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DATE: 3/31/2008

Florida House of Representatives
Summary Claim Bill Report

Bill #: HB 1539; Relief of Relief/Schneidine Theogene/Miami-Dade County
Sponsor: Lopez-Cantera
Companion Bill:
Special Master: Kruse

Basic Information:

Claimants: Schneidine Theogene, a minor.
Respondent: Miami-Dade County
Amount Requested: \$2.4 million
Type of Claim: Equitable, based on a settlement agreement.
Respondent's Position: Supports the passage of the bill.
Collateral Sources: Miami-Dade County has agreed to pay \$100,000.00 and the insurance companies have agreed to pay \$4 million in insurance proceeds into a special needs trust for the claimant's benefit.
Attorney's/Lobbying Fees: Claimant's attorney has submitted an affidavit certifying that attorney's fees are limited in accordance with s. 768.28(8), F.S. Costs are expected to range between \$25,783.29, as of 1/15/2007, to \$75,783.29 at the conclusion of the claim bill process. Lobbying fees are reported to be 6% of the award, to be paid in addition to the attorney's fees.
Prior Legislative History: None.

Procedural Summary:

Following the incident, the claimant's attorney and the County attorney entered into mediation and reached a settlement wherein the County has agreed to pay a total of \$6.5 million, \$4 million to be paid from insurance proceeds, \$100,000 from Miami-Dade County, and \$2.4 million from a claims bill. The settlement was presented to the Probate and Guardianship court and an Order Granting the Petition to Approve Personal Injury Settlement on Behalf of Ward was entered by the judge.

Facts of Case:

On November 24, 2004, at the intersection of NW 7 Avenue and NW 191 Street in Miami, Florida, seven year-old Schneidine Theogene was a passenger in a van with three other siblings driven by her

mother westbound on NW 191 Street, stopped for a red light behind one vehicle. A Miami-Dade County public transit bus was southbound on NW 7 Avenue. Once the light turned green, Schneidine's mother began crossing the intersection at which time the County bus ran the red light and crashed into the van. An accident reconstruction expert determined that the bus was moving at a speed of 25 to 30 mph at the time of impact, and that the traffic signal timing gave the bus driver a yellow signal when the bus was 369 to 501 feet, or 10.1 to 11.4 seconds away from impact; that the bus driver received a red traffic signal at 223 to 325 feet, or 6.1 to 7.4 seconds before impact, and that the bus driver's failure to stop at the red signal was the sole cause of the collision. The impact crushed the van's passenger side and turned the van onto the passenger side. The force of the impact caused serious and permanent injuries to Schneidine including skull and brain, chest, and facial, and a right forearm fracture. Schneidine underwent numerous procedures to stabilize her injuries. She was comatose for approximately 1½ months and was hospitalized or in rehab from November 24, 2004, through March 4, 2005, at which time she was discharged home.

Now 10 years-old, Schneidine remains catastrophically and permanently disabled. Schneidine lives with her family in a house modified for her needs and requires total care for all activities of daily living such as bathing, dressing, transferring, toileting, and feeding. She is confined to a wheelchair during most of the day and wears diapers. A July 2007 status report showed that although she is "participating" more in her environment by attending an exceptional needs school and taking part in therapy, she is non-verbal and has no method of communication. Her appearance at the special master hearing on November 13, 2007, confirmed this finding, and, at the hearing her posture in her wheelchair was slumped with her head dropped toward her chin and chest and she appeared unable to sit upright on her own. Her motor activity appeared spastic, meaning that her movements were involuntary. Although Schneidine is expected to have a full life span, the record does not show any realistic chance for her to become a functioning member of society. She will require physical, occupational, and speech therapy for the rest of her life, and will always require supportive housing. The costs for future care range from \$27,555,901 to \$36,672,892, or if funds are held in conservative investments, from \$22,428,719 and \$29,643,361.

Based on the foregoing, I recommend that House Bill 1539 be reported FAVORABLY.

Special Master _____ Date _____

cc: Rep. Carlos Lopez-Cantera
Sen. Dave Aronberg
Senate Special Master, Eleanor Hunter