



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

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DATE	COMM	ACTION
1/5/26	SM	Favorable

January 5, 2026

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

Re: **SB 24** – Senator Gruters
HB 6515 – Representative Busatta
Relief of Lourdes Latour and Edward Latour by Miami-Dade County

SPECIAL MASTER’S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM BILL FOR LOCAL FUNDS IN THE AMOUNT OF \$500,000, PAYABLE FROM UNENCUMBERED FUNDS OF MIAMI-DADE COUNTY, BASED ON A SETTLEMENT AGREEMENT BETWEEN LOURDES AND EDWARD LATOUR AND MIAMI-DADE COUNTY. THE SETTLEMENT AGREEMENT RESOLVED A CIVIL ACTION THAT AROSE FROM THE ALLEGED NEGLIGENCE OF THE COUNTY THAT CAUSED INJURIES TO LOURDES LATOUR AND HER HUSBAND, EDWARD LATOUR.

FINDINGS OF FACT:

At approximately 10:45 on the morning of November 5, 2017, Lourdes LaTour and her Husband, Edward LaTour (collectively “Claimants”), were bicycling to visit a relative in the Gables by the Sea Community (the “Community”) located in Coral Gables, Miami-Dade County (the “County”), something they had done together ten to fifteen times prior. At all times relevant to the matter, the County owned the land upon where the accident occurred and was the legal entity that designed, operated, maintained, and controlled the guard gates and guard houses of the Community.

The Claimants entered the Community without incident and sometime later (within 30 minutes) began to exit the Community on their bicycles. As there was insufficient space for a bicycle to bypass the gate when exiting, and as they had done during their prior visits to the Community while on bicycles, they approached the guard gate to exit and the gate's arm opened for Mr. LaTour to exit. After his successful exit, the gate arm closed. Mrs. LaTour waited for the gate arm to open again so she could exit. Once the gate arm opened, Mrs. LaTour began to exit but the gate arm closed suddenly and unexpectedly before she had cleared the gate, striking her and knocking her off her bicycle. A bystander called 911 and Mrs. LaTour was transported by Miami-Dade EMS to South Miami Hospital.

Once she was knocked to the ground, Mrs. LaTour came in and out of consciousness several times. She remembers hearing her husband scream, fluid coming from the back of her mouth, someone yelling not to move her, a woman telling her everything would be okay, and someone bringing ice for her head.¹ She remembers EMS personnel moving her, waking up in an ambulance, waking up in the hospital, and having her clothing cut off of her.²

On the day of the accident, Lourdes LaTour was 63 years old and Edward LaTour was 67 years old. They had been married for 43 years. Both of the LaTours were born in Cuba but are U.S. citizens and have lived in Miami since they were small children. They have two grown children together.

INJURIES – As a result of the accident, Mrs. Latour suffered a supracondylar humerus fracture with intercondylar split in her left arm which is a severe break of the upper arm bone just above the elbow, with the added complication of a fracture line that goes through the elbow joint. Treatment of her injury required three surgical procedures over the year following the accident as the fracture resulted in a non-union as it healed.

Mrs. LaTour's first surgery was performed on November 7, 2017. Her orthopedic surgeon, Robert Miki, M.D., testified that because the fracture was within the elbow joint, he had to

¹ Deposition of Lourdes LaTour, July 16, 2019, p. 67, line 21 – p. 68, line 17.

² *Id.*

break another bone to get to the fracture site.³ Dr. Miki testified that the surgery included the placement of a screw, wires, and two metal plates in her arm.⁴

Mrs. LaTour's second surgery was performed by Dr. Miki on April 11, 2018. During this surgery, Dr. Miki testified he opened the wound and removed one of the plates and the screw he had placed in the arm to heal the bone he had to break during the first surgery.⁵

Mrs. LaTour's third surgery was performed by Dr. Miki on August 31, 2018. During this surgery, Dr. Miki testified that because her bones had not yet healed, he had to remove the remaining plate in her arm and replace it with a set of new plates.⁶ After this surgery, her arm was placed in a long-arm cast.

Mrs. LaTour suffers permanent shooting pain on a daily basis that limits her ability to perform many basic activities of daily living, including driving, shopping, laundry, cooking, bathing, grooming, and household chores.⁷ Her injuries have required her to give up activities she enjoyed prior to the accident, including boating, gardening, dancing, working out, bicycling, going for walks, Pilates, and yoga.⁸ Due to the pain and lack of strength, her left arm has limited function.

