Special Master's Final Report

The Honorable Daniel Perez
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: HB 6503 - Representative Nix
Relief/Mande Penney-Lemmon/Sarasota County

SUMMARY

This is a contested excess judgment claim for $2,291,364.63, based on a $2,491,364.63 jury verdict awarding monetary damages to Mande Penney-Lemmon ("Ms. Penney-Lemmon") for the injuries and other damages she allegedly sustained when a Sarasota County ("County") employee drove a County truck into the back of Ms. Penny-Lemmon's vehicle while Ms. Penney-Lemmon was stopped at a stop light, causing her vehicle to impact the vehicle stopped in front of her.

Ms. Penney-Lemmon alleges that the County was negligent through the actions of its employee. The County, in turn, does not contest that its employee was negligent in crashing into Ms. Penney-Lemmon's vehicle, and has paid Ms. Penney-Lemmon the $200,000 authorized under Florida's sovereign immunity law; however, the County does contest Ms. Penney-Lemmon's allegation that the injuries she is claiming were caused by the crash with its employee and, consequently, that the County should be responsible for paying the remainder of the damages. For the reasons set out below, the undersigned Special Master finds that Ms. Penney-Lemmon has not proven the causation or damages elements of negligence by a preponderance of the evidence and recommends that HB 6503 be reported UNFAVORABLY.

FINDINGS OF FACT

Incident Overview

On the morning of October 1, 2018, then-59-year-old Mande Penney-Lemmon ("Ms. Penney-Lemmon") was driving her elderly friend to a doctor's appointment when she stopped her vehicle[1] on the westward, downward slope of the Venice Avenue Bridge in Venice, Florida; according to her testimony, she stopped her vehicle in response to traffic stalling in front of her due to a red traffic light. At the same time, Jill Parnell ("Ms. Parnell"), a Sarasota County ("County") employee, was driving a County-owned vehicle[2] to a work-related meeting; by her own admission, Ms. Parnell did not know the way to the meeting site and, thus, she wore headphones so that she could better hear GPS directions coming from her cellphone.

[1] Ms. Penney-Lemmon's vehicle was a 2006 Dodge Magnum.
[2] The County's vehicle was a 2012 Ford pick-up truck.

Unfortunately, as Ms. Parnell proceeded across the Venice Avenue Bridge, Ms. Parnell did not notice that traffic had stopped, and she drove the County's vehicle directly into the back of Ms. Penney-Lemmon's vehicle; the force of the impact then pushed Ms. Penney-Lemmon's vehicle into the vehicle in front of hers, which vehicle, in turn, impacted the vehicle in front of it.[3] The Venice Police Department responded to the scene, as did emergency medical technicians with the Venice Fire Department; however, all parties involved in the crash, including Ms. Penney-Lemmon, refused medical treatment on the scene, and Officer P. Freeman, the traffic officer assigned to the crash investigation, noted that "all parties appeared to be ok." Indeed, Ms. Penney-Lemmon admits to telling the emergency responders on the scene that she was fine.

Officer Freemen ultimately cited Ms. Parnell for careless driving,[4] and did not find that any of the other drivers involved in the accident contributed to causing the accident; indeed, Ms. Parnell later testified that the accident was entirely Ms. Parnell's fault. All four drivers involved in the accident then drove their vehicles away from the scene, including Ms. Penney-Lemmon, who proceeded to drive her elderly friend to her doctor's appointment as planned.

Damages

Although Officer Freeman classified Ms. Penney-Lemmon's vehicle as "functional," such that she was allowed to drive it away from the scene, Ms. Penney-Lemmon apparently determined, while waiting at the doctor's office with her friend, that she needed to have her vehicle towed from the parking lot. Ms. Penney-Lemmon's insurance company ultimately declared her vehicle a total loss, and she recovered damages from the County for this loss; thus, Ms. Penney-Lemmon is not asserting damages to her motor vehicle as part of the instant claim bill.

Ms. Penny-Lemmon does, however, allege damages relating to bodily injury, pain and suffering, disability, past and future medical expenses, lost wages, and lost future earnings. To that end, Ms. Penney-Lemmon sued the County on June 20, 2022, and the matter went to trial on April 8, 2024, with the County asserting several affirmative defenses, including that the injuries which Ms. Penney-Lemmon allegedly suffered in connection with the October 1, 2018, accident were not in fact caused by such accident. The jury ultimately returned a verdict in Ms. Penney-Lemmon's favor, awarding her $2,491,364.63 for her alleged damages.

