reduced to \$2,000,000.

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Respectfully submitted,

/s/ Carter McMillan
Senate Special Master

cc: Secretary of the Senate



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HB 6514 – Representative Busatta
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FINDINGS OF FACT:

Jose Correa, a 61-year-old, was a pedestrian injured in a bus accident involving an in-service Miami-Dade County bus that was driven by an on-duty Miami-Dade County bus driver. Mr. Correa's injuries include a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain. A Miami-Dade County bus driver, Traci Constant, contributed to the injuries Mr. Correa sustained.

The Accident on December 16, 2021

At approximately 12:00 p.m., on December 16, 2021, Jose Correa was walking home and crossing the street at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when he was struck by a bus operated by Traci

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Constant, an on-duty Miami-Dade County bus driver.³⁸ Mr. Correa was crossing the roadway within the crosswalk at the time of the accident, and witnesses indicated that it was a clear and sunny day.³⁹

Prior to the accident, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out onto the intersection to wait for northbound traffic to clear, however, when she made the left turn, the traffic light was red.⁴⁰

Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus.⁴¹ The Traffic Homicide Report indicates that Mr. Correa walked across the crosswalk with a “do not cross” red hand (to stop/do not cross).⁴² However, during the claim bill hearing held on January 30, 2025, the claimant’s attorney asserted that the pedestrian crosswalk traffic signal was not working properly.⁴³

At collision, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa’s left leg until the bus came to a controlled stop.⁴⁴ The Coral Gables Fire Rescue (Engine #4 and Rescue #2) responded to the accident and administered first aid. Mr. Correa was then transported to Jackson Memorial Hospital – Ryder Trauma Unit.⁴⁵

³⁸ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

³⁹ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁴⁰ See *Id*; see also Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁴¹ *Id*.

⁴² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁴³ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 18:08-19:32. During the claim bill hearing, the claimant’s attorney indicated that they hired a private investigator to take a video of the traffic signal not working properly. This video was not taken on the day of the accident but on a later date. However, the Special Masters never received this video to add into evidence.

⁴⁴ Florida Traffic Crash Report, Highway Safety & Motor Vehicles, Traffic Crash Records, HSMV, Crash Report Number 24384495, 5 (Dec. 16, 2021).

⁴⁵ Patient Care Record, Coral Gables Fire Department, Incident Number 21008649 (Dec. 16, 2021).

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Prior to the Accident

During the claim bill hearing, the respondent's counsel stated that on the morning of the accident at approximately 11:45 a.m., Mr. Correa walked to a nearby 7-Eleven where a police officer, Officer Smith, witnessed Mr. Correa "swaying" and indicated that Mr. Correa was visibly intoxicated.⁴⁶ However, Mr. Correa stated that he did not have any alcohol on the day of the accident.⁴⁷

Disciplinary Action Report and Hearing

Ms. Constant was suspended for 10 days following a "Miami-Dade County Disciplinary Action Report" dated January 13, 2022, and a "Disciplinary Hearing" that was held on March 4, 2022. The report indicates that Ms. Constant's actions on the day of the "accident" constituted a violation of Miami-Dade County Personnel Rules, and the accident was deemed preventable by the Accident Grading Committee.⁴⁸

Traffic Homicide Report

The traffic homicide report provides that the roadway was free of defects or obstructions which would have affected the collision, the bus appeared to have been in good operating condition, and Ms. Constant was operating the bus with no apparent impairments.⁴⁹ Additionally, the homicide report indicates that Mr. Correa violated the visible red "do-not-walk" crosswalk traffic signal.⁵⁰ During a deposition taken on August 10, 2023, the traffic homicide detective, Detective Quinones, stated that he took a video on the day of the accident to demonstrate that the crosswalk traffic signal was working properly.⁵¹ The traffic homicide report also lists "severe signs of impairment" as "probable cause," and states that Officer Smith observed Mr. Correa as being intoxicated moments

⁴⁶ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 1:09:01-1:11:47. During the claim bill hearing, respondent's counsel read Officer Smith's statement aloud. See also Officer Smith recorded statement from the scene of the accident (Dec. 16, 2021).

