

STORAGE NAME: h0359.cla
DATE: December 21, 2001

Florida House of Representatives
Committee on Claims
Summary Claim Bill Report

Bill #: HB 375
Sponsor: Rep. Bullard
Companion Bill: SB 66 by Sen. Klein
Special Master: Eric Haug, Esq.

A. Basic Information:

1. **Claimants:** Mary Nell Dent Harley as guardian of Ariel Alexis Dent, a minor (age 6 at time of incident).
2. **Respondent:** Palm Beach County School Board.
3. **Amount Requested:** \$ 600,000.
4. **Type of Claim:** Equitable – based on a settlement agreement.
5. **Respondent's Position:** The School Board of Palm Beach County agreed to affirmatively support, cooperate with, and assist the claimant in the passage of the bill.
6. **Collateral Sources:** None.
7. **Prior Legislative History:** None.

B. Procedural Summary: In February 2000, the claimant brought suit against the School Board of Palm Beach County for negligent operation or maintenance of a school bus owned by the school board. The parties reached a settlement agreement and an Order approving the agreement was entered on July 3, 2001, for the sum of \$800,000.

C. Facts of Case: On the afternoon of March 2, 1999, Ariel Alexis Dent, a 6-year-old first-grader, was riding home from school on a Palm Beach County school bus. Although Wayne Ricketts had been employed by the county as a school bus driver for several months, he had been driving the route involved in this incident for less than a week. On that day, he stopped and let Ariel out at the wrong stop and on the wrong side of the street; consequently, her great-grandmother, Mary Nell Dent Harley, who had gone to the correct stop to meet Ariel, was not at the site where Ariel got off the bus, which left Ariel to fend for herself.

While children, including Ariel, were exiting from the bus, several adults were talking to the bus driver about some other children who rode on that bus. The driver admitted in his deposition that he was distracted by those conversations. After he had finished talking, the driver closed the doors of the bus, checked his mirrors, and put the bus in motion. Right away, he heard a noise that he

described in his deposition as sounding like the click of a stone. Mr. Ricketts did not immediately apply the brakes; however, very shortly after Mr. Ricketts heard the clicking sound, the driver of an automobile that was stopped in the lane facing the bus gestured frantically for Mr. Ricketts to stop the bus. When he did so and got out of the vehicle, Mr. Ricketts found Ariel lying on her side behind and to the right of the rear wheels of the bus.

The deposition testimony of the attending law enforcement officer and of the automobile driver, the Rev. Mr. James R. McFadden, established that the front bumper of the bus had hit Ariel and that both the right front and the right rear wheels had then run over her. The Rev. Mr. McFadden's statement reads: "The bumper knocked her down. The front wheel ran over her. Then the rear wheel ran over her... And then I jumped out of my car at that point and tried to stop the bus driver."

Other bystanders who viewed the incident told the investigating officer that Ariel initially walked away from the bus but then ran back into its path, apparently in pursuit of either a balloon or a piece of paper. Emergency medical personnel arrived promptly and took Ariel to St. Mary's Medical Center in West Palm Beach, where she was diagnosed as having a fracture of the pubis, acute blood loss, a fracture of the distal radius of the left femur, an abrasion of the head, a wound to her hand, a contusion of the thigh, and abrasions to her hip, leg, and right eye. Ariel underwent surgery for the displaced fracture of her left femoral shaft (i.e., the bone had broken completely into two parts, and one part overlapped the other) and for the closed fracture of the left distal radius and the closed fracture of her pelvic ring. Her orthopedic physician performed a closed reduction and applied an external fixator to her left leg. (The fixator was a metal rod about 2 feet long, which was screwed into her bone in three places.)

Ariel was hospitalized from March 2 to March 8, 1999, then underwent rehabilitation and extensive physical therapy. She was released from St. Mary's Hospital Rehabilitation Unit on March 23, 1999. Since the date of the initial trauma, Ariel has undergone six surgeries because of a persistent chronic seroma (fatty tumor) of her right thigh.

Medical experts engaged by claimant's attorney have testified that Ariel will in the future need further care and treatment, including surgeries for scar revision of her left lower extremity and of the web space on her left hand. Andrew Schneider, M.D., an orthopedic physician, stated his finding from an examination performed March 13, 2001, that Ariel has "approximately 1.5 cm limb length discrepancy[,] longer on the left side compared to the right side" and that "it is possible that this [limb length discrepancy] could increase over time although it is not likely to increase significantly." He recommended follow-up in 6 months "and depending on the discrepancy and whether or not she has symptoms, consideration for correction of limb lengths via shoe correction." However, a doctor who was engaged by the defendant to perform an independent medical examination of Ariel on February 23, 2001, Dr. Mark Rubenstein, said in his report that he could not determine for certain, from examining Ariel while she was lying down, that there is a discrepancy in the respective lengths of Ariel's legs.

Claimant's attorney, in the case summary, describes Ariel's scars as "grossly disfiguring." The child's great-grandmother, Mary Nell Dent Harley, who is her guardian, and the child's mother, Shawnta Dent, testified at the Special Master's hearing that Ariel is extremely unwilling to have her scars exposed to the view of others and that she, therefore, will no longer wear shorts or other apparel that reveals the scars. Photographs provided by claimant's attorneys show a 23-cm.-long raised scar on her right thigh and three indentations that resemble deep smallpox vaccinations on her left leg, where the external fixator was attached. During the months following the incident, Ariel was unable to attend school for so many days that, as a result of her absences, she was retained in 1st grade. She is currently in the 2nd grade at age 9. Before March 1999, she had achieved a satisfactory record of attendance and academic achievement, and there is no indication that her

retention was due to anything other than the injuries sustained in this incident and the extensive medical treatment that it necessitated.

The Palm Beach County School Board has paid the medical bills that have accrued to date as a result of the incident and has agreed to pay, for the remainder of Ariel's life, any and all medical expenses she incurs which arise out of the incident.

SM: _____ SD: _____ Date: _____
Eric S. Haug Stephanie O. Birtman