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**Florida House of Representatives
Summary Claim Bill Report**

Bill #: HB 483; Relief/Janaria Miller & Shakima Brown/Memorial Healthcare System of Broward, Inc.

Sponsor: Skidmore

Companion Bill: SB 38 Sen. Deutch

Special Master: Tony DePalma

Basic Information:

Claimants: Shakima Brown, individually and on behalf of Janaria Miller, her minor daughter.

Respondent: Memorial Regional Hospital, a facility of the South Broward Hospital District.

Amount Requested: \$300,000

Type of Claim: Local. Result of a settlement agreement.

Respondent's Position: Agrees not to oppose and to fully cooperate with the claim bill process. The District has stated that paying a claim in the amount of \$300,000 would not impair its ability to provide normal services.

Collateral Sources: Janaria receives Medicaid payments of \$626 per month, which will continue until she is 18 years old. Additionally, she receives Medicare payments of \$623 each month, for which she should be eligible for the rest of her life.

Attorney's/Lobbying Fees: Consistent with the stated policy of the Speaker of the House of Representatives, no more than 25% of the total claim award may be paid by the claimant for attorney's fees, lobbying fees, costs, or other similar expenses. Claimant's attorney reports that lobbying fees for this claims bill are 6% of the gross award.

Prior Legislative History: HB 753 (2007) was filed by Representative Skidmore. The bill died in the Healthcare Council. CS/SB 504 passed the Senate 28-7, but died in messages.

Procedural Summary: On February 8, 2005, Shakima Brown sued the South Broward Hospital District in the Circuit Court in and for Broward County, alleging negligence. Prior to trial, the parties agreed to a Consent Final Judgment against the hospital in the amount of \$500,000. Of this amount, \$200,000 has already been paid pursuant to the statutory cap on liability imposed by section 768.28, Florida Statutes. Of this \$200,000, the claimant has received \$80,000.

Facts of Case: Janaria Miller (now age five) was born via emergency caesarian section at Memorial Regional Hospital in Broward County in the early morning hours of December 14, 2002. Her mother, Shakima Brown, had gone to Memorial Regional the night before complaining of abdominal discomfort, and was kept overnight at the hospital for observation.

Ms. Brown's physicians ordered continuous fetal monitoring, and a fetal heart monitor was attached to Ms. Brown's abdomen for the purpose of ensuring that the fetus was receiving appropriate oxygenation while in utero. Beginning at approximately 12:57 a.m., the fetal heart monitor stopped producing interpretable fetal monitor recording strips of Janaria's heart rate, causing an audible alarm attached to the machine to sound. The attending nurse maintaining primary responsibility for the monitoring device was alerted to the machine's malfunctioning condition, but elected to turn the alarm off and not contact Ms. Brown's doctor.

Over the course of the next hour and a half, the device continued to only intermittently record Janaria's heart rate. Twice during this period, the nurse entered comments in the nurse's log indicating "poor tracing". At 2:24 a.m. the monitor began intermittently displaying a fetal heart rate in the low 90s, and on a few occasions Janaria's heart rate deteriorated below 90. Despite this, Ms. Brown's attending nurse again took no corrective or resuscitative measures, and did not contact the doctor until 3:15 a.m., at which time an emergency caesarian section was ordered. Janaria was subsequently intubated and hospitalized for the next four weeks.

In preparation for the Special Masters' Hearing, counsel for the claimants introduced depositions of expert witnesses indicating that fetal monitoring strips reporting a fetal heart rate below 110 for a duration exceeding 2 minutes would be sufficient justification to support a diagnosis of fetal bradycardia. Moreover, expert testimony indicated that the typical or appropriate nursing intervention following a sustained period of fetal bradycardia involves administering oxygen, changing the mother's positioning, increasing intravenous fluids, discontinuing patosin and other medications used to encourage contractions, and notifying the attending physician immediately.

Subsequent medical examinations have revealed that Janaria presently suffers from permanent and irreversible brain damage as a result of insufficient oxygenation levels to her brain prior to her birth. She has experienced several seizure episodes, partial paralysis, an abnormal gait while walking, as well as significant delays in her speech, development, and cognitive reasoning abilities. At the time of the Special Masters' Hearing, Janaria was non-verbal.

Doctors have determined that Janaria has a significant permanent functional impairment rating and acute functional decline, resulting in a total dependence on others for survival in her environment secondary to hypoxic ischemic encephalopathy sustained during her delivery.

A report categorizing and projecting the present and future economic damages of Janaria Miller was prepared in April, 2006. It was determined by economists that the economic damages sustained by Janaria as a result of complications during her delivery totaled \$17,690,419.

Special Master

Date

cc: House Sponsor
Senate Sponsor
Senate Special Master