⁴⁷ See *id.* at 24:10-24:20. Additionally, no evidence was submitted to demonstrate that a blood alcohol test was ever administered to Mr. Correa after the accident.

⁴⁸ See Disciplinary Action Report, Miami-Dade County, Transportation and Public Work Department, Division Number 06771031, Traci Constant (Jan 13, 2022). See also Memorandum, Miami-Dade County, MDT Bus Operations, Disciplinary Hearing, Bus Operator Traci Constant (March 4, 2022).

⁴⁹ Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁵⁰ *Id.*

⁵¹ See Quinones Deposition, 27-30 (Aug. 10, 2023).

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before the collision.⁵² Ultimately, the traffic homicide report attributes fault to Ms. Constant and Mr. Correa.⁵³

Medical Injuries

Mr. Correa suffered extensive injuries, including a below the knee amputation of his left leg. Because of the amputation, Mr. Correa suffers from neuropathic pain syndrome and phantom limb pain.⁵⁴ During the claim bill hearing, Mr. Correa indicated that Medicare covered most of his medical expenses.⁵⁵ However, the claimant's attorney provided financial data and projected Mr. Correa's total past medical liens to be approximately \$339,416.⁵⁶

Current and Future Needs

Currently, Mr. Correa is living in an assisted living facility, but he would like to live on his own again.⁵⁷ During the claim bill hearing, Mr. Correa explained that his prosthetic does not fit him properly due to skin integrity issues.⁵⁸ However, he hopes to get those problems addressed and corrected.⁵⁹ The claimant's attorney provided a life care evaluation that estimates Mr. Correa's "present value of future loss" to be approximately \$4,051,261.⁶⁰ Additionally, Mr. Correa and his sister testified that the claimant's quality of life has dramatically decreased since the accident in December of 2021.⁶¹

LITIGATION HISTORY:

A lawsuit was filed in July of 2022, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, case no. 2022-013508-CA-01, styled *Jose Correa v. Miami-Dade County*. The complaint asserted vicarious liability negligence claims on behalf of Mr. Correa against Miami-

⁵² Traffic Homicide Report, Miami-Dade Police Department, Case Number PD211216-401989 (Jan. 25, 2023).

⁵³ *Id.*

⁵⁴ See Claimant's Summary of the Case; see also Special Master Claim Bill Hearing (Jan. 30, 2025).

⁵⁵ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 51:28.

⁵⁶ See *id.* at 55:00. In the Claim Bill Hearing the Claimant's attorney stated that Mr. Correa's Medicaid lien was approximately \$339,416, and all other past expenses have been satisfied. The "Claimant's Summary of the Case" indicates that Mr. Correa's past medical bills are approximately \$1,300,000.

⁵⁷ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025) at 44:38-48:07.

⁵⁸ See *id.* at 38:40-42:00.

⁵⁹ *Id.*

⁶⁰ See Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023).

⁶¹ See Correa Special Master Claim Bill Hearing (Jan. 30, 2025). Mr. Correa and his sister testified regarding the claimant's quality of life. Prior to the accident, Mr. Correa enjoyed being active and had an active lifestyle. Additionally, both the claimant and his sister testified that Mr. Correa has had a difficult time mentally and emotionally post-accident.

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Dade County. The complaint further alleged that Miami-Dade County's employee, Traci Constant, carelessly and negligently struck Mr. Correa while she was driving a Miami-Dade County passenger bus. As a result, the complaint provides that Mr. Correa suffered great bodily injury, pain, disability, disfigurement, mental anguish, and the loss of the capacity for the enjoyment of life.

Release of all Claims and Settlement Agreement

On March 25, 2024, Mr. Correa signed a "release" to release and discharge Miami-Dade County from liability related to the facts in Circuit Court Case 2022-013508-CA-01.⁶² Pursuant to that "release," the claimant received \$200,000 from Miami-Dade County, and the respondent agreed to support a claim bill in the amount of \$4,100,000.⁶³

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.

