



Special Master's Final Report

The Honorable Daniel Perez
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: [HB 6515](#) - Representative Busatta
Relief/Lourdes Latour and Edward Latour/Miami-Dade County

SUMMARY

This is an uncontested claim bill based on a settled claim for \$500,000 by Lourdes and Edward Latour ("Claimants") against Miami-Dade County ("the County") for injuries and damages they suffered when Mrs. Latour was hit by the arm of a security exit gate owned and operated by Miami-Dade County, causing her to be thrown from her bicycle and onto the pavement resulting in a broken left humerus and persistent pain. Claimants and the County settled the claim for \$800,000, and the County has since paid claimants the \$300,000 maximum authorized under Florida's sovereign immunity law.

The County supports the passage of this claim bill. For the reasons set out below, the Special Master recommends that HB 6515 be reported FAVORABLY.

FINDINGS OF FACT

The Incident

On the morning of November 5, 2017, Claimants rode their bicycles (e-bikes) to visit relatives who resided in the Gables by the Sea Community ("Gables by the Sea") located in Miami-Dade County. Claimants entered the community on their bicycles via the community entrance at the intersection of Old Cutler Road and SW 128th Street. Soon after they entered the community, the Claimants rode back to the entrance to continue on their bike ride.

The entrance and exit to Gables by the Sea includes a security gate as well as a security guard house for non-resident guests attempting to gain entry into the community. The exit from Gables by the Sea consists of one exit lane with an automatic security gate/security arm. The gate operates automatically with a magnetic loop sensor which responds to heavy metal vehicles at the exit point. The sensor for the gate is not supposed to open for pedestrians or for individuals on bicycles; however, at the time of the incident there was no other bike path, pedestrian walkway, or other clear passage for non-vehicle traffic. As such, the Claimants attempted to exit Gables by the Sea via the security gate and exit lane, as they had done a number of times

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before.

The Claimants rode up to the security gate at which point the gate lifted and Mr. Latour rode his bike through the exit. Mrs. Latour waited for the gate to close and then pulled her bike closer to the gate, triggering the automatic gate to open. As Mrs. Latour rode through the exit, the gate arm slammed down onto her, throwing her off of her bike.

A bystander called 911 and Mrs. Latour was transported by ambulance to South Miami Hospital where she was diagnosed with a broken left humerus.¹

After being knocked off of her bike, Mrs. Latour lost and gained consciousness several times. After being transported by Miami-Dade EMS to South Miami Hospital, Mrs. Latour was diagnosed with a supracondylar humerus fracture with intercondylar split in her left arm; essentially, she had a severe break of the bone in her upper left arm just above the elbow joint. Additionally, Mrs. Latour had a fracture line that extended through the elbow joint, further complicating her injury.

To date, Mrs. Latour has undergone three surgeries to fix the injuries to her arm. Her first surgery was on November 7, 2017. Her surgeon, Dr. Robert Miki, M.D., testified that he had to break an additional bone in her arm in order to gain access to the fracture sites. Dr. Miki testified that the first surgery also required a screw, wires, and two metal plates be placed in her left arm.

Mrs. Latour received a second surgery, again performed by Dr. Miki, on April 11, 2018. Dr. Miki opened the arm and removed one of the two metal plates and the screw that had been inserted during the first surgery.

On August 31, 2018, Mrs. Latour underwent a third surgery by Dr. Miki. During his deposition in preparation for litigation on the matter, Dr. Miki testified that, due to Mrs. Latour's injuries and the fact that her bones had not healed yet, he had to remove the remaining metal plate and replace it with a new set of plates. Mrs. Latour was placed in a long-term cast after the third surgery to assist with the healing process.

Litigation History

Claimants filed a lawsuit against Miami-Dade County, as the owner and operator of the security gate at Gables by the Sea in October of 2018. Following a four-day trial in January of 2025, a jury returned a verdict in favor of the Claimants. The jury awarded a total of \$4,915,000 to the Latours and found Miami-Dade County to be 100% liable for the injuries sustained by the Claimants. Notably, the jury assigned 0% of fault to the Claimants, as well as U.S. Security Associates, the company contracted to provide security guard services at the gate.