Diagnoses

The record reveals that Ms. Penney-Lemmon did not seek accident-related medical treatment until after her attorneys referred her to a chiropractor, Dr. James Theriault; indeed, the record reveals that she never went to the emergency room, or to seek any kind of urgent care from a medical doctor post-accident. In any case, Ms. Penney-Lemmon complained to Dr. Theriault of moderate, constant bilateral headaches; moderate to severe neck pain, with restricted movement; back pain; pain in both her right and left shoulders; and temporomandibular joint ("TMJ") pain. Dr. Theriault ultimately concluded that such symptoms were consistent with the type of symptoms associated with a motor vehicle accident, and eventually, referred Ms. Penney-Lemmon to Dr. Sanjay Yathiraj, a neurologist[5] (due to fears that she may have a concussion after observing signs of memory loss, emotional displays, and balance issues), a neurosurgeon (for epidural steroid injections for cervical spine pain), an orthopedic surgeon (for her shoulder pain), a TMJ specialist, and other specialists.

Traumatic Brain Injury

Dr. Yathiraj examined Ms. Penney-Lemmon and, based upon such exam (during which she reported symptoms such as headaches, concentration issues, and dizziness), as well as her reported history of a motor vehicle accident and her performance on a "NeuroTrax" computer test intended to measure brain function (the results of which suggest that Ms. Penney-Lemmon

[3] In other words, four vehicles were ultimately involved in the collision.
[4] Careless driving is a violation of s. 316.1925, F.S.
[5] Dr. Yathiraj is board-certified in neurology, neuromuscular medicine, sleep medicine, and TBI medicine.

exhibited slightly-below-average alertness and working memory functions),[6] diagnosed Ms. Penney-Lemmon with a mild to moderate traumatic brain injury ("TBI"). He then referred Ms. Penney-Lemmon to Dr. Hebron White,[7] owner of a medical clinic specializing in TBI treatments, for procedures including physical therapy, hyperbaric oxygen therapy, IV infusions (consisting of adenosine triphosphate, along with vitamins and antioxidants), and platelet-rich plasma infusions. Dr. White later testified at the trial held in this matter that these are not the standard treatments for a TBI; rather, according to Dr. White, these procedures are part of a protocol Dr. White developed in consultation with Dr. Yathiraj, as they considered standard TBI treatments insufficient.[8]

Further, as part of his treatment of Ms. Penney-Lemmon, Dr. Yathiraj ordered an MRI for Ms. Penney-Lemmon. The radiology report notes that Ms. Penney-Lemmon has a history of multiple sclerosis ("MS"), a condition which causes, among other things, memory loss, mood changes, weakness, and balance issues; Ms. Penney-Lemmon denies such a history, and none of the healthcare providers who testified in connection to the October 1, 2018, accident diagnosed her with MS. However, it is apparent that such healthcare providers were not looking for an MS diagnosis as the source of Ms. Penney-Lemmon's symptoms, as she reported only that she had been involved in a motor vehicle accident. Further, as far as the record reveals, none of these treating healthcare providers reviewed all of Ms. Penney-Lemmon's medical records from the entirety of her lifetime; thus, they appear to have based their opinion that Ms. Penney-Lemmon does not have a history of MS entirely on her report that she has never received such a diagnosis.[9]

Ultimately, it is unclear how a history of MS came to be noted in Ms. Penney-Lemmon's radiology report; even if she does not in fact have such a history, however, Dr. Stephen Veigh,[10] the neuroradiologist who ultimately reviewed Ms. Penney-Lemmon's MRI, noted not evidence of a TBI, but instead plaques on Ms. Penney-Lemmon's brain "consistent with [MS]."[11] Indeed, Dr. Veigh later testified at the trial held in this matter that he "knew right off the bat that this was an abnormal brain MRI," noting numerous bright white areas, which he explained was not something you would see on a "normal brain," or even a brain with a TBI, and that he had recommended a follow-up MRI of Ms. Penney-Lemmon's brain for further plaques assessment using a different imaging technique.[12] Dr. Veigh ultimately reviewed the results of this second MRI, concluding that it revealed, again, not a TBI, but changes "consistent with demyelinating disease/[MS]."[13]

Other Diagnoses

Dr. Robert Chuong examined Ms. Penney-Lemmon in connection to her TMJ pain complaint. Ms. Penney-Lemmon testified at the trial held in this matter that she had no prior jaw issues before the 2018 accident, and in his medical records, Dr. Chuong notes that Ms. Penney-Lemmon has "no history of prior trauma or TMJ problems"; however, a review of records submitted by the County as part of the Special Master hearing held in this matter shows that Ms.