On November 25, 2024, a "notice of voluntary dismissal with prejudice" was entered in Circuit Court Case 2022-013508-CA-01.

On March 13, 2025, the attorneys for both parties executed and signed a letter stating that everything enclosed in the March 25, 2024, "Release" is considered a settlement agreement between Miami-Dade County and Mr. Correa.

Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000.⁶⁴

CONCLUSIONS OF LAW:

The claim bill hearing held on January 30, 2025, was a de novo proceeding to determine whether Miami-Dade County is liable for negligence damages caused by its employee, Traci

⁶² Release of All Claims, Jose Correa v. Miami-Dade County, Case No. 22-013508-CA-01 (Mar. 25, 2024).

⁶³ *Id.*

⁶⁴ Miami-Dade County's Summary, Positions, and Insurance Statement, Senate Bill 6; see also Correa Special Master Claim Bill Hearing (Jan. 30, 2025).

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Constant 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*, Miami-Dade County is responsible for the wrongful acts of its employees when the acts are committed within the scope of their employment. Because Ms. Constant was operating a bus in the course and scope of her employment at the time of the accident and because the bus was owned by Miami-Dade County, the County is responsible for any wrongful acts, including negligence, committed by Ms. Constant.

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.⁶⁵

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. 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."⁶⁶

In this case, Miami-Dade County's liability depends on whether Ms. Constant negligently operated the County's bus and whether that negligent operation caused Mr. Correa's resulting injuries.

Duty

⁶⁵ *Williams v. Davis*, 974 So.2d 1052, at 1056-1057 (Fla. 2007); see also Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

⁶⁶ Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

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.⁶⁷

In this case, Ms. Constant was responsible for the duty of reasonable care to others while driving her Miami-Dade County bus. In accordance with Miami-Dade County Personnel Rules, Ms. Constant had a reasonable duty to observe “safe driving practices,” including a duty against “making right or left turns on red traffic signals,” a duty to “use caution before entering intersections,” and a duty to give pedestrians the right-of-way. Additionally, in accordance with the Metrobus Operation Rules and Procedures Manual, Ms. Constant had a reasonable duty to not enter an intersection unless she knew the bus could get completely across if the signal changed to red, and a duty to never run a red or yellow light.

Section 316.075(1)(c), of the Florida Statutes, provides that:

[t]he driver of a vehicle facing a steady red signal shall stop before entering the crosswalk and remain stopped to allow a pedestrian, with a permitted signal, to cross a roadway when the pedestrian is in the crosswalk or steps into the crosswalk and is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger...[u]nless otherwise directed by a pedestrian control signal..., pedestrians facing a steady red signal must not enter the roadway.

Section 316.075(1)(a), of the Florida Statutes, provides that:

[v]ehicular traffic facing a circular green signal may proceed cautiously straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

⁶⁷ *McClain v. Florida Power Corp.*, 593 So.2d 500, 503 n. 2 (Fla. 1992).

Section 316.075(1)(b), of the Florida Statutes, provides that “[v]ehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic must not enter the intersection.”

Breach

The undersigned finds that Ms. Constant breached the duty of care owed to Mr. Correa.

As stated above, Ms. Constant pulled into the left turn lane traveling southbound on Le Jeune (SW 42nd Avenue) and began to make a left eastbound turn onto Bird (SW 40th Street). Before making the left turn, Ms. Constant pulled out into the intersection to wait for northbound traffic to clear; however, when she made the left turn, the traffic light was red. Mr. Correa was walking northbound on the crosswalk at the intersection of Le Jeune (SW 42nd Avenue) and Bird (SW 40th Street) when Ms. Constant made a left turn and struck him with the left side mirror of the bus. Then, Mr. Correa fell onto the roadway and the left rear tires of the bus dragged Mr. Correa's left leg until the bus came to a controlled stop.

