



Civil Justice & Claims Subcommittee

**Wednesday, October 25, 2017
1:30 PM – 3:30 PM
404 HOB**

Meeting Packet

**Richard Corcoran
Speaker**

**Heather Fitzenhagen
Chair**

Committee Meeting Notice
HOUSE OF REPRESENTATIVES

Civil Justice & Claims Subcommittee

Start Date and Time: Wednesday, October 25, 2017 01:30 pm
End Date and Time: Wednesday, October 25, 2017 03:30 pm
Location: Sumner Hall (404 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 57 Appointment of Attorneys for Dependent Children with Special Needs by White
HB 6501 Relief/Cristina Alvarez and George Patnode/Department of Health by Toledo
HB 6505 Relief/Vonshelle Brothers/Department of Health by Jenne

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00p.m., Tuesday, October 24, 2017.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00p.m., Tuesday, October 24, 2017.



NOTICE FINALIZED on 10/18/2017 4:17PM by Bowen.Erika

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 57 Appointment of Attorneys for Dependent Children with Special Needs

SPONSOR(S): White

TIED BILLS: None **IDEN./SIM. BILLS:** SB 146

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee		Tuszynski 	Bond 
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Dependency court is the division of circuit court concerned with the care and custody of abused, abandoned, or neglected children. Most children in dependency court are not represented by an attorney. However, in certain instances, the court is required to appoint an attorney to represent a dependent child with specific special needs. Before appointing an attorney from a registry, the court is required to ask the Guardian ad Litem Program whether a pro bono attorney is willing to be appointed for the child. Current law requires the state to compensate appointed attorneys and provide access to funding for expert witnesses, depositions, and other costs of litigation for an appointed attorney, but a pro bono attorney is not reimbursed for costs incurred.

The bill requires the Justice Administration Commission to provide a pro bono attorney who represents a dependent child with special needs the same funding for expert witnesses, depositions, and other due process costs of litigation as a paid appointed attorney.

The bill has an indeterminate minimal fiscal impact on state government. The bill does not appear to have a fiscal impact on local government.

The effective date of the bill is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Dependency System and the Statewide Guardian ad Litem Program

Chapter 39, F.S., outlines Florida's child welfare system, known as the dependency system. The Department of Children and Families (DCF) is required to investigate reports of abuse, abandonment, and neglect of children. DCF also provides services to families and children in the dependency system. After DCF investigates a report, if it is determined that a child cannot remain safely in home with services and is removed from his or her home, the court is required to appoint the Guardian ad Litem Program (GAL Program) to represent the best interests of the child.¹ The Guardian ad Litem program employs program attorneys to represent the best interest of the child in court. In certain dependency cases, in addition to the GAL Program, the court must appoint an attorney ad litem to represent the child.

Appointment of an Attorney for a Dependent Child with Certain Special Needs

Current law provides that "dependent children with certain special needs have a particular need for an attorney to represent them in proceedings so that the attorney may address the child's medical and related needs as well as the services and supports necessary for the child to live successfully in the community."² Section 39.01305, F.S., requires the court to appoint an attorney to represent a dependent child with specific special needs. The specific enumerated special needs are for a child who:³

- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing facility;
- Is prescribed psychotropic medication but declines assent to the medication;
- Has a diagnosis of a developmental disability;
- Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or
- Is a victim of human trafficking.

Before a court may appoint an attorney for the child, the court must request a recommendation from the GAL Program for a volunteer attorney. If such an attorney is available within 15 days after the court's request, the court must appoint that attorney.⁴ However, the court may appoint a compensated attorney within the 15-day period if the GAL Program informs the court it will not be able to recommend a volunteer attorney within the time period.⁵ An attorney appointed to represent the child must provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate proceedings.⁶

Justice Administration Commission

In 1965, the Legislature enacted s. 43.16, F.S., creating the Justice Administration Commission (JAC) to provide administrative services, such as budget management, for statewide judicial and justice

¹ S. 39.822(1), F.S.; S. 39.820(1), F.S.

² S. 39.01305(2), F.S.

³ S. 39.01305(3), F.S.

⁴ S. 39.01305(4)(a), F.S.

