



STORAGE NAME: h3527.CJS

DATE: 4/3/2015

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

Bill #: HB 3527; Relief/Asia Rollins/Public Health Trust of Miami-Dade County

Sponsor: Avila

Companion Bill: CS/SB 34 by Judiciary, Diaz de la Portilla

Special Master: Parker Aziz

Basic Information:

Claimants:	Indya Leshea Marc, individually and as parent and legal guardian of Asia Rose Rollins
Respondent:	Public Health Trust d/b/a Jackson Memorial Hospital
Amount Requested:	\$699,999
Type of Claim:	Local equitable claim; result of a settlement agreement.
Respondent's Position:	Public Health Trust agrees to support the enactment of a claim bill authorizing the additional payment of \$699,999 and affirmatively agrees not to interfere with passage of said bill.
Collateral Sources:	None.
Attorney's/Lobbying Fees:	Petitioner's counsel submitted an affidavit stating that his fee would not exceed 25% of the total amount awarded. Additionally, pursuant to a written agreement, the lobbyist fees related to this bill will be limited to 5% of the total amount awarded. However, the bill states that the total amount of attorney fees, lobbying fees, and related costs may not exceed 15% of the total award, absent a waiver from the Petitioner that would increase the total to 25%.
Prior Legislative History:	This is the first time House Bill 3527 by Representative Avila and Senate Bill 34 by Senator Diaz de la Portilla has been introduced to the Legislature.

Procedural Summary: On October 16, 2013, Indya Leshea Marc, as the proposed guardian of the property of Asia Rose Rollins, filed a Petition to Approve Settlement in the 11th Judicial Circuit Court, in and for Miami-Dade County, Florida. The Public Trust d/b/a Jackson Memorial Hospital agreed to settle the claim without the filing of a lawsuit for \$999,999.

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Pursuant to the settlement, the Trust paid its sovereign immunity limit of \$300,000, and the parties agreed that the plaintiffs could seek an additional \$699,999 through a supported claim bill. Under the settlement agreement, the plaintiffs' net recovery to date (after satisfying a Medicaid lien and legal expenses and attorneys' fees) is approximately \$105,064.39. The plaintiffs have paid approximately \$75,000 to their attorneys; \$56,250.00 of which was paid to the Ratzan Law Group and \$18,750.00 of which was paid to Fann & Petrucci, P.A.

The Public Health Trust d/b/a Jackson Health System provides employees professional liability insurance through its Self-Insured Trust which has no policy number or expiration date. All monies paid in the past and future to Asia Rollins comes from this trust.

The Honorable Judge Bernard S. Shapiro ordered that the net settlement proceeds be deposited into a special needs trust account for the benefit of the minor, Asia Rollins, in order to preserve her Medicaid benefits. The funds held in the trust account of Ratzan Law Group for Asia are deemed unavailable to Asia and the guardian of the property, Indya Leshea Marc, until the special needs trust is established by the 11th Judicial Circuit Court, in and for Miami-Dade County, Florida.

Facts of Case: Around 11:50 A.M. on October 26, 2011, Asia Rollins, a three year old girl diagnosed with Dravet Syndrome who had a history of epileptic seizures, suffered a mild seizure at daycare. The daycare nurse administered two doses of seizure medication to Asia, but the doses were not effective. The daycare providers called EMS who reported that Asia had been seizing for approximately fifteen minutes upon their arrival. EMS administered two additional doses of valium and oxygen via nonrebreather mask. EMS noted that Asia was making gurgling sounds and had poor respiratory effort so she was given oxygen through bag mask ventilation during transport.

After arriving at the hospital, it was noted that Asia still had poor respiratory effort and diffuse rhonchi, meaning she was making a coarse rattling respiratory sound. She was given an albuterol nebulizer but showed minimum improvement. According to Asia's discharge summary, it was at this point, because her respiratory efforts were poor and breaths were shallow, that it was decided to electively intubate her.

A pediatric resident attempted to intubate Asia but failed and bag mask ventilation was started before the second attempt. The second attempt was successful according to Asia's discharge summary; however, the tube was dislodged as it was being taped. The third attempt at intubation was successful; however, discharge notes indicate that vomit was emitted from the endotracheal tube. After the third attempt Asia's oxygen levels and heart rate decreased such that she required CPR.

A fourth attempt at intubation, by Dr. Quiero, was successful but Asia had gone into asystole; her heart rate had flat lined and she had no pulses without CPR. Asia was given four doses of epinephrine with ongoing CPR, two doses of calcium chloride, two doses of sodium bicarbonate, and one dose of calcium gluconate. Following the fourth intubation, CPR, and medication, Asia's heart rate returned to the 160s, and she was transferred to the Pediatric Intensive Care Unit for continued treatment.

On October 31, 2011, an MRI of Asia's brain showed findings consistent with severe hypoxic ischemic injury, distortion of the brain stem due to herniation on both sides, and herniation of bilateral tonsils. Asia was diagnosed with hypoxic ischemic encephalopathy and cortical blindness. On March 14, 2013, Dr. Craig J. Spurdle, M.D., noted that Asia has globally involved spastic quadriplegia and according to Asia's neurologist, Dr. Ian Miller, M.D., as a result of the hypoxic ischemic injury Asia sustained in October of 2011, she requires 24-hour, 7-days a week monitoring at a medical level her family is unable to provide.

According to Dr. Miller, Asia will not be able to lead an independent life. Asia is currently 6 years old

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and is wheelchair bound. Asia cannot walk or talk and is blind; however, a neurology note from Dr. Sayed Naqvi, M.D., dated June 11, 2014, states that Asia will turn her head when someone calls her name, that she smiles and laughs, and that she likes to pat the dog her mother bought for her. Despite these noted improvements, Asia needs a professional attendant and LPN level care 24 hours a day, 7 days a week for the rest of her life. Asia cannot feed herself and has a gastrostomy tube. Asia needs constant attention to her airway and suction when necessary to prevent mucous accumulation in her lungs and airway. Asia cannot dress herself or get around her home without assistance and will need assistive devices in order to get around her home in the future.

In the Guardian Ad Litem report submitted, Stephen F. Cain, Esq., posits that "[a] reasonable estimate of the full damages in this case would likely exceed \$35,000,000." He rests his estimation on similar cases he has handled in the past where the life care plan was estimated at \$23,000,000 to \$26,000,000 and non-economic damages of the child and parents ranged from \$15,000,000 to \$20,000,000.

According to the Settlement and Release Agreement submitted by both parties, the Public Health Trust agreed to support the enactment of a claim bill authorizing the additional payment of \$699,999 from its Self-Insured Trust and affirmatively agreed to not interfere with, lobby against, or attempt to influence anyone against the passage of said claim bill but made no admission of liability.

Recommendation: I respectfully recommend that House Bill 3527 be reported **FAVORABLY**.

Parker Aziz, Special Master

Date: April 3, 2015

cc: Representative Avila, House Sponsor
Senator Diaz de la Portilla, Senate Sponsor
Tom Cibula, Senate Special Master