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[6] At the Special Master hearing held in this matter, the County presented the testimony of a neurologist who questioned the use of the NeuroTrax computer test as a diagnostic tool, as, according to his testimony, this is not the standard diagnostic test for a TBI, and the results of such a test can be skewed if the taker is distracted, as this test cannot distinguish causes behind results; instead, he noted that the standard test for a TBI is a battery of questions, of which there was no record in Ms. Penney-Lemmon's file. However, Counsel for Ms. Penney-Lemmon objected to the testimony of this witness, as he had not testified in the trial held in this matter, and counsel for the County did not allege that Ms. Penney-Lemmon is lying about suffering neurological deficits. Thus, the undersigned does not find it necessary to delve into the question of the usefulness of the NeuroTrax results.

[7] Dr. White is board-certified in emergency medicine.

[8] Dr. White noted that only two other medical clinics in the United States offer such treatments for a TBI.

[9] The undersigned acknowledges that reviewing a patient's entire medical history is not common practice for any healthcare provider and, indeed, would not be practical or likely.

[10] Dr. Stephen Veigh is a board-certified radiologist specializing in neuroradiology.

[11] Dr. Veigh did note that, typically, one cannot see evidence of a TBI with a routine MRI.

[12] The first MRI was a "regular" MRI, which looks at the solid parts of the brain that can be seen with the naked eye. The second MRI was a "diffusion tensor imaging" MRI, which looks at the brain at a microscopic level.

[13] In his testimony, Dr. Yathiraj noted that he disagreed with the diagnosis, as MS is a "clinical diagnosis" that requires a physical exam, a spinal tap, and consideration of the patient's history.

Penney-Lemmon was involved in a head-on motor vehicle accident in late 1996, after which she complained of TMJ pain and sought treatment from a TMJ specialist.[14]

Similarly, Dr. Richard Katz examined Ms. Penny-Lemmon in connection to her shoulder pain, ultimately diagnosing her with a tear in her left shoulder. However, the records related to Ms. Penney-Lemmon's 1996 motor vehicle accident also reveal that Ms. Penney-Lemmon complained of "frequent left shoulder and scapular pain," for which she sought medical intervention.

Finally, Dr. Theriault diagnosed Ms. Penney-Lemmon with a disk bulge and a disk herniation after reviewing MRI images of her spine. However, Ms. Penney-Lemmon's 1996 accident records reveal that she received treatment from a chiropractor for several years as a result of such accident, complaining of persistent neck and back pain at that time, and that her prognosis was considered "guarded," meaning that there was an 80-90 percent chance that she would suffer "long term residuals such as persistent muscle pain, neck and back stiffness, headaches, and paresthesia."[15]

Past and Future Medical Expenses

Ms. Penney-Lemmon presented evidence that she incurred $72,028.63 in past medical care sought in connection to the 2018 accident, but that there are no outstanding liens associated with this care. As for her future medical expenses, Ms. Penney-Lemmon presented a Life Care Plan prepared by Dr. White, one of her treating physicians and also a certified life care planner; therein, Dr. White estimates that Ms. Penney-Lemmon's future medical care necessitated by the 2018 accident will cost approximately $851,851.[16] Dr. White then estimated that Ms. Penney-Lemmon will incur approximately $74,118.24 in future medication costs. However, counsel for Ms. Penney-Lemmon ultimately suggested to the jury in this matter that an appropriate range for future medical expenses was somewhere between $417,000 and $600,000, with the highest possible range being somewhere in excess of $800,000; the jury then awarded her $500,000.

In any event, at the special master hearing in this matter, Ms. Penney-Lemmon testified that, more than six years after the accident, she has not undergone any of the recommended surgical procedures and does not receive any of the recommended therapies or procedures (such as physical therapy, the TBI treatments, or the epidural steroid injections); the record also suggests that she now sees only a primary care provider and mental health providers.[17] Thus, the record reveals that, even as Ms. Penney-Lemmon claims she needs extensive future medical care due to the 2018 accident, Ms. Penney-Lemmon is not actively seeking most of such care.