⁵ *Id.*

⁶ S. 39.01305(4)(b), F.S.

related offices.⁷ In 2004, the Legislature expanded the duties of the JAC to include the administrative duties related to contracting with court-appointed attorneys and related service providers.⁸ Court-appointed attorneys are chosen from registries maintained by each judicial circuit.⁹ A registry attorney executes a JAC registry contract¹⁰ and his or her fees and expenses are submitted to the JAC for payment.¹¹

Appointed attorneys are compensated and provided access to funding for expert witnesses, depositions, and other costs of litigation, unless the attorney has agreed to provide pro bono representation.¹² Payment to an attorney is subject to appropriations and review by the JAC.¹³ The JAC must contract with attorneys appointed by the court to represent a dependent child with special needs, but fees may not exceed \$1,000 per child per year.¹⁴ In addition, a compensated attorney is reimbursed for costs.¹⁵

Currently, the JAC does not provide access to funding for expert witnesses, depositions, and other costs of litigation to attorneys who have agreed to provide pro bono representation for a dependent child with special needs.

Effect of the Bill

HB 57 amends s. 39.01305, F.S., to require the JAC to provide a pro bono attorney who agrees to represent dependent children with certain special needs access to the same funding for expert witnesses, depositions, and other due process costs of litigation as an appointed registry attorney.

The effective date of the bill is upon becoming law.

B. SECTION DIRECTORY:

Section 1 creates a short title.

Section 2 amends s. 39.01305, F.S., relating to appointment of an attorney for a dependent child with certain special needs

Section 3 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

⁷ Ch. 65-328, Laws of Fla.

⁸ Ch. 2004-265, Laws of Fla.; contracted services include services such as investigators, court reporters, and expert witnesses.

⁹ Justice Administrative Commission, Court-Appointed Counsel, Policies & Procedures for Private Court-Appointed Counsel, available at: https://www.justiceadmin.org/court_app_counsel/P&P.pdf (last accessed October 17, 2017).

¹⁰ Justice Administrative Commission, *Instructions for Registry Contract*, available at: https://www.justiceadmin.org/court_app_counsel/agreementscontracts.aspx (last accessed October 16, 2017); Example Contract available at: https://www.justiceadmin.org/court_app_counsel/contracts/2017-2018/Draft.pdf.

¹¹ Justice Administrative Commission, *Court-Appointed Counsel*, available at: https://www.justiceadmin.org/court_app_counsel/index.aspx (last accessed October 16, 2017).

¹² S. 39.01305(5), F.S.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ S. 39.01305, F.S.

2. Expenditures:

The bill creates an indeterminate fiscal impact on the expenditures of the JAC. While it is unknown how many pro bono attorneys may take cases after the bill becomes effective, the shifting of cases from contracted registry attorneys to pro bono attorneys may decrease annual expenditures in attorney fees.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct impact on the private sector is unknown as the number of attorneys who may choose to take a case representing a dependent child with special needs pro bono is unknown. However, those attorneys will no longer need to spend personal or firm funds for expert witnesses, depositions, or other due process costs associated with litigation.

D. FISCAL COMMENTS:

The JAC reports that between July 1, 2014 through September 8, 2017 it has paid a total of \$3,537,217.52 in attorney fees for registry attorneys representing dependent children with certain special needs and \$27,007.16 in due process costs.¹⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a

¹⁶ Email from Veronica Vasquez, Public Records Coordinator, Justice Administrative Commission, Public Records Request, (Sept. 14, 2017) (On file with the Civil Justice & Claims Subcommittee Staff).

1 A bill to be entitled
 2 An act relating to appointment of attorneys for
 3 dependent children with special needs; providing a
 4 short title; amending s. 39.01305, F.S.; requiring the
 5 payment of due process costs of litigation of all pro
 6 bono attorneys appointed to represent dependent
 7 children with certain special needs, subject to
 8 appropriations and review for reasonableness;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. This act shall be called the "Pro Bono Matters
 14 Act of 2018."

15 Section 2. Subsection (5) of section 39.01305, Florida
 16 Statutes, is amended to read:

17 39.01305 Appointment of an attorney for a dependent child
 18 with certain special needs.—

19 (5) Unless ~~Except if~~ the attorney has agreed to provide
 20 pro bono services, an appointed attorney or organization must be
 21 adequately compensated. All appointed attorneys and
 22 organizations, including pro bono attorneys, must be provided
 23 with access to funding for expert witnesses, depositions, and
 24 other due process costs of litigation. Payment of attorney fees
 25 and case-related due process costs are to an attorney is subject

26 to appropriations and ~~subject to~~ review by the Justice
27 Administrative Commission for reasonableness. The Justice
28 Administrative Commission shall contract with attorneys
29 appointed by the court. Attorney fees may not exceed \$1,000 per
30 child per year.

