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 6517 - Representative Berfield
Relief/Heriberto A. Sanchez-Mayen/City of St. Petersburg

SUMMARY

This is a local, uncontested claim bill for $2,300,000 to compensate Heriberto A. Sanchez-Mayen ("Claimant") for injuries and other damages he sustained following his later-dismissed trespassing arrest when the City of St. Petersburg ("City") Police Department ("SPPD") detainee transport van transporting the Claimant to the Pinellas County Jail stopped suddenly, propelling the Claimant (who was in arm restraints but untethered to the van and unable to brace himself) off of his seat, causing him to hit his head on a metal bulkhead. The claim bill will also compensate the Claimant for the likely exacerbation of such injuries caused by an SPPD officer's failure to render the injured Claimant immediate medical aide and decision to later drag him out of the van and onto the pavement several feet below in a rough and utterly careless manner, causing the Claimant to hit his head on the pavement. Such injuries ultimately resulted in the amputation of both of the Claimant's legs above the knee and left the Claimant with both a limited range of upper body motion and cognitive impairment secondary to a traumatic brain injury, such that he will need life-long medical care and assistance with the tasks of daily living.

To resolve the matter, the City entered into a $2,500,000 settlement agreement with the Claimant and paid $200,000 thereof, the maximum amount it may pay pursuant to the sovereign immunity caps in s. 768.28, F.S. In reaching this settlement agreement, the City did not admit liability on the part of itself or its employees; however, the City did agree that it would not oppose any claim bill filed to recover the balance of the settlement amount. For the reasons set forth below, the undersigned recommends that HB 6517 be reported FAVORABLY.

FINDINGS OF FACT

Incident

On or before the morning of June 8, 2023, then 60-year-old Heriberto A. Sanchez-Mayen ("Claimant"), an unemployed resident of the City of St. Petersburg, Florida[1] ("City") with no fixed address, entered onto a piece of City-owned property[2] seemingly designated as a daytime-only

[1] The Claimant immigrated to the United States from Honduras, his place of citizenship. According to the record, however, the Claimant has a Green Card authorizing him to reside in the United States.
[2] The property in questions is located at 200-Blk 15th St. N. in St. Petersburg, Florida.

park[3] ("park") and fell asleep on a piece of cardboard. The park lacked any infrastructure; it was instead a narrow, undeveloped rectangular lot bordered on the "long" sides by fencing separating the park from private residential development on one side and private business development on the other side. Access to the park was by ingress and egress through the open, "short" ends of the park, bordered on one side by a public alleyway and on the other side by a public roadway; each such "short" end was allegedly marked at the center of the property line with a "No Trespassing" sign on a wooden post[4] but neither end had fencing or another type of physical obstruction that would have prevented the public from accessing the park.

At 10:21 a.m. that morning, an anonymous complainant placed a call for service to the St. Petersburg Police Department ("SPPD") to report the Claimant's presence in the park; in response thereto, the SPPD dispatched SPPD Officer Sarah Gaddis[5] ("Officer Gaddis") to the park to investigate the complaint. At 10:34 a.m., Officer Gaddis arrived at the park and quickly thereafter located the still-sleeping Claimant, whom she recognized from "numerous previous interactions" she'd had with him;[6] she also observed an empty beer can in the Claimant's immediate vicinity. After rousing the Claimant and informing him that he was trespassing on public property,[7] Officer Gaddis asked the Claimant to accompany her to her nearby patrol vehicle so that she could issue him a trespassing citation and a notice to appear in connection therewith; however, Officer Gaddis then decided to arrest the Claimant for trespassing in violation of s. 810.09(1)(a), F.S.,[8] reasoning, according to her later deposition testimony, that the Claimant had been warned about trespassing many times before, had an open beer can near him, and was known to cause disturbances after drinking alcoholic beverages to excess.[9]

Officer Gaddis had also confirmed the availability of the SPPD's detainee transport van ("transport van") before deciding to make the arrest and requested that such van proceed to the park to transport the Claimant to the Pinellas County Jail ("jail"), despite already having a patrol vehicle equipped with seatbelts in the vehicle's rear detainee compartment.[10] In response to this request, the SPPD dispatched SPPD Officer and detainee transport van operator Michael Thacker[11] ("Officer Thacker") to the park with the transport van, which van consisted of three interior compartments: a front compartment for a driver and passenger and two rear detainee compartments separated from each other and from the front compartment by metal bulkheads,

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[3] There is some dispute in the record as to whether this property actually is a "park," but a "No Trespassing" sign posted on the property cited to St. Petersburg City Code 21-40. This Code refers to park opening and closing times and specifies that any park not specifically addressed (such as this property, if it is indeed a park) is open during daylight hours.