The County appealed the verdict. However, before the matter was brought up on appeal, in an attempt to avoid extended litigation, the Claimants and the County entered into a settlement agreement. The County agreed to settle the matter and pay \$800,000 to the Claimants.

Pursuant to the terms of the settlement agreement, the County has paid the \$300,000 sovereign immunity limits and will pay Claimants the remaining \$500,000 upon passage of a claim bill.

CONCLUSIONS OF LAW

House Rule 5.6(b)

Pursuant to House Rule 5.6(b), settlement agreements are not binding on the Special Master or

¹ The humerus is the upper bone in the arm and, other than the bones in the leg, is the longest bone in the human body. The humerus is connected to 13 muscles as well as ligaments, tendons, nerves, and parts of the human circulatory system. Cleveland Clinic, *Humerus*, <https://my.clevelandclinic.org/health/body/24612-humerus> (last visited January 6, 2026).

the House or any of its committees of reference. Thus, each claim is heard *de novo*, and the Special Master must make findings of fact and conclusions of law which support the claim. A joint hearing before the House and Senate special masters was held on November 3, 2025; counsel for the Claimants and the County were present.

Negligence

In the instant matter, Claimants raise a negligence claim, the elements of which are duty, breach, causation, and damages. Negligence is “the failure to use reasonable care, which is that care that a reasonably careful person would use under like circumstances;”² and a “legal cause of loss, injury, or damage if it directly and in natural 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.”³

Duty

For a defendant to be liable for negligence, there must be either an underlying statutory or common law duty of care with respect to the conduct at issue; this is true whether the defendant is an individual, a private business, or a government entity.⁴ When dealing with a government entity, however, the duty inquiry does not stop there; to determine whether liability may attach, courts must also look to whether the conduct at issue constitutes a “discretionary function” – that is, a quasi-legislative decision involving some measure of judgment or discretion, for which the government entity may generally not be sued – or an “operational function” – that is, a decision or action implementing policy, for which the government entity may generally be sued.⁵

In the instant matter, Miami-Dade County owned, operated, and maintained the security gate and guard house located at the entrance/exit to the Gables by the Sea community. Despite Gables by the Sea being a private, residential community, the residents, in collaboration with the County, established a special taxing district which put the ownership and responsibility for the security gate and entrance to Gables by the Sea wholly under Miami-Dade County. As such, Miami-Dade County is the entity responsible for the maintenance and operation of the security gates at Gables by the Sea.

Breach

The existence of a duty of care is alone insufficient to sustain a negligence claim.⁶ Once the existence of a duty has been established, it merely “opens the courthouse doors”; a plaintiff must still prove the remaining elements of negligence, the next of which is a breach of the duty of care.⁷

Claimants and the County presented testimony from multiple experts regarding the minimum specific requirements for security exit gates like the one located at Gables by the Sea. Miami-Dade County’s expert witness, Renato R. Vega, testified that the specific gate at Gables by the Sea was programmed to be triggered by a “vehicle loop sensor” which is placed into a groove cut into the asphalt. The sensor sends a signal to the gate operating mechanism that a mass of metal is directly above the sensor. Mr. Vega testified that a “vehicle” such as a bicycle or e-bike should never trigger the gate operating sensor to open the gate. He further testified that *if* the gate operating system is opening for bicycles and other non-motorized vehicles, the professional standards recommend that:

- The system be “returned” and a different system, which functions as it is supposed to, be installed;
- Visible warning signs be placed to warn of danger to non-motorized vehicles;

² Fla. Std. Jury Instr. (Civ.) 401.4, *Negligence*.

³ Fla. Std. Jury Instr. (Civ.) 401.12(a), *Legal Cause, Generally*.

⁴ *Trianon Park v. Condo Assoc. v. City of Hialeah*, 468 So. 2d 912 (Fla. 1985).

⁵ *Id.*

⁶ *Whitt v. Silverman*, 788 So. 2d 210 (Fla. 2001).

⁷ *Id.* at 221.