31 Section 3. This act shall take effect upon becoming a law.



STORAGE NAME: h6501a.CJC

DATE: 10/19/2017

October 19, 2017

SPECIAL MASTER'S FINAL REPORT

The Honorable Richard Corcoran
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: HB 6501 - Representative Toledo
Relief/Cristina Alvarez and George Patnode/Department of Health

THIS IS A CONTESTED EXCESS JUDGMENT CLAIM FOR \$2,400,000 BASED ON A JURY VERDICT IN THE AMOUNT OF \$2,600,000 AGAINST THE MARTIN COUNTY HEALTH DEPARTMENT/DEPARTMENT OF HEALTH TO COMPENSATE CRISTINA ALVAREZ AND GEORGE PATNODE FOR THE WRONGFUL DEATH OF THEIR 5 MONTH-OLD SON, NICHOLAS. THE DEPARTMENT HAS PAID THE STATUTORY LIMIT OF \$200,000.

FINDINGS OF FACT:

Nicholas Patnode was born on August 8, 1997. On December 26, 1997, his mother brought him to the Martin County Health Department – Indiantown Clinic due to a fever. At that time, Nicholas was diagnosed with an ear infection by Dr. Williams, Nicholas's regular pediatrician. Dr. Williams prescribed an antibiotic, and asked Cristina Alvarez to bring him back in 10 days. Nicholas completed the antibiotic, and went in for the follow-up appointment on January 6, 1998. At the follow-up appointment, Dr. Williams found that Nicholas had recovered from the ear infection. Two days later, on Thursday, January 8, Nicholas again ran a fever causing his mother to bring him back to the Indiantown Clinic. Dr. Williams again saw Nicholas, who then had a fever of 103.7° F. Dr. Williams ordered a CBC (complete blood count) and a urine test, prescribed Tylenol,

asked his mother to keep cool clothes on him, and to watch for a rash. Dr. Williams then told her that if there was a rash or if the fever persisted or got worse, she should take Nicholas immediately to the emergency room.

The next day, January 9, 1998, Cristina Alvarez stated that she checked his temperature every 4 hours, and that his temperature was normal throughout the day. At about 4:30 p.m. Nicholas felt hot and had a fever of 100°F. His mother gave him a dose of Tylenol and checked his temperature again, and it was up to 101°F. At about the same time, George Patnode, Nicholas's father, and her husband at the time, arrived home from working on a friend's car. They proceeded directly to Martin Memorial Hospital South.

They arrived at Martin Memorial Hospital at 6:50 p.m. A CBC test was ordered, which showed an abnormal white blood count. While waiting for tests, Cristina noticed that Nicholas was getting limp and whining, and was starting to get blotches on his lips. A lumbar puncture indicated that Nicholas had pneumococcal meningitis. Nicholas was given intravenous antibiotics, and was transferred by ambulance to St. Mary's pediatric intensive care unit.

Nicholas arrived at St. Mary's at 1:57 a.m. on January 10th. At this point Nicholas went into septic shock, and was removed from life support later that morning and died.

The Lab Results at Martin County Health Department

When Cristina Alvarez brought Nicholas back to the clinic on January 8, 1998, Dr. Williams correctly noted that he was running a fever without a focus (meaning there was no apparent cause for the fever). In order to rule out a dangerous bacterial infection, he ordered a regular CBC.

The Indiantown Clinic did not have lab facilities. Samples were sent by courier to the Martin Memorial Medical Center, Inc., lab, and the lab would fax the results back to the clinic. On the January 8 visit, Dr. Williams ordered a routine CBC. Once the blood is drawn, various tests are performed and reported back to the ordering physician. The tests were completed at 11:30 p.m. on January 8, 1998, and showed a white blood cell count of 24,900. The printed lab results showed that they were faxed to the Indiantown Clinic at 12:17 p.m. on January 9. Had Dr. Williams ordered the CBC "stat," the results would have been ready by 5:30 p.m. that day. Expert testimony revealed that because this child had a fever without a focus, in order to meet the standard of care, Dr. Williams should have ordered the CBC stat.

