

By Senator Baker

20-00112-09

200920__

1 A bill to be entitled
2 An act for the relief of Timothy Kulik and Theresa Ann
3 Kulik; providing an appropriation to compensate them
4 for injuries and damages sustained as a result of the
5 negligence of the Department of Highway Safety and
6 Motor Vehicles; providing a limitation on the payment
7 of fees and costs; providing an effective date.
8
9 WHEREAS, on March 30, 1996, Dr. Timothy Kulik, a dentist
10 from South Bend, Indiana, and his family, including his wife
11 Theresa Ann Kulik and their two teenage children, were en route
12 from Indiana to South Florida on Interstate 75, and
13 WHEREAS, Timothy Kulik's son, Michael Kulik, was driving
14 the family vehicle as the Kuliks traveled Interstate 75 in
15 Columbia County, Florida, heading southbound within an extended
16 construction zone, and
17 WHEREAS, Michael Kulik had been following a grey van for
18 some time, keeping up with traffic, traveling in the right lane,
19 when Florida Highway Patrol Trooper James Bond pulled behind the
20 Kulik vehicle and turned on his blue lights, indicating that the
21 Kulik vehicle must pull over, and
22 WHEREAS, Michael Kulik, an inexperienced driver who had
23 less than 1 year of total driving experience, pulled the vehicle
24 off the road onto a shoulder still within the construction zone
25 at a point where there was no emergency lane, and
26 WHEREAS, the left rear tire of the vehicle came to rest on
27 asphalt less than 6 inches off the right white line delineating
28 the shoulder of the road, with the left front tire approximately
29 18 inches onto the shoulder, and

20-00112-09

200920__

30 WHEREAS, the two right wheels came to rest on grass due to
31 the narrow shoulder created by ongoing construction in that
32 area, and

33 WHEREAS, a large grassy area separated the roadway from a
34 large rest area, and

35 WHEREAS, testimony indicated that the swale was gentle and
36 dry, allowing for vehicles to pull well off the road without
37 risk of getting struck, and

38 WHEREAS, the Florida Highway Patrol Trooper, James Bond, in
39 pulling the vehicle over, parked his vehicle approximately 15
40 feet off of the roadway, and

41 WHEREAS, the pictures of the accident scene do not depict
42 where Trooper Bond was parked at the time of the accident
43 because he moved his vehicle after the fact, and

44 WHEREAS, Trooper Bond stated in deposition testimony that
45 he noticed the proximity of the Kulik vehicle to the lanes of
46 traffic and recognized the danger, but he did not feel it
47 necessary to instruct Michael Kulik to move the vehicle further
48 from the roadway because he felt that the family posed a flight
49 risk, and

50 WHEREAS, Trooper Bond did have available a bullhorn to hail
51 motorists from inside his vehicle but testified that his
52 supervisors had discouraged its use, and

53 WHEREAS, Trooper Bond further failed to position his marked
54 cruiser in a manner so as to alert oncoming motorists of the
55 hazard he created and over which he had control, instead
56 choosing to pull his automobile far off the roadway to an area
57 of safety, and

58 WHEREAS, Trooper Bond approached the Kulik vehicle from the

20-00112-09

200920__

59 passenger side and engaged the driver through the passenger
60 window, and

61 WHEREAS, when asked at trial, Trooper Bond testified that
62 approaching the Kulik vehicle from the driver's side would have
63 placed him in danger of passing motorists, and

64 WHEREAS, Timothy Kulik was in the front passenger seat and
65 was notably agitated by the fact that his son received a ticket
66 when he was merely following his father's instructions in
67 keeping up with traffic through this construction zone, and
68 voiced his displeasure to Trooper Bond during the stop, and

69 WHEREAS, Timothy Kulik testified that he used some
70 profanity when told to shut up by Trooper Bond, and

71 WHEREAS, Trooper Bond denied memory of any profanity, and

72 WHEREAS, when the ticket had been issued, Timothy Kulik
73 offered to replace Michael Kulik as the driver because the son
74 was noticeably shaken by the incident, and

75 WHEREAS, Timothy Kulik exited his seat and walked around
76 the rear of the vehicle, heading up the driver's side of the
77 Chevrolet Suburban, and

78 WHEREAS, Timothy Kulik passed his son Michael near the rear
79 wheel and walked to the front door which had been left ajar by
80 his son, and

81 WHEREAS, unfortunately, Timothy Kulik has no memory of
82 events from this point on, and

83 WHEREAS, expert testimony revealed that Timothy Kulik
84 opened the driver's door using his left hand, and

85 WHEREAS, as he did so, a large motor home passed and
86 impacted the open door pinning Timothy Kulik's entire left arm
87 between the door and motor home, and

20-00112-09

200920__

88 WHEREAS, Timothy Kulik's left arm was practically severed
89 in the impact, and

90 WHEREAS, as the motor home passed, it dragged Timothy Kulik
91 and the door forward at high speed, throwing him around the door
92 and forward onto the pavement in front of the Suburban, and

93 WHEREAS, the highway patrol policies and procedures clearly
94 stated that a trooper is not to hesitate to direct a stopped
95 motorist to an area of safety before instituting enforcement
96 action, and