[4] Though two wooden posts are visible in the photographs and videos entered into evidence during the claim bill hearing held in this matter, only one sign is visible due to the angle of tree branches obstructing the view of the top of the second post. The visible sign states "No Trespassing" in large, capitalized letters, and, underneath that, "City Code 21-40" in slightly smaller capitalized letters. It is reasonable to assume that the second wooden post displays a sign with similar wording, but whether it does or not is ultimately irrelevant to this claim bill.

[5] At all times material to this claim bill, the SPPD employed Officer Gaddis as a sworn law enforcement officer assigned to the "downtown deployment team," which team, according to Officer Gaddis' deposition testimony, deals with "quality of life issues in the downtown [St. Petersburg, Florida] area," including ordinance and statute violations.

[6] In her incident report, Officer Gaddis described the Claimant as a "chronic offender of ordinance violations downtown." In a later deposition, Officer Gaddis described these ordinance violations as relating to loitering, trespassing, and public alcohol consumption or intoxication. The record also indicates that the Claimant may have a prior felony conviction on his record from "a long time ago"; however, when asked about his criminal history during the claim bill hearing held in this matter, the Claimant testified that he had no memory of any criminal convictions.

[7] During this conversation, the Claimant denied seeing the "No Trespassing" sign posted on the property.

[8] Section 810.09, F.S., provides, in pertinent part, the following:(1)(a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance: 1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011 [F.S.]…commits the offense of trespass on property other than a structure or conveyance."

[9] The Claimant denied to Officer Gaddis that the beer can in question was his, although Officer Gaddis does not appear to believe him. In her incident report, Officer Gaddis notes that "[i]f [the Claimant] was not dealt with now he would only continue to drink and loiter and trespass causing problems and continued calls for service."

[10] Other officers who arrived at the scene also had patrol vehicles equipped with seatbelts in the rear detainee compartment, but the decision to utilize the transport van prevailed.

[11] At all times material to this claim bill, the SPPD employed Officer Thacker as a sworn law enforcement officer assigned to operate the SPPD's detainee transport vans, which vans pick up persons who have been arrested by SPPP officers and transport them to the jail.

each with a metal bench along one side. Though the seats for the driver and passenger in the front compartment had seatbelts, the benches in the rear detainee compartments lacked seatbelts or any other restraint mechanism with which to tether detainees to the benches or otherwise to the van; thus, any detainee placed in a rear detainee compartment would need to brace himself or herself to attempt to avoid propelling off of the bench and sustaining injury in the event of a collision or sudden stop involving the van.

Upon arriving to the park, Officer Thacker spoke with Officer Gaddis about the Claimant's arrest before proceeding to speak directly to the Claimant, who was by then standing near the rear of the detainee transport van. According to Officer Thacker's incident report, the Claimant appeared intoxicated during their conversation, had difficulty following directions, and would not answer questions.

However, Officer Gaddis later testified in her deposition that she did not believe the Claimant was intoxicated at the time she arrested him, and that he was not creating a disturbance or behaving uncooperatively; further, although the record shows that the Claimant had in fact consumed alcoholic beverages before his trespassing arrest,[12] the videos suggest that the Claimant was, if a bit groggy and slow in his responses, neither disruptive nor uncooperative,[13] and he was not arrested for or otherwise charged with any alcohol-related offense in connection with this incident.