At the time, the Martin County Health Department had a policy regarding review of lab results. The policy specifically required lab results to be date stamped upon receipt and routed to the

appropriate physician. The policy further required abnormal lab results to be followed up within 24 hours of receipt. Expert testimony revealed that the normal white blood count for a six-month old baby is no greater than 15,000. Nicholas's white blood count was 24,900. However, Dr. Williams did not review Nicholas's lab report until January 14, 1998, four days after he passed away.

The Martin County Health Department also had a policy with the lab, that the lab would call them immediately if any lab results revealed results that exceeded "panic values" that were set by the Health Department. The Martin County Health Department had set the panic value on white blood counts at 25,000, 100 more than Nicholas's results of 24,900, thus not qualifying for an immediate call from the lab. The claimant's expert opined that the panic value should have been set at 15,000, which was the reference range published by the American Academy of Pediatrics Red Book.

The claimant's expert ultimately opined that had the CBC test been ordered stat, or if the regular and actual results had been reviewed and acted upon according to policy, then a course of intravenous antibiotics could have been administered in time to save Nicholas's life.

The Parents and Family

Cristina and George Patnode had been married for approximately 10 years and had two children prior to Nicholas, George IV and Christopher. George IV is emotionally handicapped, has ADHD, and has pervasive developmental disorder. Christopher Patnode has ADHD.

George Patnode is a disabled veteran who also has other non-military disabilities.

Cristina and George separated four days after Nicholas's death and divorced in 2000. Both remarried. Cristina had another child, Jordan; George had another two children, Jade and Stone.

LITIGATION HISTORY:

Cristina Alvarez and George Patnode filed suit in 2000 in the Martin County Circuit Court, against Dr. Williams; the Department of Children and Family Services; Martin County Health Department; Dr. Polsky (ER doctor); Nurse Andrew Walker (ER nurse); and Martin Memorial Health Systems. Martin Memorial Health Systems settled with the claimants for \$35,000, and was dismissed with prejudice. Dr. Polsky and Nurse Walker were also released from the suit. The Department of Health was substituted for the Department of Children and Family Services. Personnel of county health departments are employed by the Department of Health pursuant to s. 154.04(2), F.S. Prior to trial, claimant's offered

to settle the case for \$200,000, which offer the Department of Health declined.

The case went to trial in February of 2002. The trial judge granted a directed verdict in favor of George Patnode on the affirmative defense of comparative negligence. The jury had the opportunity to apportion liability to the Department of Health (Martin County Health Department), Cristina Alvarez, and the Martin Memorial Medical Center Laboratory. The jury found 100% liability on the Martin County Health Department, and awarded the following: for Cristina Alvarez, \$1,000,000 for past pain and suffering and \$600,000 for future pain and suffering (for a total of \$1.6 million); for George Patnode, \$750,000 for past pain and suffering and \$250,000 for future pain and suffering (for a total of \$1 million), for a total award of \$2,600,000.

The Department's Motion for a New Trial was denied. The Department then appealed to the Fourth District Court of Appeal, arguing that the trial court erred by granting a directed verdict in favor of George Patnode on the affirmative defense of comparative negligence, and that the trial court erred by not allowing the Department to use a specific deposition for impeachment purposes. The Fourth District Court of Appeal issued a per curiam affirmance. The Department has paid the initial \$200,000 as allowed by s. 768.28, F.S.

CLAIMANT'S POSITION:

Claimant argues the jury verdict is supported by the evidence and should be given full effect.

RESPONDENT'S POSITION:

The Department argues as follows:

- Cristina Patnode should be comparatively negligent for not taking Nicholas to the emergency room sooner, and for not telling the emergency room nurse about seeing Dr. Williams the day before.
- There was no evidence that the lab transmitted the lab results at the time marked on the lab results.
- Because many labs do not choose to establish "panic values" at all, Martin County Health Department's establishment of these particular panic values did not fall below the standard of care.

CONCLUSION OF LAW:

Rather than the subjective, traditional "shock the conscience" standard used by courts, for purposes of a claim bill, a respondent that assails a jury verdict as being excessive should have the burden of showing the Legislature that the verdict was unsupported by sufficient credible evidence; that it was influenced by corruption, passion, prejudice, or other improper motives; that it has not reasonable relation to the damages shown; that it imposes an overwhelming hardship on the respondent out of proportion to the injuries suffered; that it

obviously and grossly exceeds the maximum limit of a reasonable range within which a jury may properly operate; or that there are post-judgment considerations that were not known at the time of the jury verdict. The Department of Health has failed to demonstrate any of these factors.