Causation

Mr. Correa's injuries were the natural and direct consequence of Ms. Constant's breach of her duty. Ms. Constant was acting within the scope of her employment at the time of the accident. Miami-Dade County, as the employer, is liable for damages caused by its employee's negligent act.

Damages

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

Economic Damages

- Past Medical Expenses
- Future Medical Expenses

Non-Economic Damages

- Past Pain and Suffering and Loss of Enjoyment of Life
- Future Pain and Suffering and Loss of Enjoyment of Life

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The claimant's attorney provided financial data and projected Mr. Correa's total past medical liens to be approximately \$339,416, and projected his total future medical expenses to be approximately \$4,051,261.⁶⁸

No evidence was presented or available indicating the damages authorized by the settlement agreement are excessive or inappropriate.⁶⁹

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 goal of proving a successful comparative negligence defense is to hold other people responsible for the injuries they cause to a plaintiff. By apportioning damages among all who are at fault, it will ultimately reduce the amount of damages owed by a defendant.⁷⁰

If this case had proceeded to trial, it would likely have been disputed that Ms. Constant was solely at fault in the collision or solely responsible for Mr. Correa's injuries and damages.⁷¹ Miami-Dade County raised the affirmative defense of comparative negligence in its Answer to the Plaintiffs' Complaint to reduce the County's liability in causing the accident and its responsibility for Mr. Correa's damages.

⁶⁸ In the Claim Bill Hearing the Claimant's attorney stated that Mr. Correa's Medicaid lien was approximately \$339,416. The "Claimant's Summary of the Case" indicates that Mr. Correa's past medical bills are approximately \$1,300,000. See also Gary A. Anderson, Summary of the Past and Present Value of Future Economic Loss to Jose Correa (May 30, 2023). The "Summary of the Past and Present Value of Future Economic Loss to Jose Correa" states that the estimated total of future loss is \$4,051,261, however, this is the amount Mr. Correa is expected to be billed but does not factor in any potential outside assistance (i.e. Medicare). See also Paul M. Ramos, Life Care Plan for Jose Correa (Oct. 16, 2023). See also s. 409.910(11)(f), F.S., which provides for recovery in a tort action when Medicaid has provided medical goods and services to a plaintiff who is a Medicaid recipient.

⁶⁹ See *Estate of Dougherty v. WCA of Florida, LLC*. (Fla. Cir. Ct. 2018). See also *Fernandez v. BFI Waste Systems of North America, Inc.* (Fla. Cir. Ct. 2000). See also *Gold v. Duncan; Sara Lee; Bryan Foods, Inc.* (Fla. Cir. Ct. 1991),

⁷⁰ Section 768.81, of the Florida Statutes, is the comparative fault statute. The apportionment of damages is established in section 768.81(3), of the Florida Statutes.

⁷¹ See Miami-Dade County's Summary, Positions, and Insurance Statement.

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Section 768.36(2), of the Florida Statutes, provides that:

“[i]n any civil action, a plaintiff may not recover any damages for loss or injury to his or her person or property if the trier of fact finds that, at the time the plaintiff was injured:

- (a) The plaintiff was under the influence of any alcoholic beverage...to the extent that the plaintiff's normal faculties were impaired or the plaintiff had a blood or breath alcohol level of 0.08 percent or higher; and
- (b) As a result of the influence of such alcoholic beverage the plaintiff was more than 50 percent at fault for his or her own harm.⁷²

Section 316.130(1), of the Florida Statutes., provides that a pedestrian must “obey the instructions of any official traffic control device specifically applicable to the pedestrian unless otherwise directed by a police officer.” Additionally, section 316.075(1)(c), of the Florida Statutes, states that a pedestrian facing a steady red signal may not enter the roadway.

Mr. Correa violated s. 316.130(1), F.S., by entering the roadway with a steady red signal, and is no more than 50 percent at fault for his injuries. However, Ms. Constant had a heightened duty to adhere to the requirements of the Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way, and as stated above, Ms. Constant breached that duty.