In any event, after concluding his discussion with the Claimant, Officer Thacker placed the defendant in handcuffs and attached the handcuffs to a belly chain around the Claimant's waist, so that the Claimant's hands were positioned in front of him but his arms were restricted from movement; critically, this decision would leave the Claimant unable to brace himself once in the detainee transport van. Officer Thacker then placed the Claimant on the bench seat in the transport van's rear left-side compartment, as another detainee occupied the van's rear right-side compartment along with his personal wheelchair; this Officer Thacker did despite knowing, according to his later testimony, that, due to the transport van's lack of seatbelts or other restraint mechanism, the safest place for the Claimant to sit in the van's detainee compartment was on the floor with his back to the bulkhead, so that he could not fall off of the bench. Indeed, the record reveals that Officer Thacker had been involved in an incident a few years previously in which a detainee he was transporting in a similar transport van fell off of the bench seat and fractured his orbital bone after impacting the van's metal interior; further, the record shows that the other detainee in the transport van with the Claimant on the date of his injury sat on the transport van's floor rather than on the rear right-side compartment's bench seat. However, Officer Thacker never offered this safer seating option to the Claimant.

Ultimately, with the Claimant and the other detainee locked inside the transport van, Officer Thacker drove the van away from the park and proceeded to the jail. However, at some point while en route to the jail, the detainee in the van's rear right-side compartment, arrested for disorderly intoxication, began repeatedly kicking the van's walls;[14] according to the record, the van then stopped suddenly, ostensibly, according to Officer Thacker's testimony, because he had come to a red light and not because of the detainee's disturbance. Regardless of the reason for the sudden stop, the force of the stop propelled the Claimant from his bench seat, causing his head to impact the metal bulkhead and the Claimant to fall to the ground.

Hearing a "thud," Officer Thacker later testified that he at first assumed that what he had heard was the other detainee's wheelchair impacting the side of the van; to confirm this, Officer Thacker checked the detainee transport van's live video feed that, when activated, gives him a visual of the interior of both rear detainee compartments. However, Officer Thacker realized that, while he had activated the video feed for the rear right-side compartment, giving him a visual of the kicking detainee, he had neglected to activate the feed for the rear left-side

[12] The record suggests that the Claimant had a B.A.C. of .218 shortly after his admission to Largo.
[13] The video also shows the defendant walking independently and standing without any obvious difficulty.
[14] In a later deposition, Officer Thacker testified that he had transported this particular detainee before, and that kicking was this detainee's "M.O."

compartment; thus, Officer Thacker had had no visual of the Claimant at the time the stop propelled him from the bench. Officer Thacker then activated the video feed for the Claimant's compartment and saw that the Claimant was, according to his later testimony, "lying down" on the transport van's floor; however, Officer Thacker later testified that, at that time, he believed that the Claimant was merely sleeping and, thus, he did not stop the van to check on the Claimant or to render him medical aid.

A few minutes later, the transport van arrived at the jail and entered the jail's sallyport; Officer Thacker then exited the van and proceeded to first open the door to the Claimant's compartment, apparently because he felt concerned that the Claimant was "sleeping" in a prone position instead of what he felt was a safer, supine position. According to the video entered into evidence in the claim bill hearing, Officer Thacker then repeatedly attempted to rouse the Claimant, without success, after which he proceeded to drag the Claimant out of the van face-down without supporting the Claimant's head or neck, causing the Claimant to fall several feet from the van to the ground; Officer Thacker then flipped the Claimant over, causing the Claimant's head to become wedged against the van door before the Claimant toppled over and his head hit the pavement.[15]

With the Claimant then on the ground, Officer Thacker directed another officer to "go get the nurse" and dragged the Claimant by his feet further away from the van, at various times yelling "wake up" to the Claimant and performing a sternum rub on the Claimant, who at this point did not appear to be breathing apart from occasional gasps. Officer Thacker also used his radio to request that Fire Rescue personnel respond to the sallyport to render the Claimant medical assistance; while awaiting their arrival, a detention deputy and a jail nurse arrived at the sallyport and began providing the Claimant oxygen through a mask while Officer Thacker performed chest compressions on the Claimant. Ultimately, Fire Rescue personnel arrived and took over the Claimant's care, transporting him to the emergency department of the nearby HCA Florida Largo Hospital ("Largo").[16]