I find that there was substantial, competent evidence to show that the medical care provided by Dr. Williams at the Indiantown Clinic of the Martin County Health Department fell below the prevailing professional standard of care, and that as an employee of the Department of Health, the Department is vicariously liable for Dr. Williams' negligence. I further find that Nicholas's death was caused by such negligence, and that the damages are appropriate.

ATTORNEY'S/
LOBBYING FEES:

Claimants' attorney has an agreement with Claimants to take a fee of 25% of Claimants' total recovery. Claimants' 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. Outstanding costs total \$2,080.64.

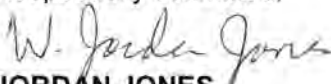
LEGISLATIVE HISTORY:

This is the eighth session this claim has been presented to the Legislature. It was initially filed in 2004 as House Bill 235 by Representative Kottkamp and Senate Bill 26 by Senator Campbell. Last session, CS/HB 6553 (2017) passed the House by a vote of 111-4 but later died in Senate Appropriations.

RECOMMENDATIONS:

Based on the foregoing, I recommend that House Bill 6501 be reported **FAVORABLY**.

Respectfully submitted,


JORDAN JONES

House Special Master

cc: Representative Toledo, House Sponsor
Senator Rodriguez, Senate Sponsor
Tom Cibula, Senate Special Master

1 A bill to be entitled
2 An act for the relief of Cristina Alvarez and George
3 Patnode; providing appropriations to compensate them
4 for the death of their son, Nicholas Patnode, a minor,
5 due to the negligence of the Department of Health;
6 providing for the repayment of Medicaid liens;
7 providing a limitation on the payment of fees and
8 costs; providing an effective date.
9
10 WHEREAS, on January 8, 1998, Nicholas Patnode, 5 months of
11 age, was seen for a fever at the Martin County Health Department
12 - Indiantown Clinic, and
13 WHEREAS, a blood test was ordered, the results of which
14 were abnormal and consistent with bacteremia, a condition that
15 requires immediate administration of antibiotics, and
16 WHEREAS, the results of the blood test were printed that
17 day but not picked up from the printer at the clinic, and as a
18 result, treatment was not begun and Nicholas Patnode's condition
19 deteriorated, and
20 WHEREAS, several hours later, Nicholas Patnode's parents
21 took him to Martin Memorial Medical Center, where a spinal tap
22 confirmed a diagnosis of bacterial meningitis, and Nicholas
23 Patnode was transferred to St. Mary's Hospital in critical
24 condition, and
25 WHEREAS, a decision was made to discontinue life support

HB 6501

2018

26 | due to irreversible brain damage, and Nicholas Patnode died on
 27 | January 10, 1998, and

28 | WHEREAS, Nicholas Patnode is survived by his parents,
 29 | Cristina Alvarez and George Patnode, and

30 | WHEREAS, the actions of the Martin County Health Department
 31 | demonstrated the failure to adhere to a reasonable level of care
 32 | for Nicholas Patnode and resulted in his death, and

33 | WHEREAS, after an unsuccessful attempt by Nicholas
 34 | Patnode's parents to settle this claim, it proceeded to
 35 | litigation, resulting in a judgment in favor of the parents in
 36 | the amount of \$2.6 million, and

37 | WHEREAS, the Department of Health has paid \$200,000 to
 38 | Cristina Alvarez and George Patnode under the statutory limits
 39 | of liability set forth in s. 768.28, Florida Statutes, NOW,
 40 | THEREFORE,

41 |

42 | Be It Enacted by the Legislature of the State of Florida:

43 |

44 | Section 1. The facts stated in the preamble to this act
 45 | are found and declared to be true.

46 | Section 2. The sum of \$1.5 million is appropriated from
 47 | the General Revenue Fund to the Department of Health for the
 48 | relief of Cristina Alvarez as compensation for the death of her
 49 | son, Nicholas Patnode, a minor, due to the negligence of the
 50 | Martin County Health Department.

51 Section 3. The Chief Financial Officer is directed to draw
 52 a warrant in favor of Cristina Alvarez in the sum of \$1.5
 53 million upon funds of the Department of Health in the State
 54 Treasury, and the Chief Financial Officer is directed to pay the
 55 same out of such funds in the State Treasury.