Lost Wages and Lost Future Earnings

Ms. Penney-Lemmon testified in both the trial and the Special Master hearing held in this matter that, at the time of the 2018 accident, she worked as a self-employed housekeeper, seeing certain clients on a regular basis and others on an as-needed basis. After the 2018 accident, Dr. Theriault initially restricted Ms. Penney-Lemmon from working for one week, although this

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[14] The record reveals that Ms. Penney-Lemmon received emergency medical treatment at a local hospital's emergency department after this 1996 accident.

[15] Paresthesia is a technical term for a tingling or prickling sensation sometimes referred to as a "pins and needles" sensation. Cleveland Clinic, *Paresthesia*, https://my.clevelandclinic.org/health/symptoms/24932-paresthesia (last visited Apr. 1, 2025).

[16] Specifically, Dr. White believed that such costs would result from necessary mental and behavioral health counseling, physical therapy, neurospine imaging, orthopedic surgery procedures and related imaging and office visits, office visits with her neurologist and related therapies and imaging, and office visits with her primary care provider. It is also worth noting that $102,400 of this amount is earmarked for specialized TBI treatments, including hyperbaric oxygen therapy, IV infusions, and platelet-rich plasma infusions; as previously mentioned, Dr. White is, according to his testimony, the owner of the only clinic in Florida that offers such treatments, which clinic is, in turn, only one of three clinics in the United States that use such a treatment protocol as it is not considered the standard TBI treatment protocol.

[17] Ms. Penney-Lemmon testified in the Special Master hearing held in this matter that her primary care provider's physician assistant "isn't too concerned" about the 2018 accident; she did not elaborate as to her meaning.

restriction he extended several times as Ms. Penney-Lemmon reported ongoing symptoms. Eventually, Ms. Penney-Lemmon returned to work, but she testified that she could not keep up with the work as she could not focus, moved through her cleaning routine slowly, and struggled with pain and a limited range of motion. Consequently, in November of 2020, Dr. Theriault declared Ms. Penney-Lemmon to be permanently disabled and thus unable to continue working.

Based upon this disability declaration, and the jury verdict, Ms. Penney-Lemmon is claiming lost wages of approximately $120,000 and lost future earnings amounting to approximately $300,000. However, Ms. Penney-Lemmon testified that she never incorporated her housekeeping business, so there was no official record of how long she had been in business, and she was unable to provide any documentary evidence, such as tax returns or bank statements, showing her average income over any set time period. Additionally, Ms. Penney-Lemmon's testimony given in connection to the Special Master hearing held in this matter revealed that, since her 2018 accident, she still drives,[18] and her application for social security disability, submitted several years after the 2018 accident, was denied.[19]

CONCLUSIONS OF LAW

House Rule 5.6(b)

Pursuant to House Rule 5.6(b), jury verdicts are not binding on the Special Master or the House or any of its committees of reference. Thus, each claim is heard *de novo*, and the claimant has the burden to prove his or her claim by the preponderance of the evidence. This legal standard, which is, traditionally, the burden of proof applicable in most civil lawsuits, requires the plaintiff to prove that the allegations she raises are more likely than not to be true (in other words, that there is a greater than 50 percent chance of veracity).[20]

Negligence

In the instant matter, Ms. Penney-Lemmon raises a negligence claim, the elements of which are duty, breach, causation, and damages. Ms. Penney-Lemmon further asserts that the County is negligent through the actions of its employee, Ms. Parnell, under the *respondeat superior* doctrine.

Respondeat Superior

Under the common law *respondeat superior* doctrine, an employer is liable for the negligence of its employee when:

- The individual was an employee when the negligence occurred;
- The employee was acting within the course and scope of his or her employment; and
- The employee's activities were of a benefit to the employer.[21]

For conduct to be considered within the course and scope of the employee's employment, such conduct must have:

- Been of the kind for which the employee was employed to perform;
- Occurred within the time and space limits of his employment; and
- Been due at least in part to a purpose serving the employment.[22]

In the instant matter, the record reveals that, at the time of the accident, the County employed Ms. Parnell and that she was operating her County-issued vehicle on her way to a work-related