Injuries

Initially, Largo's medical staff believed that the Claimant had been admitted due to intoxication and thus failed to immediately diagnose his injuries, although they did recognize that the Claimant was in acute respiratory failure, causing hypoxia (a condition in which the body's tissue receives insufficient oxygen), and placed him on mechanical ventilation. However, the record shows that, at some point, Officer Gaddis, who by then had responded to Largo and issued the unconscious Claimant a notice to appear for the trespassing charge, informed the medical staff of the possibility that the Claimant had hit his head during his transport to the jail and consequently sustained injuries. A subsequent CT scan and other tests revealed that the Claimant had suffered an aortic aneurysm (a bulging in the aorta, the body's largest artery), an aortic dissection (a tear to the inner layer of the aorta) which required surgical repair, an odontoid fracture (a fracture of the odontoid process, a peg-like bone on the second cervical vertebrae in the upper cervical spine – that is, the neck), and a C3 fracture (a fracture of the third vertebrae in the upper cervical spine); Largo's medical staff then decided to transfer the Claimant to the larger Tampa General Hospital ("TGH") for more specialized emergency care.

Once at TGH, the medical staff diagnosed the Claimant with additional injuries, including a traumatic brain injury; to this day, the Claimant testified that he suffers from cognitive disfunction secondary to such injury, such that he experiences memory loss, has trouble organizing his thoughts, and is slow to respond to questions.[17] Further, TGH's medical staff diagnosed the

[15] At some point, another officer steps in to assist Officer Thacker in removing the Claimant from the van. He does nothing to protect the Claimant from further injury.
[16] For reasons unclear, Fire Rescue personnel seemed to be under the impression that the Claimant was experiencing a drug overdose and administered him Narcan. Nothing in the record suggests that the Claimant was under the influence of any drugs, and no one claimed responsibility for giving Fire Rescue such an impression.
[17] The record also indicates that, in 2015, a vehicle struck the Claimant, breaking some of his bones and causing him to suffer a traumatic brain injury, which left him temporarily in a coma. At least according to the testimony of the Claimant and his sister, however, the Claimant had largely recovered from the 2015 accident by the time of the

Claimant with a severe thoracic spinal cord injury with compression (that is, an injury to the middle part of the spine, resulting in spinal cord compression), which required surgical repair, and severe lower limb ischemia (a sudden, severe lack of blood flow to the legs or feet). These conditions caused the Claimant to suffer incomplete quadriplegia, drastically limiting his movement, and to subsequently require the bilateral, above-the knee amputation of both of the Claimant's legs.

Today, the Claimant is confined to a bed or wheelchair, which causes him to develop pressure wounds, and he depends on two caregivers and a mechanical lift to transfer him from his bed to his wheelchair and back again. He lacks full range of motion in his arms, which he cannot raise above his head; he also has limited use of his hands, which cannot grasp and hold objects. He suffers from muscle spasms, feels pain in his hands and shoulders, and has altered sensation in his back and down what remains of his legs. He is also incontinent of bowel and bladder, such that he must wear adult diapers for which he requires assistance to change, and frequently develops urinary tract infections. The Claimant also requires assistance with feeding, personal hygiene, oral care, and basically all the tasks of daily living; indeed, a Life Care Plan prepared for the Claimant estimates the following costs for his necessary future medical care:

- Full-time placement in a skilled nursing facility for a cost of $4,895,793;
- Privately hiring in-home caregivers for a cost of $7,088,677; or
- Hiring a caregiver team through a home health agency for a cost of $10,105,567.

He has also, according to the record, accrued $276,811.83 in liens for past medical care.

Finally, the medical records indicate that the Claimant has been diagnosed with depression and anxiety, and the Claimant admitted to feeling sad at times. However, the Claimant now lives near and receives care from his sister, who is of great help to him; he also testified at the claim bill hearing held in this matter that the struggles he faced due to his injuries led him to find religion, which in turn helped him to achieve and maintain sobriety. He now dedicates some of his time to volunteering with an amputee support group.

Litigation

Criminal Charges

As previously mentioned, on June 8, 2023, Officer Gaddis arrested the Claimant and charged him with trespass under s. 810.09(1)(a), F.S., for allegedly trespassing in the park; following his admission to Largo, however, the Claimant was instead issued a notice to appear on these charges. On February 22, 2024, the Court dismissed the trespassing charge against the Claimant.

