



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

| DATE | COMM | ACTION |
|----------|------|-----------|
| 12/16/14 | SM | Favorable |
| 2/3/15 | JU | Favorable |
| 2/17/15 | CA | Favorable |
| | FP | |

December 16, 2014

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 52** – Senator Negrón
Relief of Chriss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky
Torres, and Nasdry Yamileth Torres Barahona

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED CLAIM FOR \$371,850.98 IN LOCAL FUNDS BY EDDNA TORRES DE MAYNE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF HER FATHER, MANUEL A. MATUTE. THE CLAIM IS BASED ON A COURT-APPROVED SETTLEMENT AGREEMENT BETWEEN DE MAYNE AND THE PALM BEACH SHERIFF'S OFFICE TO COMPENSATE THE ESTATE FOR MR. MATUTE'S DEATH, WHICH OCCURRED IN A CAR ACCIDENT CAUSED BY A PALM BEACH DEPUTY SHERIFF.

CURRENT STATUS:

On November 9, 2011, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 52 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, Tracy Sumner. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and

determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

According to counsel for the parties, no changes have occurred since the hearing which might have altered the findings and recommendations in the report.

Additionally, the prior claim bill, SB 52 (2012), is effectively identical to claim bill filed for the 2015 Legislative Session.

Respectfully submitted,

Tracy Jeanne Sumner
Senate Special Master



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| DATE | COMM | ACTION |
|---------|------|-----------|
| 11/9/11 | SM | Favorable |
| 2/23/12 | RC | Favorable |
| | | |
| | | |

November 9, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 52 (2012)** – Senator Joe Negrón
Relief of Chriss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky
Torres, and Nasdry Yamileth Torres Barahona

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED CLAIM FOR \$371,850.98 IN LOCAL FUNDS BY EDDNA TORRES DE MAYNE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF HER FATHER, MANUEL A. MATUTE. THE CLAIM IS BASED ON A COURT-APPROVED SETTLEMENT AGREEMENT BETWEEN DE MAYNE AND THE PALM BEACH SHERIFF'S OFFICE TO COMPENSATE THE ESTATE FOR MR. MATUTE'S DEATH, WHICH OCCURRED IN A CAR ACCIDENT CAUSED BY A PALM BEACH DEPUTY SHERIFF.

FINDINGS OF FACT:

On October 29, 2008, just before sunrise, Deputy Sheriff Gerald Ramirez was returning home after his shift, driving northbound on US highway 441. At the same time, travelling southbound on the same highway, Mr. Matute, age 60, was on his way to work as a maintenance man at a golf club. Deputy Ramirez fell asleep at the wheel and lost control of his police cruiser, allowing it to cross the raised concrete median, and crash head-on into Mr. Matute's van.

Mr. Matute was wearing his seatbelt at the time of the crash, but was killed in the collision. The collision caused Mr. Matute's van to hit a third vehicle driven by Orlando Cordova.

Mr. Cordova and his passenger, Dhalid Johnson, were injured in the collision. Mr. Matute's van also hit a fourth vehicle driven by Robert Morgan, who was not injured. All four vehicles were totaled or damaged.

Deputy Ramirez admitted to Fire Rescue and a Sergeant at the scene of the accident that he had fallen asleep while driving. He suffered minor injuries from the collision, and was ultimately disciplined. He remains employed with the Palm Beach Sheriff's Office.

Mr. Matute was the father of five children. Two adult daughters live in Honduras with their children. Two adult sons live in Palm Beach County, as well as a minor son, Chriss, age 15, who is a high school student.

LITIGATION HISTORY:

On July 21, 2009, in the circuit court for the Fifteenth Judicial Circuit, Claimant brought a wrongful death action against the Palm Beach Sheriff's Office. The complaint alleged that Palm Beach County was vicariously liable for Mr. Matute's fatal injuries sustained as a result of Deputy Ramirez's negligent operation of a Palm Beach Sheriff's Office vehicle.

On January 4, 2011, the parties successfully reached a mediated settlement in the amount of \$500,000.00. The Palm Beach Sheriff's Office admitted liability, and admitted that Mr. Matute was in no way responsible or comparatively negligent. Pursuant to the terms of the settlement, the Palm Beach Sheriff's Office agreed to tender \$128,149.02 to the Claimant upon the approval of the court. Palm Beach Sheriff's Office further agreed not to oppose a claim bill in the amount of \$371,850.98.

The Palm Beach Sheriff's Office also settled claims that had been filed by Mr. Cordova, Mr. Johnson, and Mr. Morgan. Mr. Cordova received \$40,000.00, Mr. Johnson received \$22,000.00, and Mr. Morgan received \$9,850.98.

Following the approval of the settlement agreement by the circuit court, Palm Beach Sheriff's Office tendered \$128,149.02 to Claimant. Twenty-five percent of the amount paid was deducted for attorney's fees and costs.

CLAIMANT'S POSITION: The Palm Beach Sheriff's Office is vicariously liable for the negligence of its employee, who negligently operated a Palm Beach Sheriff's Office vehicle.

RESPONDENT'S POSITION: The Palm Beach Sheriff's Office accepts full responsibility for the fatal crash. Palm Beach Sheriff's Office does not support or object to the passage of this claim bill.

CONCLUSIONS OF LAW: The claim bill hearing was a de novo proceeding for the purpose of determining, based on the evidence presented to the Special Master, whether the Palm Beach Sheriff's Office was liable in negligence for the death of Mr. Matute and, if so, whether the amount of the claim is reasonable.

The evidence clearly demonstrates that Deputy Ramirez lost control of his police cruiser, crashed head-on into Mr. Matute's van, and caused Mr. Matute's fatal injuries.

The Palm Beach Sheriff's Office, as Deputy Ramirez's employer, is liable for his negligent act. *Mercury Motors Express v. Smith*, 393 So. 2d 545, 549 (Fla. 1981) (holding that an employer is vicariously liable for compensatory damages resulting from the negligent acts of employees committed within the scope of their employment); see also *Aurbach v. Gallina*, 753 So. 2d 60, 62 (Fla. 2000) (holding that the dangerous instrumentality doctrine "imposes strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another").

The undersigned concludes that the sum the Palm Beach Sheriff's Office has agreed to pay the Claimant is both reasonable and fair.

ATTORNEYS FEES: The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), Florida Statutes. No lobbyist fees will be paid.

RECOMMENDATIONS: For the reasons set forth above, the undersigned recommends that Senate Bill 52 (2012) be reported FAVORABLY.

SPECIAL MASTER'S FINAL REPORT – SB 52 (2012)

November 9, 2011

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Respectfully submitted,

Jessica Enciso Varn
Senate Special Master