[18] Ms. Penney-Lemmon did also testify that driving does sometimes cause her to suffer panic attacks.
[19] Ms. Penney-Lemmon testified that her application was denied because she had a panic attack on her way to drop off her paperwork and thus never submitted it, but it is unclear why, if this is the case, neither her family members nor her attorneys helped her with the paperwork delivery or an appeal of the decision. In any event, Ms. Penney-Lemmon did not submit any paperwork from the social security office stating the official reason for her application's denial.
[20] *South Florida Water Management Dist. v. RLI Live Oak, LLC*, 139 So.3d 869 (Fla. 2014).
[21] *Iglesia Cristiana La Casa Del Senor, Inc. v. L.M.*, 783 So. 2d 353 (Fla. 3d DCA 2001).
[22] *Spencer v. Assurance Co. of Am.*, 39 F.3d 1146 (11th Cir. 1994) (applying Florida law).

meeting. This conduct, according to the record, was of the kind for which Ms. Parnell was employed to perform, occurred within the time and space limits of her employment, and was of a benefit to her employer; in other words, such conduct was in the course and scope of Ms. Penney-Lemmon's employment with the County. Thus, the undersigned finds that the County is liable for Ms. Parnell's negligence through the *respondeat superior* doctrine, to the extent that all of the elements of negligence, described below, are met.

Duty

For a defendant to be liable for negligence, there must be either an underlying statutory or common law duty of care with respect to the conduct at issue; this is true whether the defendant is an individual, a private business, or a government entity.[23] For purposes of a negligence claim, a legal duty exists if a defendant's conduct creates a foreseeable zone of risk that poses a general threat of harm to others; more specifically, in the case of a motor vehicle's operation, a motorist has a duty to use reasonable care on the roadways to avoid accidents.[24] Further, s. 316.1925, F.S., provides that it is careless driving for any person operating a vehicle upon the streets or highways within the state to fail to drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Meanwhile, s. 316.304, F.S., prohibits operating a vehicle while wearing a headset or other listening device, other than a hearing aid or instrument for the improvement of defective human hearing.

In the instant matter, the parties do not dispute, and the record supports, that Ms. Parnell owed a duty to Ms. Penney-Lemmon to use reasonable care on the roadway to avoid accidents, to not engage in careless driving, and to avoid wearing a headset while operating a vehicle. Thus, I find that the first element of negligence is proven.

Breach

The existence of a duty of care is alone insufficient to sustain a negligence claim.[25] Once the existence of a duty has been established, it merely "opens the courthouse doors"; a plaintiff must still prove the remaining elements of negligence, the next of which is a breach of the duty of care.[26]

In the instant matter, the parties do not dispute, and the record supports, that Ms. Parnell collided her County-issued vehicle into the back of Ms. Penney-Lemmon's properly-stopped vehicle on October 1, 2018, while wearing a headset to better hear her driving directions. In other words, Ms. Parnell failed to use reasonable care to avoid the accident, engaged in careless driving, and wore a headset while operating a vehicle. Thus, I find that Ms. Parnell breached the duty of care she owed to Ms. Penney-Lemmon.

Causation

Once a duty and a breach thereof are established, causation must be determined. In making this determination, Florida courts follow the "more likely than not" standard, requiring proof that the negligence proximately caused the plaintiff's injuries, which in turn requires the factfinder to analyze whether the injury was a reasonably foreseeable consequence of the danger created by the defendant's negligent conduct.[27]

In the instant matter, Ms. Penney-Lemmon alleges that she sustained a TBI and other injuries as a result of the October 1, 2018 accident, and the undersigned acknowledges that such

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[23] *Trianon Park v. Condo Assoc. v. City of Hialeah*, 468 So. 2d 912 (Fla. 1985).
[24] *Williams v. Davis*, 974 So. 2d 1052 (Fla. 2007), citing *Bellere v. Madsen*, 114 So. 2d 619, 621 (Fla. 1959) and *Nelson v. Ziegler*, 89 So. 2d 780, 783 (Fla. 1956).
[25] *Whitt v. Silverman*, 788 So. 2d 210 (Fla. 2001).
[26] *Id.* at 221.
[27] *Gooding v. University Hosp. Bldg., Inc.*, 445 So. 2d 1015 (Fla. 1984); *Ruiz v. Tenet Hialeah Healthsystem*, Inc., 260 So. 3d 977 (Fla. 2018).

injuries are of the type that do sometimes result from such an accident. However, the record reveals that, as discussed above, Ms. Penny-Lemmon drove away from the scene of the accident after refusing medical treatment and indicating that she was fine, that she followed through with her plan to take her friend to a doctor's appointment immediately after the accident, and that she sought medical treatment only after receiving a referral for chiropractic care from her attorneys.

