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DATE: March 13, 2001

Florida House of Representatives
Committee on Claims
Summary Claim Bill Report

Bill #: HB 761
Sponsor: Representative Bullard
Companion Bill: SB 68 by Senator Jones
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

1. **Claimants:** Hilda De Paz
2. **Respondent:** Miami – Dade County
3. **Amount Requested:** \$60,000 plus interest accrued since May 25, 2000. The agreement is broken down as follows: \$30,000 for past medical expenses; \$20,000 for past lost wages; \$5,000 for future medical expenses; and \$5,000 for impairment of earning ability.
4. **Type of Claim:** Equitable; based on a settlement agreement and Agreed Final Order.
5. **Respondent's Position:** A settlement agreement was executed and the subject of an agreed final judgment ordered on 5/25/00. Although the agreement is silent as to the respondent's position, the respondent has argued that the County reserved the right to argue both liability and damages, in contravention to the claimant's reliance on the agreement. The County has paid \$190,000 to other claimants injured in this same accident.
6. **Collateral Sources:** None.
7. **Prior Legislative History:** None.

B. Procedural Summary: In 1996, the claimant filed suit against Miami Dade County for injuries she suffered as a result of the negligence of the County's bus drivers. After extensive litigation involving discovery, the County's Motion for Summary Judgment was denied. Prior to trial, the parties entered into a settlement agreement and an Agreed Final Order, with the terms set out as above. The County has since claimed that they reserved the right to argue both liability and damages, even though the Order and Agreement are silent as to any such reservation. A Special Master hearing was held on October 13, 2000.

C. Facts of Case: Ms. Hilda De Paz, a 69 year-old legal resident was riding the Metro Transit Authority bus on May 23, 1995, when another Metro Transit Authority bus rear-ended her bus. Both buses were owned and operated by the Miami-Dade Metro Transit Authority. As a result of the accident, Ms. De Paz suffered a fractured vertebra, a fractured sternum, cervical spine strain, and a knee contusion. Expert testimony indicated that the claimant suffers a 12 – 21% permanent impairment disability. Prior to the accident, Ms. De Paz worked as a housekeeper; since the accident she is no longer able to work. The claimant currently receives Medicaid and Social Security; however, she was not registered for Medicaid at the time of the accident and thus Medicaid will not cover the hospital bills relative to the accident. Medicaid is paying her on-going Medical bills. No portion of the award is for future lost wages or pain and suffering. The Special Master recommends that the bill be amended to delete reference to payment of interest, as the County is unable to pay this claim but for passage of a legislative claim bill, pursuant to s. 768.28, F.S.

SM: _____ SD: _____ Date: _____
Stephanie O. Birtman Stephanie O. Birtman

