

October 22, 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

11/03/97

HC
WM

Fav/2 amendments

Re: SB 8 - Senator Grant
HB 1767 - Representative Murman
Relief of Heather Roszell

THIS IS A CONSENT JUDGMENT, SETTLED CLAIM FOR \$3,550,000 TO COMPENSATE CLAIMANT FOR INJURIES SUSTAINED WHILE A PATIENT OF THE HILLSBOROUGH COUNTY HOSPITAL AUTHORITY, d/b/a TAMPA GENERAL HOSPITAL AND UNDER THE CARE OF EMPLOYEES OF THE FLORIDA BOARD OF REGENTS.

FINDINGS OF FACT:

Heather Roszell was born on March 27, 1979. She was born as a achondroplastic dwarf, as was her father. Her mother was of normal height. At 12 years old, Heather was admitted to Tampa General Hospital on July 10, 1991, under the care and treatment of Dr. Cahill and the staff of the hospital. She was admitted for the purpose of performing a decompressive laminectomy of the C1 to C3 area of her cervical spine. Surgery was performed on July 10, 1991, by Dr. Cahill, without complication. Post-operatively, this patient was at risk for development of various complications, including respiratory compromise secondary to sleep apnea, for which she had a significant history; respiratory compromise secondary to morphine; and respiratory compromise secondary to swelling of the spinal cord.

Although the respondents do not admit liability, the claimant contends that due to the inadequate observations, evaluations, examinations, and monitoring of Heather Roszell during the 2 days following surgery, she sustained a severe hypoxic episode (i.e., oxygen deprivation) on the morning of July 12, 1991. As a result of the sleep apnea, morphine administration, and inadequate observation, she was left severely quadriparetic and brain injured.

The claimant further contends that Dr. Cahill, who performed the surgery and who was her attending physician, left town immediately after surgery and was not seen again in the hospital until July 15, 1991. In between there was only one visit by an attending neurosurgeon and that was 4 days after the operation. He conducted neither a physical examination nor an appropriate evaluation. The child was mostly left in the hands of residents, medical students, and nurses who were not adequately trained to evaluate this child with a very complicated medical problem.

As a result of the alleged negligence of the respondents in this matter, Heather Roszell has been rendered severely physically and emotionally disabled. She is unable to perform any of the functions of daily life independently and will require 24-hour-a-day assistance for the rest of her life. Her economic needs and her rehabilitative needs have been attested to by various experts and treating physicians and she has been examined by defense witnesses also.

Heather Roszell has been evaluated by life care specialists who have set forth a plan of care that economists have estimated will cost in excess of \$7,000,000; present money value. By all estimates, Heather Roszell's life expectancy is normal. She is expected to live in excess of 60 more years.

LITIGATION HISTORY:

The injuries sustained by Heather Roszell formed the basis of the complaint filed on November 5, 1993, against the Florida Board of Regents and Tampa General Hospital.

In October 1996, a settlement was reached between the claimants and the respondents. The parties agreed to enter into a consent judgment in favor of the claimant for \$3,950,000, to be evenly divided between the two respondents. The parties litigated this case for over 3 years prior to reaching a settlement agreement.

The Hillsborough County Hospital Authority and the Florida Board of Regents each have paid \$200,000 and further agree that a claim bill will be introduced in the Florida Legislature for payment of the remaining \$3,550,000. Both the Hillsborough County Hospital Authority and the Florida Board of Regents fully support the settlement and have agreed to affirmatively assist in the passage of the claim bill.

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None of the funds to be utilized in this settlement will be funds of the State of Florida treasury. Therefore, the claim bill (SB 8) must be amended to identify the sources of payment.

The Florida Board of Regents has professional liability insurance which will pay a portion of the claim bill.

CONCLUSIONS OF LAW:

There is competent, substantial evidence to support damages and liability and the reasonableness of the settlement agreement. However, the undersigned believes that it is in the best interest of all parties to structure the payments over the course of the claimant's life.

COLLATERAL SOURCES:

Aetna Insurance Company has paid approximately \$116,170.82 in medical bills and has waived its right to subrogation in light of the "very unusual circumstances surrounding this case" and, particularly, the costs of future medical care and related expenses. They are estimated to cost in excess of \$7,000,000.

Blue Cross Blue Shield has paid \$15,616.49 in medical bills. Their subrogation lien is still outstanding at this time.

Claimant has further paid the amount of \$897.25 as full and final settlement of the Medicaid lien.

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 the claim bill be amended and that SB 8, as amended, be reported FAVORABLY.

Respectfully submitted,

William R. Pfeiffer
Senate Special Master

cc: Senator Grant
Representative Murman
Faye Blanton, Secretary of the Senate
House Special Master