56 Section 4. The sum of \$900,000 is appropriated from the
 57 General Revenue Fund to the Department of Health for the relief
 58 of George Patnode as compensation for the death of his son,
 59 Nicholas Patnode, a minor, due to the negligence of the Martin
 60 County Health Department.

61 Section 5. The Chief Financial Officer is directed to draw
 62 a warrant in favor of George Patnode in the sum of \$900,000 upon
 63 funds of the Department of Health in the State Treasury, and the
 64 Chief Financial Officer is directed to pay the same out of such
 65 funds in the State Treasury.

66 Section 6. The governmental entity responsible for payment
 67 of the warrant shall pay to the Agency for Health Care
 68 Administration the amount due under s. 409.910, Florida
 69 Statutes, before disbursing any funds to the claimants. The
 70 amount due to the agency shall be equal to all unreimbursed
 71 medical payments paid by Medicaid up to the date on which this
 72 act becomes a law. Such amounts shall be deducted in equal
 73 amounts from the award to each parent.

74 Section 7. The amount paid by the Department of Health
 75 pursuant to s. 768.28, Florida Statutes, and the amounts awarded

76 under this act are intended to provide the sole compensation for
77 all present and future claims arising out of the factual
78 situation described in this act which resulted in the death of
79 Nicholas Patnode. Of the amount awarded under this act, the
80 total amount paid for attorney fees may not exceed \$300,000, the
81 total amount paid for lobbying fees may not exceed \$75,000, and
82 the total amount paid for costs and other similar expenses
83 relating to this claim may not exceed \$2,080.64.

84 Section 8. This act shall take effect upon becoming a law.

AFFIDAVIT

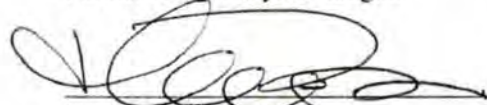
COMES NOW, MATTHEW BLAIR, who was sworn and declares the following:

1. Ronald S. Gilbert, Esquire was retained by Claimants, Cristina Alvarez f/k/a Cristina Patnode, and George Patnode, Co-Personal Representatives of the Estate of Nicholas Patnode, deceased, for representation regarding the wrongful death/medical malpractice claim involving the death of their son.
2. The representation agreement was pursuant to a contingency fee contract, which has been approved by the Florida Supreme Court.
3. Notwithstanding the representation agreement, Ronald S. Gilbert, Esquire has agreed to represent Claimants through the Claims Bill process for a total amount of twenty-five percent (25%) of the Claims Bill for attorney's fees, lobbyist fees, and costs.
4. It has been agreed between Affiant, Claimants, and Attorney that twenty-five percent (25%) of the Claims Bill will be paid for full satisfaction of the contingency fee, lobbyist fee, and all costs.
5. The total amount of attorney's fees, lobbyist fees, and costs will be twenty-five percent (25%) of the amount of the approved Claims Bill.
6. The lobbyist fee is five percent (5%) of the amount of the approved Claims Bill.
7. The attorney's fees and costs will be twenty percent (20%), less the amount of any accrued costs, which is currently Two Thousand, Eighty Dollars and Sixty-Four Cents (\$2,080.64). One Thousand, Nine Hundred Three Dollars and Thirty-Five Cents (\$1,903.35) represents the amount of costs paid by Claimants' law firm in the prosecution of this matter. One Hundred Seventy-Seven Dollars and Twenty-Nine Cents (\$177.29) represents the internal costs accrued by Claimants' law firm in the prosecution of this matter.



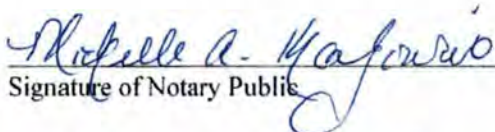
MICHELLE A KAZOURIS
Commission # GG 121994
Expires August 7, 2021
Bonded thru Budget Notary Services

Further Affiant Sayeth Naught.


MATTHEW BLAIR
Corcoran & Johnston

STATE OF FLORIDA
COUNTY OF Pasco

The foregoing Affidavit was acknowledged before me this 20th day of September, 2017, by Matthew Blair, who is personally known to me.