The dismissal came after the Claimant filed a motion to dismiss on January 24, 2024, therein arguing that the court should dismiss the trespassing charge as there were no facts in dispute in the case and that such undisputed facts did not establish a prima facie case of guilt against him; in support of this position, the Claimant argued that park in which Officer Gaddis found and arrested the Claimant was not marked with properly-posted "No Trespassing" signs as required by s. 810.011, F.S. In response to the Claimant's Motion, the State filed a response in which it argued against the Claimant's legal position but did not argue any material facts.

In reviewing the arguments of both parties, the Court found that s. 810.09(1)(a), F.S., provides, in pertinent part, the following:

> (1)(a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

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incident pertinent to this claim bill, and he has experienced marked cognitive decline as a result thereof. The Claimant did exhibit signs of cognitive disfunction during his testimony in the claim bill hearing held on this matter, but the undersigned cannot say with certainty whether such disfunction is due entirely to the incident at issue in the bill.

> 1. As to which notice against entering or remaining is given, either by actual communication to the offender or by *posting*, fencing, or cultivation *as described in s. 810.011 [F.S.]*…commits the offense of trespass on property other than a structure or conveyance." (Emphasis supplied.)

The Court, noting that Officer Gaddis arrested the Claimant and charged him with trespassing due to the posted "No Trespassing" signs at the park, then turned to s. 810.011, F.S., which provides, in pertinent part, the following:

> (5)(a) "Posted land" is land upon which any of the following are placed:
> 1. Signs placed *not more than 500 feet apart along and at each corner of the boundaries of the land*…which prominently display in letters of not less than 2 inches in height the words "no trespassing" and the name of the owner, lessee, or occupant of the land. The signs must be placed along the boundary line of posted land in a manner and in such position as to be clearly noticeable from outside the boundary line… (Emphasis added.)

In applying these laws to the facts, the Court found that the park was not properly "posted land" as required to sustain a trespassing charge under ss. 810.09(1)(a) and 810.011, F.S., given that it lacked signs placed not more than 500 feet apart along and at each corner of the boundaries of the land. Indeed, noted the court, the record showed that the park had one "No Trespassing" sign posted in the middle of the property line at the end of the park open to the public street and possibly, but not definitely, a second "No Trespassing" sign posted in the middle of the property line at end of the park open to the public alleyway.

Civil Lawsuit

On March 18, 2024, the Claimant sued the City, along with Officers Gaddis and Thacker in their personal capacities, in the United States District Court for the Middle District of Florida (a federal court). On June 11, 2024, the Claimant filed an Amended Complaint, wherein he raised 14 counts, including nine federal constitutional law claims under 42 U.S.C. § 1983[18] and five state law tort claims, as follows:

> **Count 1**: 42 U.S.C. § 1983 claim against Officer Thacker for Deliberate Indifference Toward an Excessive Risk to Health and Safety.
>
> **Count 2**: 42 U.S.C. § 1983 claim against Officer Thacker for Deliberate Indifference to Serious Medical Need.
>
> **Count 3**: 42 U.S.C. § 1983 claim against Officer Thacker for Excessive Force.
>
> **Count 4**: 42 U.S.C. § 1983 claim against Officer Gaddis for False Arrest.
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> **Count 5**: 42 U.S.C. § 1983 claim against Officer Thacker for Failure to Intervene as to Officer Gaddis' False Arrest.
>
> **Count 6**: 42 U.S.C. § 1983 claim against Officer Gaddis for

[18] This federal civil rights statute provides that "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

Failure to Intervene as to Officer Thacker's Deliberate Indifference Toward an Excessive Risk to Health and Safety.

Count 7: 42 U.S.C. § 1983 claim against Officer Gaddis for Malicious Prosecution.

Count 8: 42 U.S.C. § 1983 claim against Officer Thacker for Failure to Intervene in Officer Gaddis' Malicious Prosecution.

Count 9: 42 U.S.C. § 1983 claim the City for Promulgation of and Adherence to Policies in Violation of the Claimant's Constitutional Rights.

Count 10: State law tort claim against Officer Gaddis for False Imprisonment.

