



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

*Location*  
408 The Capitol

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404 South Monroe Street  
Tallahassee, Florida 32399-1100  
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November 16, 2000

| SPECIAL MASTER'S FINAL REPORT  | DATE     | COMM           | ACTION      |
|--|----------|----------------|-------------|
| President of the Senate<br>Suite 409, The Capitol<br>Tallahassee, Florida 32399-1100 | 11/16/00 | SM<br>CF<br>FR | Unfavorable |

Re: SB 64 – Senator Richard Mitchell  
Relief of Kathleen McCarthy, George Decker,  
Joan Decker, William Chapman, Geraldine  
Chapman, and Rusha Williams

THIS IS AN EQUITABLE CLAIM SEEKING PAYMENT OF \$6,000,000 AGAINST THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES TO COMPENSATE KATHLEEN McCARTHY INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF LAURA BAILEY, DECEASED; GEORGE DECKER AND JOAN DECKER, INDIVIDUALLY AND AS CO-PERSONAL REPRESENTATIVES OF THE ESTATE OF CHRISTINA DECKER, DECEASED; WILLIAM CHAPMAN AND GERALDINE CHAPMAN, INDIVIDUALLY, AND WILLIAM CHAPMAN, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF PATRICIA CHAPMAN, DECEASED; AND RUSHA WILLIAMS AS LEGAL GUARDIAN OF PAULINE HODGE; FOR LOSSES SUSTAINED AS A RESULT OF THE NEGLIGENCE OF THE DEPARTMENT IN A CAR CRASH. THIS BILL DIRECTS THE COMPTROLLER TO PAY THE CLAIM FROM THE FUNDS IN THE STATE TREASURY.

#### FINDINGS OF FACT:

For the reasons discussed below, no Special Master hearing was conducted on this claim. Consequently, the following facts are taken from the Senate bill and are provided solely as background information.

On April 19, 1998, Laura Bailey, Patricia Chapman, Christina Decker, and Pauline Hodge were passengers in a vehicle driven by Rachuel Sercey, an employee of the Department

of Children and Family Services. Mses. Bailey, Chapman, Decker and Hodge were developmentally disabled adults institutionalized in Tacachale, a facility operated by the department. Rachuel Sercey was transporting the four women in the facility-owned van to attend a picnic at Ginnie Springs.

During the course of the trip, Ms. Sercey and another staff person, Evertice Cole, illegally consumed drugs and alcohol, leaving Mses. Bailey, Chapman, Decker, and Hodge improperly supervised and unattended during this time. After consuming the drugs and alcohol, Rachuel Sercey and Evertice Cole returned to the unsupervised residents and began to drive back to Tacachale, with Ms. Sercey at the wheel.

During the return trip to Tacachale, Ms. Sercey lost control of the van that flipped and ejected Mses. Bailey, Chapman, Decker, and Hodge from the vehicle. Mses. Bailey, Chapman, and Decker subsequently died from their injuries.

CONCLUSIONS OF LAW:

Senate Rule 4.81(f), states:

The hearing and consideration of a claim, ***any element of which is pending in litigation***, shall be held in abeyance until all judicial activity thereon, including any appellate proceedings, shall have come to rest. (Emphasis supplied.)

It is my understanding that discovery in this matter is not completed, that the trial is scheduled for October 2001, and that the parties have not reached a settlement agreement. The parties were notified that judicial activity would have to be disposed of or, in the event this case was settled, that I had to receive the executed settlement agreement by 5:00 p.m. on October 13, 2000. Furthermore, should a settlement be reached, it would still be necessary to hold a hearing on this matter prior to that date. As of the date of this report, I have not received an executed settlement agreement.

As to application of Senate Rule 4.81(f), as there are judicial proceedings which are pending, the Rule requires that this claim be held in abeyance until all the court proceedings are completed and all judicial remedies are exhausted. As such, no Special Master's hearing was held on this claim and the

Senate should take no action on the claim until these proceedings are completed. This is not meant to express any opinion on the merits of either the underlying action or this claim.

RECOMMENDATIONS:

Accordingly, due to the above reasons, this bill is not yet ripe for legislative consideration and I recommend that until such remedies are exhausted, Senate Bill 64 be reported UNFAVORABLY.

Respectfully submitted,

Katherine A. Emrich  
Senate Special Master

cc: Senator Richard Mitchell  
Faye Blanton, Secretary of the Senate  
House Claims Committee