97 WHEREAS, Trooper Bond testified that he saw the proximity
98 of the stopped Kulik car to the traffic lanes of Interstate 75
99 but chose to leave the Kuliks in a position of danger, and

100 WHEREAS, Trooper Bond also testified that, in his more than
101 20-year career, he often saw motorists change drivers following
102 a traffic stop, and

103 WHEREAS, Trooper Bond also acknowledged that the Florida
104 Highway Patrol policy manual allowed for a trooper to instruct a
105 motorist to stay in the vehicle, and

106 WHEREAS, Trooper Bond's employment file was discussed in
107 court and, as a result, it was revealed that Trooper Bond had
108 been sanctioned more than once for displaying a very poor
109 attitude, a fact that was key to substantiating Timothy Kulik's
110 testimony that Trooper Bond was very abrasive when he approached
111 the vehicle and baited Timothy Kulik into retaliating, and

112 WHEREAS, an emergency room physician and his wife, an
113 emergency room nurse, were the first persons on the scene of the
114 accident, and

115 WHEREAS, the couple rendered trauma care and assisted in
116 stemming Timothy Kulik's profuse bleeding until local emergency

20-00112-09

200920__

117 teams arrived, and

118 WHEREAS, Dr. Timothy Kulik's left arm was shattered by the
119 impact of the accident, and

120 WHEREAS, Dr. Kulik's arm, from the shoulder down to the
121 wrist, was mangled, and no use of his hand or arm was possible
122 for many months, and

123 WHEREAS, Timothy Kulik underwent seven or eight significant
124 surgical procedures, and

125 WHEREAS, muscle transpositions have helped Dr. Kulik with
126 simple grasp functions, but overall there is no dexterity to the
127 left hand and minimal range of motion to the arm, and

128 WHEREAS, as a result of the accident of March 30, 1996, Dr.
129 Timothy Kulik's arm is virtually useless, and

130 WHEREAS, Dr. Timothy Kulik was a dentist in South Bend,
131 Indiana, from 1976 to the present, opening his own practice in
132 1995, and

133 WHEREAS, dentistry being a profession requiring the full
134 use of both hands, Dr. Kulik is extremely limited in the types
135 of procedures he can perform, with more costly and meticulous
136 procedures such as crown placement being difficult to the point
137 that Dr. Kulik can no longer perform them, and

138 WHEREAS, at trial, it was the intent of Timothy Kulik's
139 legal representatives to prove that the motor home operator was
140 negligent, minimizing the role of Trooper Bond after the first 2
141 days of testimony, and

142 WHEREAS, for the remainder of the trial Timothy Kulik's
143 attorneys concentrated on the motor home operator's actions,
144 including during the closing argument when it was suggested that
145 the jury find the Florida Highway Patrol minimally negligent,

20-00112-09

200920__

146 and

147 WHEREAS, despite this, the jury returned with a verdict
148 attributing 0 percent negligence to the motor home operator,
149 approximately 46 percent negligence to Trooper Bond, and 54
150 percent negligence to Timothy Kulik, and

151 WHEREAS, the gross verdict in the trial was in the amount
152 of \$3,125,000 for Timothy Kulik and \$50,000 for Theresa Ann
153 Kulik for loss of consortium, and

154 WHEREAS, after reductions for comparative fault, judgment
155 was entered against the Department of Highway Safety and Motor
156 Vehicles in the sum of \$1,437,500 for damages incurred by
157 Timothy Kulik and \$23,000 for damages incurred by Theresa Ann
158 Kulik, NOW, THEREFORE,

159

160 Be It Enacted by the Legislature of the State of Florida:

161

162 Section 1. The facts stated in the preamble to this act are
163 found and declared to be true.

164 Section 2. The sum of \$1,437,500 is appropriated from the
165 General Revenue Fund to the Department of Highway Safety and
166 Motor Vehicles for the relief of Timothy Kulik as compensation
167 for injuries and damages sustained.

168 Section 3. The sum of \$23,000 is appropriated from the
169 General Revenue Fund to the Department of Highway Safety and
170 Motor Vehicles for the relief of Theresa Ann Kulik as
171 compensation for injuries and damages sustained.

172 Section 4. The Chief Financial Officer is directed to draw
173 a warrant in favor of Timothy Kulik in the sum of \$1,437,500
174 upon funds of the Department of Highway Safety and Motor

20-00112-09

200920__

175 Vehicles in the State Treasury, and the Chief Financial Officer
176 is directed to pay the same out of such funds in the State
177 Treasury.

178 Section 5. The Chief Financial Officer is directed to draw
179 a warrant in favor of Theresa Ann Kulik in the sum of \$23,000
180 upon funds of the Department of Highway Safety and Motor
181 Vehicles and to pay the same out of funds in the State Treasury.

182 Section 6. The amounts awarded under this act are intended
183 to provide the sole compensation for all present and future
184 claims arising out of the factual situation described in this
185 act which resulted in injury to Dr. Timothy Kulik. The total
186 amount paid for attorney's fees, lobbying fees, costs, and other
187 similar expenses relating to this claim may not exceed 25
188 percent of the total amount awarded under this act.

189 Section 7. This act shall take effect upon becoming a law.