Count 11: State law tort claim against Officer Thacker for False Imprisonment.

Count 12: State law tort claim against Officer Gaddis for Malicious Prosecution.

Count 13: State law tort claim against Officer Thacker for Malicious Prosecution.

Count 14: State law tort claim against Officer Thacker for Battery.

The Defendants subsequently filed a motion to dismiss the Claimant's lawsuit, in response to which, on March 10, 2025, the Court dismissed all the counts against Officer Gaddis,[19] the sole count against the City,[20] and all but two of the counts against Officer Thacker.[21] This left the Claimant with only Counts 3 and 14 on which to move forward, and the possibly to reassert any claims dismissed without prejudice in an amended complaint or a more appropriate forum.

On March 12, 2025, the City and the Claimant participated in a mediation conference, during which the parties agreed to settle the lawsuit on the basis of negligence for a $2,500,000 payment to the Claimant in exchange for a release of any and all claims against the City and against Officers Gaddis and Thacker in their personal capacities. On April 5, 2025, the Claimant signed a written settlement agreement memorializing these terms, wherein the City stated that, while it was not admitting liability on the part of itself or its employees, it would pay the $200,000 of the settlement amount it was authorized to pay pursuant to the sovereign immunity caps in s. 768.28, F.S., and would not contest any claim bill which the Claimant might file to recover the balance of the settlement amount. That same day, the Court acknowledged the settlement and dismissed the lawsuit.

CONCLUSIONS OF LAW

[19] Specifically, the Court dismissed Counts 4, 6, and 7 with prejudice; in doing so, the Court extinguished all the federal law claims against Officer Gaddis. Consequently, the Court then dismissed the state law claims against her (that is, Counts 10 and 12) without prejudice due to the Court's lack of independent subject matter jurisdiction over state law claims.

[20] Specifically, the Court dismissed Count 9 for failure to state a proper cause of action.

[21] Specifically, the Court dismissed Counts 5 and 8 with prejudice, finding that Officer Gaddis had at least arguable probable cause to arrest the Claimant and so these counts naturally fail, as "one cannot fail to intervene in a non-actionable arrest." The Court then dismissed Counts 1 and 2 without prejudice, finding that such counts were multiplicitous and contained some inactionable assertions; however, the Court acknowledged that the Claimant could combine and restate the claims in a second amended complaint if he so chose. Further, the Court dismissed Counts 11 and 13 without prejudice, noting again that Officer Gaddis had at least arguable probable cause to arrest the Claimant; however, even though the Court recognized that the Claimant could reassert these claims in an amended complaint, the Court doubted either claim could be reasserted successfully.

House Rule 5.6(b)

Pursuant to House Rule 5.6(b), settlement agreements are not binding on the Special Master or the House or any of its committees of reference. Thus, each claim is heard *de novo*, and the claimant has the burden to prove his or her claim by the preponderance of the evidence. This legal standard, which is, traditionally, the burden of proof applicable in most civil lawsuits, requires the plaintiff to prove that the allegations he raises are more likely than not to be true (in other words, that there is a greater than 50 percent chance of veracity).[22]

Negligence

In the instant matter, the Claimant raises a negligence claim, the elements of which are duty, breach, causation, and damages. The Claimant further asserts that the City was negligent through the actions of its SPPD employees (that is, Officers Gaddis and Thacker) under the *respondeat superior* doctrine.

Respondeat Superior

Under the common law *respondeat superior* doctrine, an employer is liable for the negligence of its employee when:

- The individual was an employee when the negligence occurred;
- The employee was acting within the course and scope of his or her employment; and
- The employee's activities were of a benefit to the employer.[23]

For conduct to be considered within the course and scope of the employee's employment, such conduct must have:

- Been of the kind for which the employee was employed to perform;
- Occurred within the time and space limits of his employment; and
- Been due at least in part to a purpose serving the employment.[24]

In the instant matter, the record reveals that, at the time of the Claimant's arrest by Officer Gaddis and transport by Officer Thacker, the City employed Officers Gaddis and Thacker as SPPD officers. Making arrests and transporting arrestees to the jail was, according to the record, conduct of the kind for which the City employed Officers Gaddis and Thacker to perform, occurred within the time and space limits of their employment, and was of a benefit to their employer; in other words, such conduct was in the course and scope of their employment with the City. Thus, the undersigned finds that the City is liable for any negligence of Officers Gaddis and Thacker under the *respondeat superior* doctrine, to the extent that the Claimant proves such negligence by a preponderance of the evidence.