Ultimately, the following was established by the greater weight of the evidence; Mr. Correa was negligent when he entered the crosswalk with a steady red signal; and Ms. Constant was negligent when she pulled into the intersection and turned left when the traffic light was red.⁷³ The parties entered into a signed settlement agreement, and Miami-Dade County agrees with the claimant's position that this claim bill arises out of a settlement between Miami-Dade County and the

⁷² See s. 768.36(2), F.S. It is unclear whether Mr. Correa had been drinking prior to the accident and on the day of the accident. The recorded statement by Officer Smith indicated that Mr. Correa was “swaying” and was potentially intoxicated, however, evidence of an alcohol toxicology was not entered into the record. Additionally, at the claim bill hearing, Mr. Correa testified that he did not have any alcohol on the day of the accident.

⁷³ As stated above, Ms. Constant owed Mr. Correa a heightened duty of care as established by Miami-Dade County Personnel Rules, which requires bus drivers to give pedestrians the right-of-way.

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claimant, Mr. Correa, and agrees to support a claim bill in the amount of \$4,100,000. Thus, the settled claim amount of \$4,100,000 to be paid by Miami-Dade County seems reasonable based on the evidence presented, including any comparative negligence, and in taking into consideration the unpredictable nature of juries.⁷⁴

ATTORNEY FEES:

Attorney fees may not exceed 25 percent of the amount awarded. The claimant's attorney has agreed to limit fees to 25 percent of any amount awarded by the Legislature. Additionally, lobbying fees will be limited to 7 percent of any amount awarded by the Legislature.

RECOMMENDATIONS:

Based on the foregoing, the undersigned recommends that Senate Bill 6 be reported FAVORABLY.

Respectfully submitted,

/s/ Carter McMillan
Senate Special Master

cc: Secretary of the Senate

⁷⁴ See *Estate of Dougherty v. WCA of Florida, LLC.*, 2018 WL 6925662 (Fla. Cir. Ct.), where a bicyclist was struck and killed by a truck as she was trying to get from the bike lane to the crosswalk and the truck driver failed to yield, failed to check his mirrors, failed to use his turn signal, and failed to slow down as he executed his turn. The Defense claimed that Dougherty made a sudden turn that put her bicycle in the path of the truck and that tests showed that Dougherty had both alcohol and cocaine in her system at the time of the crash. The jury found the plaintiff was "not under the influence of cocaine and/or alcohol to the extent that her normal faculties were impaired or that she had a blood alcohol level of 0.08 or higher" and was 20 percent negligent and the defendant was found to be 80 percent negligent, and awarded \$25,000,000 to the plaintiffs for the wrongful death of their daughter. See also *Fernandez v. BFI Waste Systems of North America, Inc.*, 2000 WL 33268233 (Fla. Cir. Ct.), where a 70 year old retired woman suffered injuries after she was struck while crossing a roadway outside of the crosswalk by the defendant recycling truck. In *Fernandez*, the jury found the plaintiff to be 50 percent negligent and the jury awarded \$1,487,000 to the plaintiff. The case was settled after trial for \$725,000. See also *Gold v. Duncan, Sara Lee, and Bryan Foods, Inc.*, 1992 WL 737190 (Fla. Cir. Ct.), where an 88 year old woman suffered an amputated right arm and her left arm was rendered useless as a result of being struck by a tractor-trailer driven by the defendant and owned by the co-defendants. The defendant had been stopped at a traffic light waiting to turn, and the plaintiff was waiting to cross the roadway. When the light turned green, the defendant started to execute a wide turn. When the plaintiff started to walk forward, she was struck, and the rear wheels of the trailer ran over her arms. The plaintiff contended that she did not think the truck was turning. The defendant alleged that the plaintiff walked into the truck, and two eyewitnesses stated that the plaintiff began walking after the truck was blocking the crosswalk. The plaintiff was found 50 percent negligent, and the award was reduced to \$2,000,000.