Dr. Miki testified that he believes Mrs. LaTour will develop some level of traumatic arthritis⁹, that her injuries are "definitely permanent"¹⁰, and that she may need additional surgeries to release the ulnar nerve and remove the plates in her arm.¹¹

LITIGATION HISTORY:

On October 17, 2018, Claimants filed a lawsuit against the County. In January 2025, the case proceeded to trial and the jury returned a verdict in favor of the Claimants. The verdict awarded \$4,750,000 to Mrs. LaTour (\$4,000,000 for past damages and \$750,000 for future damages) and \$165,000 to

³ Deposition of Roberto A. Miki, M.D., Dec. 15, 2022, p. 14, lines 3 – 9.

⁴ *Id.* at p. 14, lines 14 - 21.

⁵ *Id.* at p. 22, lines 18 – 25.

⁶ *Id.* at p. 27, lines 1 – 7.

⁷ Deposition of Lourdes LaTour, July 16, 2019, p. 69, lines 10 – 15; p.ge 72, line 23 – p. 75, line 10.

⁸ *Id.*

⁹ Deposition of Roberto A. Miki, M.D., Dec. 15, 2022, p. 37, lines 9 – 15.

¹⁰ *Id.* at p. 39, lines 15 – 18.

¹¹ *Id.* at p. 36, lines 19 – 25.

Mr. LaTour (\$100,000 for past damages and \$65,000 for future damages). The jury found the County 100 per cent at fault and found no fault against the Claimants or the company providing guard services at the gate, U.S. Security Associates.

The County appealed the verdict and a settlement was reached by the parties prior to the appellate court ruling on the matter. Pursuant to the settlement agreement, the County agreed to pay the Claimants \$800,000. The terms of the agreement required the County to pay the sovereign immunity limits of \$300,000, with the remaining \$500,000 balance to be paid upon the passage of a claim bill.

RESPONDENT'S POSITION:

The County agrees that the passage of this claim bill in the amount of \$500,000 is in the parties' mutual best interests. The County supports the passage of this claim bill. The source of payment for this claim bill would be from Miami-Dade County's Self Insurance Fund.

CONCLUSIONS OF LAW:

The claim bill hearing held on November 3, 2025, was a *de novo* proceeding to determine whether the County is liable in negligence for damages it may have caused to the Claimants, 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.

Section 768.28, of the Florida Statutes, limits the amount of damages a claimant can collect from government entities 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. Damages in excess of this limit may only be paid upon approval of a claim bill by the Legislature. Thus, the Claimants will not receive the full amount of the settlement unless the Legislature approves a claim bill authorizing additional payment.

Every claim bill must be based on facts sufficient to meet the "greater weight of the evidence" standard. 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.”¹²

Negligence

Negligence is “the failure to use reasonable care, which is the care that a reasonably careful person would use under like circumstances”;¹³ 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.”¹⁴

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.¹⁵

In this matter, the County’s liability depends on whether the County violated the applicable standard of care in the design, operation, maintenance, and control of the guard gate and guard house of the Community and whether this breach caused the resulting injuries to the Claimants.

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.¹⁶ This duty is known as the “standard of care.”

Under Florida’s premises liability law, a property owner owes two duties to an invitee: (1) to use reasonable care in maintaining the premises in a reasonably safe condition, and (2) to give the invitee warning of concealed perils which are or should be known to the landowner, and which are

¹² Fla. Std. Jury Instr. (Civ.) 401.3, *Greater Weight of the Evidence*.

¹³ Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

¹⁴ Fla. Std. Jury Instr. (Civ.), 401.12(a) - *Legal Cause, Generally*.

¹⁵ *Williams v. Davis*, 974 So. 2d 1052, 1056 (Fla. 2007). See also Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

¹⁶ *McCain v. Fla. Power Corp.*, 593 So. 2d 500, 503 n. 2 (Fla. 1992).

unknown to the invitee and cannot be discovered by the invitee through the exercise of due care.¹⁷

The Florida Supreme Court has opined that “[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 could have been discovered by the exercise of reasonable care, and repaired.”¹⁸

In this matter, the County, as the property owner, had a duty to design, operate, maintain, and control the guard gates and guard houses of the Community in a non-negligent manner.

Breach

A preponderance of the evidence establishes that the County breached its duties by failing to design, operate, maintain, and control the guard gate and guard house of the Community in a non-negligent manner.

