



STORAGE NAME: h6533.CJC

DATE: 3/6/2017

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

Bill #: HB 6533; Relief/Jennifer Wohlgemuth/Pasco County Sheriff's Office

Sponsor: Grant

Companion Bill: CS/SB 36 by Judiciary, Montford

Special Master: Parker Aziz

Basic Information:

Claimants: Jennifer Wohlgemuth

Respondent: Pasco County Sheriff's Office

Amount Requested: \$2,600,000, to be paid out over 8 years

Type of Claim: Local equitable claim; result of a settlement agreement.

Respondent's Position: The Pasco County Sheriff's Office does not oppose the claim bill.

Collateral Sources: None reported.

Attorney's/Lobbying Fees: Claimant's attorney has an agreement with Claimant to take a fee of 25% of Claimant's total recovery. Claimant's attorney has hired a lobbyist and has agreed to pay 5% of any amount of the claim bill in lobbying fees; such payment is included in the attorney's 25% fee. There are no outstanding costs remaining.

Prior Legislative History: This is the seventh session this claim has been presented to the Legislature. In the prior six sessions, this claim has never been heard in a House committee. In the past two sessions, the Senate bill was heard in Senate Judiciary Committee before dying in Senate Committee on Community Affairs.

Procedural Summary: On March 15, 2007, Traci Wohlgemuth as plenary guardian of her daughter, Jennifer Wohlgemuth, filed suit against the Pasco County Sherriff's Office, Case No. 512007 CA 000859, in the 6th Judicial Circuit, in and for Pasco County, Florida, alleging negligence. Mrs. Wohlgemuth received a verdict in a bench trial against the Pasco County Sherriff's Office, awarding total damages of \$9,141,267.32. The court found that Deputy Petrillo was 95% responsible for Jennifer's injuries, and that Jennifer was responsible for the remaining 5%, due to her alleged failure to wear a seat belt. Accordingly, the court entered its Amended Final Judgment

in the amount of \$8,724,754.40. The Pasco County Sheriff appealed the Amended Final Judgment to the Second District Court of Appeals. Oral arguments were heard on March 2, 2010, and eight days later on March 10, 2010, the 2nd DCA affirmed the trial court's Final Judgment. Pursuant to the Judgment, Pasco County Sheriff's Office paid the sovereign immunity limit of \$100,000.

On April 15, 2016, the parties entered into a settlement agreement for the amount of \$2,600,000. Under the terms of the agreement, Pasco County Sheriff's Office will pay \$325,000 a year for 8 years. If Jennifer Wohlgemuth dies anytime during the 8 years of payments, any future payments will cease and the agreement will become null and void. The first payment will be paid by October 31st of the year the Governor signs the claim bill.

Facts of Case: In the very early morning of January 3, 2005, 21-year-old Jennifer Wohlgemuth was driving southbound on Regency Park Boulevard with two of her friends. At approximately 1:35 a.m., Pasco County Sheriff's Deputy Kenneth Petrillo, while training another officer, was driving one of four law enforcement vehicles engaged in a high-speed chase. The other law enforcement vehicles (one New Port Richey police vehicle and two Port Richey police vehicles) were in pursuit a vehicle drive by a possible drunk driver. Deputy Petrillo's vehicle was seven to ten seconds behind the other pursuit vehicles. Testimony from several witnesses indicated that Deputy Petrillo's vehicle's siren and flashing red/blue lights were not engaged. Testimony from other witnesses provided his lights were on, however, the FHP investigator concluded that evidence of his lights being on was inconclusive. After the crash, Deputy Petrillo's siren switch was found to be in the radio mode, indicating that the siren was not activated at the time of the crash. Additionally, video from a nearby gas station showed reflections of the first three pursuit vehicles red/blue lights but failed to show red/blue lights on Deputy Petrillo's vehicle. While still engaged in the pursuit, Deputy Petrillo sped through a red light at Ridge Road and Regency Park Boulevard, and directly struck the passenger side of Jennifer's vehicle. Jennifer's car traveled 147 feet from the impact location and after the accident Deputy Petrillo's vehicle caught on fire.

Witness testimony estimates Deputy Petrillo's speeds ranging upwards of 110 MPH; however, accident reconstruction models indicate that the actual speed of Deputy Petrillo's vehicle was roughly 60 MPH at the time of impact. In either respect, Deputy Petrillo was travelling well above posted speed limits. An Internal Affairs review of the accident determined that Deputy Petrillo violated Pasco County Sheriff's Office policies and Florida Statutes regarding police pursuit. Deputy Petrillo was disciplined by Internal Affairs and received a 30 day suspension without pay, was re-assigned for 45 days, and was required to conduct a training course for his fellow deputies regarding pursuits and safety.

Blood draws were taken from Jennifer while she was unconscious. Toxicology reports indicated that Jennifer had been drinking that night with a blood alcohol level of .022 which is below the impairment standard of .05.¹ Toxicology reports also indicated that Jennifer tested positive for cocaine metabolites and benzodiazepine. Witnesses observed her drinking two "Jaeger Bombs" at roughly 11:00 p.m. the night immediately preceding the accident. It was also reported that Mrs. Wohlgemuth was in possession of several pills of Xanax. Despite these reports, there is no evidence that Jennifer was actually impaired at the time of the accident.

Jennifer's injuries were a direct and proximate result of Deputy Petrillo's breach of the duty he owed to her. Jennifer sustained significant injuries and was immediately transported to the hospital. As a result of the accident, Jennifer was in a coma for 18 days, unable to speak for several months, and did not return home from the hospital until August 2005. Jennifer suffered serious brain injuries, including subdural hematoma of the right frontal lobe and a subarachnoid hemorrhage. Due to the

¹ s. 316.1934(2)(b), F.S. (Toxicology report in excess of .05 but less than .08 may be considered with other evidence in determining whether a person was under the influence of alcoholic beverage to the extent that his or her normal faculties were impaired.).

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swelling in her brain, part of her skull was removed. Jennifer continues to suffer from her injuries from the accident, including, severe memory loss, partial loss of vision, lack of balance, urinary problems, anxiety, depression, dysarthric speech, acne, and weight fluctuations. Jennifer's behavior and impulse control are similar to those of a 7-year-old and require her to be supervised at all times. Her injuries have severely limited her ability to drive, hold a job, or live independently.

Recommendation: Jennifer's attorneys have indicated a special needs trust has been established and any amount awarded in the claim bill will be placed in the trust. The bill should be amended to direct any amount awarded in the bill be placed in the special needs trust.

Accordingly, I respectfully recommend that House Bill 6533 be reported **FAVORABLY**.

Parker Aziz, Special Master

Date: March 6, 2017

cc: Representative Grant, House Sponsor
Senator Montford, Senate Sponsor
Tracy Sumner, Senate Special Master