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.[25] For purposes of a negligence claim, a legal duty exists if a defendant's conduct creates a foreseeable zone of risk that poses a general threat of harm to others.[26]

More specifically, in the law enforcement context, a duty of care exists when a law enforcement officer becomes directly involved in circumstances which place anyone within a zone of risk; among other things, such circumstances may include taking someone into police custody.[27] In

[22] *South Florida Water Management Dist. v. RLI Live Oak, LLC*, 139 So.3d 869 (Fla. 2014).
[23] *Iglesia Cristiana La Casa Del Senor, Inc. v. L.M.*, 783 So. 2d 353 (Fla. 3d DCA 2001).
[24] *Spencer v. Assurance Co. of Am.*, 39 F.3d 1146 (11th Cir. 1994) (applying Florida law).
[25] *Trianon Park Condo Assoc. v. City of Hialeah*, 468 So. 2d 912 (Fla. 1985).
[26] *Wallace v. Dean*, 3 So. 3d 1035 (Fla. 2009).
[27] *Milanese v. City of Boca Raton*, 84 So. 3d 339 (Fla. 4th DCA 2012).

other words, a law enforcement officer owes a duty of care to anyone he or she takes into his or her custody ("detainee") and must, therefore, take sufficient precautions to lessen the risk posed to the detainee or any harm that might result therefrom.[28] At least one Florida court has found that a Florida Sheriff's transport of detainees in a seatbelt-free detainee transport van created a foreseeable zone of risk to the detainees of the kind sufficient to create a duty of care which the Sheriff owed to the detainees.[29]

In the instant matter, Officer Gaddis placed the Claimant under arrest, thereby taking him into custody, and chose to effectuate the Claimant's transport in the seatbelt-free detainee transport van operated by Officer Thacker. In light of the foregoing, the undersigned finds that the City created a foreseeable zone of risk sufficient to create a duty of care which the City, through its employees, owed to the Claimant. Thus, the undersigned finds that the Claimant proved the first element of negligence.

Breach

The existence of a duty of care is alone insufficient to sustain a negligence claim.[30] 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.[31]

In the instant matter, SPPD officers chose to transport the Claimant in the seatbelt-free detainee transport van, rather than in the back of one of the several available patrol vehicles located at the park (all of which had seatbelts). Following this decision, Officer Thacker secured the Claimant in arm restraints before placing him in the detainee transport van's left rear compartment, thereby leaving the Claimant untethered to the van and without the ability to brace himself. Further, Officer Thacker, by his own admission, failed to:

- Place the Claimant in the safest position in his compartment within the detainee transport van – that is, on the compartment's floor, with his back against the bulkhead dividing the compartment from the front driver's compartment.
- Timely activate the video surveillance feed of the Claimant's compartment within the detainee transport van, so that he missed observing the force of the van's stop propel the Claimant from his bench seat.
- Stop the detainee transport van to render or effectuate the rendering of medical aid to the Claimant in a timely fashion following the Claimant's initial injury.

Moreover, once at the jail, Officer Thacker undertook to extricate the injured, unconscious Claimant from the transport van and relocate him to the sallyport's pavement in a rough and incredibly careless manner, utterly failing thereby to minimize the risk of further injury to the Claimant. In light of the foregoing, the undersigned finds that the Claimant proved the second element of negligence; in other words, the Claimant proved that the City, through its employees, breached the duty of care it owed to him.

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.[32] As discussed above, in analyzing a similar case, in which a Florida Sheriff transported detainees in a seatbelt-free detainee transport van, the court found that such action created a foreseeable zone of risk under which a factfinder could hold the

[28] *Lugo v. Simmons*, 760 F. Supp. 3d 1344 (N.D. Fla. 2024).
[29] *Gaultieri v. Pownall*, 346 So. 3d 84 (Fla. 2d DCA 2022).
[30] *Whitt v. Silverman*, 788 So. 2d 210 (Fla. 2001).
[31] *Id.* at 221.
[32] *Gooding v. University Hosp. Bldg., Inc.*, 445 So. 2d 1015 (Fla. 1984); *Ruiz v. Tenet Hialeah Healthsystem*, Inc., 260 So. 3d 977 (Fla. 2018).

