

October 17, 1997

<u>SPECIAL MASTER'S FINAL REPORT</u>	<u>DATE</u>	<u>COMM.</u>	<u>ACTION</u>
The Honorable Toni Jennings President, The Florida Senate Suite 409, The Capitol Tallahassee, Florida 32399-1100	12/03/97	ED WM	Fav/1 amendment

Re: SB 16 - Senator Turner
HB 1717 - Representative Lippman
Relief of Lazaro Gutierrez and Teresa Chirino

THIS IS A SETTLEMENT AGREEMENT AND
CONSENT JUDGMENT CLAIM FOR \$2,973,246
AGAINST THE DADE COUNTY SCHOOL BOARD TO
COMPENSATE CLAIMANTS FOR PARALYZING
INJURIES SUSTAINED BY LAZARO GUTIERREZ IN A
SHOOTING AT MIAMI SOUTHRIDGE SENIOR HIGH
SCHOOL.

STATEMENT OF CLAIM:

On the evening of October 21, 1988, claimant Lazaro Gutierrez was rendered permanently quadriplegic when shot in the neck by two assailants at Miami Southridge Senior High School while he was picking up his girlfriend after and off-campus football game. Despite the administration's request, there was no security or off-duty police officer present. Lazaro and his mother, Teresa Chirino, filed suit against the Dade County School Board. The case was tried in January of 1996, and a verdict was rendered, and judgment entered thereon, in favor of the claimants and against the school board in the amount of \$10,970,000. The school board appealed the judgment. While the appeal was pending, a settlement was reached between the parties. On April 29, 1997, the Court approved the settlement and entered a consent final judgment. This claim bill represents that settlement agreement wherein the school board agreed to compensate the claimants in the total amount of \$3,173,246 and to

support passage of a claim bill for \$2,973,246. In support of the claim bill, the school board has set aside the necessary funds to pay this amount. Pursuant to notice, a Special Master's Hearing was held on this claim bill in Miami, Dade County, Florida, on August 18, 1997.

FINDINGS OF FACT:

On October 21, 1988, Lazaro Gutierrez went on the property of Miami Southridge Senior High School to pick up his girlfriend who was a cheerleader for the Miami Southridge Senior High School football team.

While Lazaro waited in the school's student parking lot for his girlfriend's return, he was approached by his would-be assailants and they conversed about the type of stereo system in his car. After the conversation, a Southridge student saw the would-be assailants inside the Miami Southridge Senior High School student parking lot carrying a gun and displaying it to others in the parking lot.

That student did not see a security guard or police officer on the premises at that time.

When Lazaro's girlfriend returned, she and Lazaro entered his car and attempted to leave the school premises. As they were pulling out of the parking lot they were called by one of the persons with whom Lazaro had previously conversed inside the parking lot. When Lazaro stopped his car, one assailant demanded that he exit the car at gunpoint. Lazaro attempted to flee to protect himself and his girlfriend and was shot in the neck.

The bullet fractured the C-4 vertebrae and partially severed his spinal cord, rendering him a permanent quadriplegic.

One of the assailants was standing on school property just outside the gate to the student parking lot when he called out to Lazaro.

The school board admitted that there was no security or off-duty police officer in the student parking lot at the time of the shooting, despite the administration's request that an

off-duty police officer be present in the parking lot until all students had left the premises.

The case was tried before a jury for 2 weeks commencing January 8, 1996. The jury returned a verdict of \$12.2 million in favor of Lazaro Gutierrez and his mother, Teresa Chirino. The jury found the school board 85% at fault; allocating the remaining 15% of fault to the assailants.

The Court entered a judgment in favor of Lazaro Gutierrez and Teresa Chirino and against the school board in the amount of \$10,970,000. the school board appealed the verdict and judgment. While the appeal was pending, the claimants and the school board settled the claim.

As part of the settlement, the school board agreed to compensate the claimants in the total amount of \$3,173,246 and to support the passage of a claim bill for \$2,973,246. The trial Court approved the settlement and entered a consent final judgment in favor of the claimants in the amount of \$3,173,246.

The school board paid the statutory cap of \$200,000 to the claimants, pursuant to the settlement agreement. The school board has allocated and set aside the necessary funds to pay this claim.

CONCLUSIONS OF LAW:

Lazaro Gutierrez suffered substantial and catastrophic injuries in the incident of October 21, 1988. He will remain permanently paralyzed and unable to care for himself for the remainder of his life. There is competent substantial evidence to determine that there is some liability on the part of the School Board of Dade County, Florida for his injuries. There is sufficient evidence in the record to support the damages arrived at in the settlement agreement.

ATTORNEYS FEES:

Limited to 25 percent of recovery under the provisions of s. 768.28, F.S.

RECOMMENDATIONS:

Based upon the foregoing, the undersigned recommends that SB 16, which authorizes and directs the Dade County

SPECIAL MASTER'S FINAL REPORT--SB 16

October 17, 1997

Page 4

School Board to pay \$2,973,246 in full satisfaction of the settlement agreement, be reported FAVORABLY.

Respectfully submitted,

William R. Pfeiffer
Senate Special Master

cc: Senator Turner
Representative Lippman
Faye Blanton, Secretary of the Senate
Richard Hixson, House Special Master