- A different, more sensitive sensor be installed;
- A separate path be created for pedestrians and cyclists; or
- The site be redesigned so that bicycles are not required to exit through the automatic gate.

Additionally, Claimant's provided testimony from their expert, David Rowland Lamb, who testified that:

- At the time of the incident there was only a 15 inch gap between the right edge of the gate arm and the curb (and surrounding foliage and shrubbery) which would render that exit impossible for a bicycle to circumvent the gate arm and be able to exit the community.
- The Florida Department of Transportation ("FDOT") Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways' minimum standards for counties were not met by the Gables by the Sea exit at the time of the incident.
- Pursuant to the American Association of State Highway and Transportation Officials' Code, a minimum of 48 inches is required for a bicycle to exit the gate while bypassing the gate arm.
- At the time of the incident, there were no easily visible warning signs or stickers that would be plainly visible to a pedestrian or cyclist, nor were there any advanced warnings provided to cyclists as to how they should properly exit Gables by the Sea.
- In his expert opinion, it was foreseeable that a cyclist would be exiting Gables by the Sea.
- There existed a lack of training or direction to the security guard house staff maintaining the gate that the gate arm created insufficient lateral clearance for a bicycle to exit around the side of the closed gate arm.
- The lack of adequate direction and proper width to pass to the right of the closed gate arm accompanied with the gate arm not allowing for safe passage of a cyclist was a violation of subsection 316.2065(1), of the Florida Statutes. The respective subsection requires that "[e]very person propelling a vehicle by human power has all the rights and all of the duties applicable to the driver of any other vehicle under this chapter, and except as to provisions of this chapter which by their nature have no application."

Causation

Once a duty and a breach thereof are established, causation must be determined. In making this determination, Florida courts follow the "more likely than not" standard, requiring proof that the negligence proximately caused the plaintiff's injuries, which in turn requires the factfinder to analyze whether the injury was a reasonably foreseeable consequence of the danger created by the defendant's negligent conduct.⁸ This analysis does not require the defendant's conduct to be the exclusive, or even the primary, cause of the injury suffered; instead, the plaintiff must only show that the defendant's conduct was a substantial cause of the injury.⁹ Further, this analysis does not turn on whether the defendant could foresee the exact injury the plaintiff suffered; rather, the analysis turns on whether prudent human foresight would lead one to expect that harm similar to that which the plaintiff suffered is likely to occur.¹⁰

Throughout the records provided and during the hearing on the claim bill, expert testimony provided that the lack of easily visible signage, warning, and improper installation, monitoring, and maintenance of the exit gate directly created the conditions that led to the injuries sustained by Claimants.

After a thorough review of the evidence and testimony provided, it is apparent that, when looking at the greater weight of the evidence in the instant matter, Claimants' injuries were a direct and proximate result of the County's failure to fulfill its duties in safely owning, operating, and maintaining the exit and guard gate at Gables by the Sea. Such failures directly caused the injuries

⁸ *Gooding v University Hosp. Bldg., Inc.*, 445 So. 2d 1015 (Fla. 1984); *Ruiz v. Tenet Hialeah Healthsystem, Inc.*, 260 So. 3d 977 (Fla. 2018).

⁹ *Id.* at 982.

¹⁰ *Gibbs v. Hernandez*, 810 So. 2d 1034 (Fla. 4th DCA 2002); *Deese v. McKinnonville Hunting Club, Inc.*, 874 So. 2d 1282 (Fla. 1st DCA 2004).

sustained by the Claimants.

The evidence presented exhibited a clear lack of adequately visible signage warning pedestrians and cyclists of the dangers associated with exiting through the automatic gate. Further, the installation of the gate arm was insufficient to allow a cyclist to exit through the exit lane without the gate exit arm being raised. Further, it is apparent, as Claimants had a history of exiting the gate without incident, that the gate arm malfunctioned as Mrs. Latour was attempting to leave Gables by the Sea. The gate malfunctioned and came down quicker than it had historically done, which caused Mrs. Latour to be knocked from her bike onto the pavement.

Miami-Dade County was clearly the responsible party for the safe maintenance and operation of the exit gate and the failure of the County to adequately maintain and operate the gate was the direct and proximate cause of the injuries sustained by the Claimants.