Sheriff liable (in his professional capacity) for injuries which a detainee transported in the transport van suffered when the transport van stopped suddenly, propelling the detainee from his seat and causing him to impact the van's metal interior.[33] In reaching this conclusion, the Court noted that it was reasonably foreseeable that the detainee, who was both untethered to the van and in arm restraints that left him without the ability to brace himself, would be at risk of injury in the event of a collision or sudden stop involving the van.[34]

In considering those actions of the City, through its employees, which constituted a breach of the duty of care the City owed to the Claimant (discussed above), the undersigned finds that it was reasonably foreseeable that the Claimant, untethered to the detainee transport van and seated on the transport van's bench seat but unable to brace himself due to his arm restraints, would be at risk of injury in the event of a collision or sudden stop involving the transport van. The undersigned further finds that it was reasonably foreseeable that, should such an incident occur and the Claimant suffer injury, such injuries would be exacerbated without timely medical intervention or the utilization of safe, appropriate methods for moving someone with a possible neck or spinal cord injury. Indeed, the undersigned finds that the Claimant was catastrophically injured during the transport van's sudden stop, that he did not receive timely medical intervention, and that his injuries were likely exacerbated due to the utterly irresponsible manner in which Officer Thacker removed him from the transport van once at the jail. In light of the foregoing, the undersigned finds that the Claimant met the third element of negligence; in other words, he proved that the actions of the City, through its employees, caused his injuries.

Damages

Finally, 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.[35] 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) or "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).[36]

In the instant matter, the Claimant is not requesting non-economic damages. He is, however, requesting remuneration from the City for his economic damages, for which he believes the remaining $2,300,000 balance of the settlement amount is a fair resolution of the claim to avoid the time, expense, and risk of a jury trial. In support of his request, the Claimant demonstrated economic damages in the amount of $276,811.83 in liens for past medical care and, according to the Life Care Plan prepared for the Claimant,[37] somewhere between nearly $5,000,000 and just over $10,000,000 for necessary future medical care. In light of the foregoing, the undersigned finds that the Claimant proved the fourth and final element of negligence; in other words, the Claimant proved that he suffered damages due to the injuries caused by the City's employees.

POSITIONS OF CLAIMANT AND RESPONDENT

Claimant's Position: The Claimant asserts that the City was negligent through the actions of its SPPD officers, and that such negligence resulted in specified injuries and damages for which he and the City entered into a $2,500,000 settlement, of which the City has paid $200,000. The Claimant further asserts that he is entitled to the $2,300,000 settlement balance.

City's Position: Pursuant to the terms of the settlement agreement, the City does not admit liability on the part of itself or its employees, but does not oppose the passage of this claim bill.

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[33] *Gaultieri v. Pownall*, 346 So. 3d 84 (Fla. 2d DCA 2022).
[34] *Id.*.
[35] *McKinley v. Gualtieri*, 338 So. 3d 429 (Fla. 2d DCA 2022); *Birdsall v. Coolidge*, 93 U.S. 64 (1876).
[36] FLJUR MEDMALP § 107.
[37] Robert P. Tremp, Jr., a certified life care planner, prepared Mr. Sanchez-Mayen's Life Care Plan, which he finalized in May of 2025.

ATTORNEY AND LOBBYING FEES

Pursuant to the terms of the claim bill, attorney fees may not exceed 25 percent of the amount awarded (that is, $575,000). By agreement of the Claimant, lobbying fees may not exceed seven percent of the amount awarded (that is $161,000).

RECOMMENDATION

Given that, in the opinion of the undersigned, the Claimant has proven the elements of negligence by a preponderance of the evidence, the undersigned recommends that HB 6517 be reported FAVORABLY.

Respectfully submitted,

CAITLIN R. MAWN,
House Special Master