The Florida Department of Transportation Design Manual (FDM) sets forth design criteria for all new construction, reconstruction, and resurfacing projects on the State Highway System and the National Highway System.¹⁹ The FDM sets forth the criteria for planning and preparing for the construction and the operation of any road, path, or way which by law is open to bicycle travel, regardless of whether such facilities are signed and marked for the preferential use by bicyclists or are to be shared with other transportation modes.²⁰ For such bicycle facilities, the FDM requires maintaining a smooth, clean riding surface, free of obstructions.²¹

The Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (referred to as the Florida Green Book) provides uniform minimum standards and criteria for the design, construction,

¹⁷ See, *Knight v. Waltman*, 774 So. 2d 731 (Fla. 2007); *Owens v. Publix Supermarkets, Inc.*, 802 So. 2d 315 (Fla. 2001).

¹⁸ *Mullis v. City of Miami*, 60 So. 2d 174, 176 (Fla. 1952) (citing *City of Jacksonville v. Foster*, 41 So. 2d 548, 549 (Fla. 1949)).

¹⁹ *FDOT Design Manual*, Jan. 1, 2025, Sec. 100 - Purpose. <https://fdotwww.Design Manual> (Last visited November 14, 2025).

²⁰ Deposition of Rowland Lamb, Feb. 18, 2020, p. 16, lines 6 - 9.

²¹ *FDOT Design Manual*, Jan. 1, 2025, Sec. 223.1 – *Bicycle Facilities (General)*. <https://fdotwww.Design Manual> (Last visited November 14, 2025).

and maintenance of all transportation facilities, including all roads, highways, bridges, sidewalks, curbs and curb ramps, crosswalks, bicycle facilities, underpasses, and overpasses used by the public for vehicular and pedestrian traffic.²² The Manual requires that:

- Bicycle facilities be given full consideration in the planning and development of transportation facilities, including the incorporation of such facilities into state, regional, and local transportation plans, and programs under the assumption that transportation facilities will be used by bicyclists.
- All roadways, except where bicycle use is prohibited by law, should be designed, constructed, and maintained under the assumption they will be used by bicyclists.²³

Credible and uncontroverted testimony from the County's expert witness, Renato R. Vega, revealed:

- That the opening of the gate is triggered by a vehicle loop sensor placed in a groove cut into the asphalt acting as an antenna that sends a signal to the gate operating mechanism that a mass of metal is above the sensor.²⁴
- That a bicycle should never trigger such a gate operating system to open.²⁵
- If the gate operating system is opening for bicycles, it is recommended that:
 - The system be "retuned" so that it will not open for bicycles;
 - Warning signs be placed;
 - A different sensor be installed;
 - A separate bicycle path be provided; or
 - The site be redesigned where bicycles are not required to exit through the gate.²⁶

Credible and uncontroverted testimony from the Claimants' expert witness, David Rowland Lamb, revealed:

- At the time of the accident, there was only fifteen inches of space from the right edge of the exit gate arm to the

²² *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways - Purpose*. <https://fdotwww.blob.floridagreenbook> (last visited November 14, 2025).

²³ *Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways*, Chapter 9 – Bicycle Facilities. <https://fdotwww.blob.floridagreenbook> (last visited November 14, 2025).

²⁴ Deposition of Renato R. Vega, March 3, 2020, p. 21, lines 17 – 25.

²⁵ *Id.* at p. 24, lines 8 – 13.

²⁶ *Id.* at p. 48, line 21 – p. 52, line 12.

curb making it impossible for a bicycle to ride through the gate without the gate arm being opened.²⁷

- The Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways minimum standards for counties were not met at the Community exit.²⁸
- Pursuant to the American Association of State Highway and Transportation Officials Code, at least 48 inches is needed for a bicycle to bypass the gate.²⁹
- At the time of the incident, there were no advanced warnings or signs to give bicyclists directions as to what they were supposed to do to exit the community.³⁰
- That it was foreseeable that bicyclists would be exiting the community.³¹
- Lack of training or direction to the guards maintaining the gate arm created insufficient lateral clearance for a bicycle to exit around the side of the gate arm.³²
- The lack of adequate direction and width to pass to the right of the gate arm accompanied with the gate arm not allowing for safe passage of a bicyclist is a violation of subsection 316.2065(1), of the Florida Statutes, which requires:

Every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under this chapter, except as to special regulations in this chapter, and except as to provisions of this chapter which by their nature can have no application.³³

Causation

In order to prove negligence, the Claimants must show that the breach of duty caused the specific injury or damage to the plaintiff.³⁴ Proximate cause is generally concerned with “whether and to what extent the defendant’s conduct foreseeably and substantially caused the specific injury that actually occurred.”³⁵ To prove proximate cause, the Claimants

²⁷ Deposition of Rowland Lamb, Feb. 18, 2020, p. 16, lines 6 - 9.