Damages

To sustain a negligence claim, the plaintiff must prove actual loss or damages resulting from the injury, and the amount awarded must be precisely commensurate with the injury suffered.¹¹ Actual damages may be “economic damages,” that is, financial losses that would not have occurred but for the injury giving rise to the cause of action, such as lost wages and costs of medical care. Actual damages may also be “non-economic damages,” that is, nonfinancial losses that would not have occurred but for the injury giving rise to the cause of action, such as pain and suffering, physical impairment, and other nonfinancial losses authorized under general law.¹²

It is undisputed that Mrs. Latour suffered permanent and traumatic injuries to her arm, requiring three subsequent surgeries and the potential for additional procedures in the future. Further, Mrs. Latour’s quality of life has been significantly diminished as she is unable to independently care for herself and her husband and is unable to enjoy the same hobbies and activities she had enjoyed prior to this incident.

Mrs. Latour suffers persistent shooting pain in her arm that has significantly impacted her quality of life and her ability to independently perform many basic activities of daily living, including laundry, cooking, cleaning, and personal bathing and grooming, as well as leisure activities she has historically enjoyed like practicing yoga, dancing, and boating. Mrs. Latour testified that the chronic pain combined with strength issues in her left arm have rendered it “practically useless.” She further testified that she has lost 40% of the use of her left hand due to the injuries sustained from the incident. Mrs. Latour’s injuries created permanent hardship and disability and required a number of surgeries with the possibility of additional future procedures. Mrs. Latour remains in chronic, consistent pain on a daily basis and is unable to enjoy the quality of life that she enjoyed prior to the incident.

Dr. Miki testified that Mrs. Latour will likely develop some level of “traumatic arthritis” from her injuries and that the injuries Mrs. Latour sustained are permanent. Further, Dr. Miki testified that Mrs. Latour may need additional surgeries in the future to further relieve pain and issues caused by the injury.

Although Mr. Latour did not suffer any physical injury from the incident, he has suffered the loss of his wife’s comfort, society, attention, and services as a result of her injuries from the incident. Mr. Latour has had to take on a greater share of the household chores and has to assist Mrs. Latour with daily activities of living that she is unable to do and has significantly changed the way he spends his leisure time, as Mrs. Latour is unable to do a number of the activities they used to enjoy together.

Additionally, Claimants have suffered a significant economic and financial loss, which is reflected in the original jury award of \$4,750,000 to Claimants for past and future damages.

¹¹ *McKinley v. Gualtieri*, 338 So. 3d 429 (Fla. 2d DCA 2022); *Birdsall v. Coolidge*, 93 U.S. 64 (1876).

¹² FLJUR MEDMALP § 107.

POSITIONS OF CLAIMANT AND RESPONDENT

Claimant's Position: Claimants assert that they are entitled to the balance of the settlement amount, totaling \$500,000. In support of their position, the Claimants assert that the County was negligent, which negligence caused her injuries and other damages.

Respondent's Position: Counsel for the County fully supports the passage of this claim bill. Pursuant to counsel for the County, the remaining balance (\$500,000) will be paid from the County's self-insurance fund.

AMOUNT OF CLAIM BILL

Given the information provided to and reviewed by the Special Master, the settlement between the Claimants and Miami-Dade County is reasonable in light of the evidence and the jury determination. Miami-Dade County has paid the statutory limit of \$300,000 with the remaining \$500,000 of the settlement to be paid upon passage of this claim bill.

Claimants have received a settlement from other businesses responsible for the installation and maintenance of the exit gate. While the terms of the settlement were confidential, counsel was able to provide that the settlement amount was \$295,000.

ATTORNEY AND LOBBYING FEES

Under the terms of the claim bill, attorney fees may not exceed 20 percent of the total award (that is, \$100,000) Further, lobbying fees are limited by agreement of the parties to 5 percent of the total award (that is, \$25,000).

RECOMMENDATION

Based on the foregoing, I recommend that HB 6515 be reported FAVORABLY.

Respectfully submitted,



SARAH R. MATHEWS

House Special Master