Further, the record also raises significant questions as to whether the neurological deficits to which Ms. Penney-Lemmon testified actually resulted from a motor vehicle accident and not, as might be the case, from MS or another demyelinating disease. The record also raises significant questions as to whether the other injuries which Ms. Penney-Lemmon alleges, including TMJ, a shoulder tear, and back and neck issues, resulted from the 2018 accident and not the 1996 accident, after which she raised similar complaints and received a "guarded" diagnosis (meaning, as stated above, that there was an 80-90 percent chance that she would experience "long term residuals such as persistent muscle pain, neck and back stiffness, headaches, and paresthesia"). In light of the foregoing, the undersigned finds that Ms. Penney-Lemmon failed to prove, by a preponderance of the evidence, that Ms. Parnell's breach of the duty of care proximately caused her injuries.

Damages

To sustain a negligence claim, the plaintiff must prove actual loss or damages resulting from the injury, and the amount awarded must be precisely commensurate with the injury suffered.[28] Actual damages may be "economic damages" (that is, financial losses that would not have occurred but for the injury giving rise to the cause of action, such as lost wages and costs of medical care) or "non-economic damages" (that is, nonfinancial losses that would not have occurred but for the injury giving rise to the cause of action, such as pain and suffering, physical impairment, and other nonfinancial losses authorized under general law).[29]

In the instant matter, Ms. Penney-Lemmon claims economic damages in the amount of $72,028.63 for past medical care; at least $500,000 for future medical care; $120,000 for lost wages; and $300,000 for lost future earnings; she also alleges pain and suffering, physical impairment, and other non-economic damages. However, as stated above, the record raises significant questions as to whether the injuries for which she claims such damages actually resulted from the 2018 accident; if they did not, then Ms. Penney-Lemmon would not be entitled to recover such damages from the County. In any case, as mentioned above, the record also reveals that Ms. Penney-Lemmon provided no documentary proof supporting her claims for lost wages and lost future earnings; and that she has not, more than six years after the accident, received any of the recommended surgeries, is not undergoing any of the recommended procedures or therapies, and does not see most of the recommended providers. In light of the foregoing, the undersigned finds that Ms. Penney-Lemmon has not proven, by a preponderance of the evidence, that the damages she claims are connected to the 2018 accident, or that such damages are precisely commensurate with the injuries alleged.

POSITIONS OF CLAIMANT AND RESPONDENT

Claimant's Position: Ms. Penney-Lemmon asserts that the County was negligent through the actions of its employee, Ms. Parnell, and that such negligence resulted in specified injuries and damages for which a jury awarded her $2,491,364.63 and for which the County has since paid her $200,000. Thus, Ms. Penney-Lemmon asserts she is entitled to the $2,291,364.63 excess judgment amount.

County's Position: The County does not contest that its employee, Ms. Parnell, was negligent in colliding her County-issued vehicle into Ms. Penney-Lemmon's vehicle, and has paid Ms. Penney-Lemmon the $200,000 authorized under Florida's sovereign immunity law, in addition to

[28] *McKinley v. Gualtieri*, 338 So. 3d 429 (Fla. 2d DCA 2022); *Birdsall v. Coolidge*, 93 U.S. 64 (1876).
[29] FLJUR MEDMALP § 107.

damages for the replacement of her vehicle that are not a part of this claim bill. However, the County does contest Ms. Penney-Lemmon's allegation that her injuries were caused by the crash with Ms. Parnell and, consequently, that the County should be responsible for paying the remainder of the damages.

ATTORNEY AND LOBBYING FEES

Pursuant to the terms of the claim bill, attorney fees may not exceed 25 percent of the amount awarded (that is, $572,841.16). By agreement of the Claimant, lobbying fees may not exceed five percent of the total award (that is $114,568.23).

RECOMMENDATION

Given that Ms. Penney-Lemmon has not proven, by a preponderance of the evidence, the causation or damages elements of negligence, I recommend that HB 6503 be reported UNFAVORABLY.

Respectfully submitted,

CAITLIN R. MAWN,
House Special Master