²⁸ *Id.* at p. 17, lines 18 – 22.

²⁹ *Id.* at p. 31, lines 5 – 9.

³⁰ *Id.* at p. 31, lines 15 - 18.

³¹ *Id.* at p. 31, lines 22 - 24.

³² *Id.* at p. 31, lines 25 – 33.

³³ *Id.* at p. 33, line 23 – p. 35 line 6.

³⁴ *Stahl v. Metro Dade Cnty.*, 438 So. 2d 14 (Fla. 3rd DCA 1983).

³⁵ *Dept. of Children and Family Svcs. v. Amora*, 944 So. 2d 431, 435 (Fla. 4th DCA 2006).

must submit evidence showing there is a sequence between the County's negligence and the Claimants' injuries such that it can be reasonably said that but for the County's negligence, the injuries would not have occurred.

The record includes expert testimony that the lack of signage, pavement markings, inadequate maintenance operations, and flawed design of the Community exit created the conditions that led to the Claimants' injuries.³⁶ Mrs. LaTour's surgeon testified that there was no reason to question the mechanism (that her fall was caused by the gate arm) that caused the distal fracture of her left arm.³⁷

In this matter, the greater weight of the evidence is the injuries suffered by the LaTours were the direct and proximate result of the County's failure to fulfill its duties in a non-negligent manner. The County breached its duties by failing to design, operate, maintain, and control the guard gate and guard house of the Community in a non-negligent manner and these failures led to the injuries suffered by the Claimants.

Damages

The Claimants have established that Mrs. Latour suffered permanent injuries to her arm, resulting in three surgeries to date, with the need for certain additional future medical services. The Claimants' quality of life has been significantly affected, and will continue to be in the future, due to Mrs. LaTour's constant pain and the limits her injuries have placed on her. The record demonstrates that the Latours have suffered substantial economic and emotional loss. Based on these losses, the jury in the civil trial awarded \$4,750,000 to Mrs. LaTour (\$4,000,000 for past damages and \$750,000 for future damages) and \$165,000 to Mr. LaTour (\$100,000 for past damages and \$65,000 for future damages).

As a result of the settlement agreement entered by the parties, the County has paid \$300,000 (the maximum allowed under the state's sovereign immunity waiver) with the remaining \$500,000 to be paid if this claim bill is passed by the Legislature and becomes law.

³⁶ Deposition of Rowland Lamb, Feb. 18, 2020, p. 33, lines 13 - 21.

³⁷ Deposition of Roberto A. Miki, M.D., Dec. 15, 2022, p. 11, lines 3 – 5.

COLLATERAL SOURCES OF RECOVERY:

Prior to the civil litigation, the Claimants received a settlement from businesses responsible for the installation and maintenance of the gate operation. The amount of this settlement was \$295,000.

ATTORNEY FEES:

Attorney fees may not exceed 25 percent of the amount awarded.³⁸ The Claimants' attorney has agreed to limit attorney and lobbying fees to 25 percent of any amount awarded by the Legislature.

RECOMMENDATIONS:

With respect to this claim bill, the Claimants proved that the County had a duty to the Claimants, the County breached that duty, and that breach caused the Claimants' injuries and resulting damages. The greater weight of the evidence in this matter demonstrates that the negligence of the County in the design and operation of the guard gate at the Community was the legal proximate cause of the injuries and damages suffered by the LaTours. Based on the record, and in recognition of the jury award of \$4,915,000, the award under this claim bill is well within the actual damages suffered by the Claimants.

Based upon the arguments and documents provided before, during, and after the special master hearing, the undersigned finds that the settlement is a proper and fair agreement.

Accordingly, I recommend that SB 24 be reported FAVORABLY in the amount of \$500,000.

Respectfully submitted,

Tom Thomas
Senate Special Master

cc: Secretary of the Senate

³⁸ See s. 768.28(8), F.S.