

October 16, 1997

SPECIAL MASTER'S FINAL REPORT

DATE

COMM.

ACTION

The Honorable Toni Jennings
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

11/05/97

CA
WM

Favorable

Re: SB 4 - Senator Forman
HB 1771 - Representative Villalobos
Relief of Juan Garcia, Jr., and Juan and Barbara Garcia

THIS IS A SETTLEMENT AGREEMENT AND
CONSENT JUDGMENT CLAIM FOR \$1,050,000
AGAINST THE CITY OF MIAMI BEACH TO
COMPENSATE CLAIMANTS FOR INJURIES
SUSTAINED BY JUAN GARCIA, JR., WHEN HE DOVE
INTO THE SURF AT MIAMI BEACH.

STATEMENT OF CLAIM:

On February 1, 1989, claimant Juan Garcia, Jr., was rendered permanently quadriplegic when he ran from the beach and dove into the surf at Miami Beach and struck an object with his head. Juan Garcia, Jr., and his parents, Juan and Barbara Garcia, filed suit against the City of Miami Beach and other entities. All the other entities were granted summary judgment in their favor. The case was scheduled to commence trial on December 30, 1996. Shortly before trial, a settlement was reached between the parties. On February 20, 1997, the Court approved the settlement and entered a consent final judgment thereon. This claim bill represents that settlement agreement wherein the City of Miami Beach agreed to compensate the claimants in the total amount of \$1,250,000 and to support passage of a claim bill for \$1,050,000. The city has set aside the appropriate funds. 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 February 1, 1989, at midday, Juan Garcia, Jr., went to South Beach which is located in the City of Miami Beach, Dade County, Florida. Juan ran from the beach into the surf and dove into the water. Upon diving into the water he struck an object with his head and suffered a burst type axial compression fracture of his C5 and C6 vertebrae.

Juan Garcia, Jr., has been rendered permanently quadriplegic as a result of this incident.

The City of Miami Beach managed the area of South Beach where this incident occurred, pursuant to a Management Agreement with the State of Florida. The city contracted with a private demolition company to demolish a pier that stood in the area where this incident occurred. The subject demolition company became insolvent and abandoned the demolition project before all the debris remaining from such demolition had properly been removed, pursuant to the demolition contract.

Juan Garcia, Jr., was injured during the time the City of Miami Beach was attempting to contract with a second demolition company to remove the debris that remained from the demolition of the pier.

The case was scheduled to commence trial on December 30, 1996. Shortly before trial was to begin, the claimants and the City of Miami Beach settled the claim.

Although the city denied liability, as part of the settlement the city agreed to compensate the claimants in the total amount of \$1,250,000 and to support the passage of a claim bill for \$1,050,000. The trial court approved the settlement and entered a consent final judgment in favor of the claimants in the amount of \$1,250,000.

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

CONCLUSIONS OF LAW:

Juan Garcia, Jr., suffered substantial and catastrophic injuries in the incident of February 1, 1989. He will remain permanently paralyzed and unable to care for himself for the

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remainder of his life. There is competent substantial evidence to determine that there is the possibility of some liability on the part of the City of Miami Beach 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 4, which authorizes and directs the City of Miami Beach to pay \$1,050,000 in full satisfaction of the settlement agreement, be reported FAVORABLY.

Respectfully submitted,

William R. Pfeiffer
Senate Special Master

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