Signature of Notary Public

Michelle A. KAZOURIS
Printed Name of Notary Public



STORAGE NAME: h6505a.CJC
DATE: 10/19/2017

October 19, 2017

SPECIAL MASTER'S FINAL REPORT

The Honorable Richard Corcoran
Speaker, The Florida House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

Re: HB 6505 - Representative Jenne
Relief/Vonshelle Brothers/Department of Health

THIS IS AN UNCONTESTED CLAIM FOR \$1,000,000 BASED ON A SETTLEMENT AGREEMENT BETWEEN VONSELLE BROTHERS, AS THE NATURAL PARENT AND LEGAL GUARDIAN ON IYONNA HUGHEY, AND THE DEPARTMENT OF HEALTH AFTER IYONNA SUFFERED INJURIES FROM THE DEPARTMENT'S NEGLIGENCE. THE DEPARTMENT HAS PAID THE STATUTORY LIMITS OF \$200,000.

FINDINGS OF FACT:

On March 16, 2010, a twenty-three year old Vonshelle Brothers visited the Brevard County Health Department (BCHD) for her initial pre-natal visit. Vonshelle was nine-weeks pregnant with Iyonna Hughey, her third child. Nurse Elena Cruz-Hunter conducted a Pap test¹ on Vonshelle and sent the test to Quest Diagnostics for analysis.

Quest Diagnostics analyzed the Pap test and returned the test results to the BCHD. In the test results, Quest Diagnostics had the following interpretations:

- Negative for intraepithelial lesion or malignancy;

¹ A Pap test, also known as a Pap smear, is a procedure to test for cervical cancer in women. It involves collecting cells from the cervix, the lower, narrow end of the uterus that is at the top of the vagina. Mayo Clinic, <http://www.mayoclinic.org/tests-procedures/pap-smear/basics/definition/prc-20013038>.

- Cellular changes consistent with Herpes simplex virus; and
- Shift in vaginal flora suggestive of bacterial vaginosis.

Additionally, the test result stated "Queued for Alerts call."

The BCHD had a policy in place on how to handle lab slips from entities such as Quest Diagnostic. The policy provided that lab slips will be reviewed by a nurse and initialed. Specifically, negative lab slips should be filed in the client's medical records. Positive lab slips should be pulled and given greater scrutiny. BCHD's policy also provided that any abnormal results needed to be signed by a clinician.

The BCHD received Vonshelle's test results and placed them in her file. There is proof that someone at the health department read the report as there is a check mark adjacent to the interpretations. Nothing from the records show that anyone from Quest Diagnostics called the BCHD or vice versa. The test results were added to Vonshelle's files but no further action was taken regarding the test results. The BCHD did not do any follow up tests to confirm whether Vonshelle had herpes. The BCHD never disclosed the test results to Vonshelle. In fact, Vonshelle returned 15 times during her pregnancy for follow-up appointments, prenatal visits, and ultra sounds. At none of these visits was she told about the herpes results nor were evasive actions taken by her doctor.

On October 14, 2010, at only 36 weeks into the pregnancy, Vonshelle gave birth to Lyonna Hughey via vaginal delivery at Wuesthoff Medical Center. Vonshelle and Lyonna were discharged from the hospital in good condition on October 16, 2010.

Two weeks later, on the night of October 31, 2010, Vonshelle noticed Lyonna was running a fever. She took Lyonna to a Holmes Regional Medical Center but left after waiting for thirty minutes. She reported that a nurse instructed her to place a wet cloth on Lyonna. It is unconfirmed what was said to her or why Vonshelle left without receiving further medical attention for her daughter.

The next day, November 1, 2010, Vonshelle returned to Wuesthoff Medical Center's Emergency Department with Lyonna, whose condition had gotten worse. Lyonna was lethargic, not eating, and was continuing to run a fever. A lumbar puncture was performed in which cerebral spinal fluid was collected. Initial diagnosis of Lyonna was that she had meningitis and she was transferred to Arnold Palmer Hospital for further evaluation. However, on November 3, 2010, the final results of the cerebral spinal fluid were reported and indicated Lyonna tested positive for herpes simplex virus type 2.

There are two types of the herpes virus. Herpes simplex virus

type 1 ("HSV-1") is mainly transmitted by oral contact and can cause cold sores and fever blisters around the mouth. Herpes simplex virus type 2 ("HSV-2") is a sexually transmitted infection that causes genital herpes. HSV-2 can be spread through sexual contact or skin-to-skin contact, and in rare circumstances, can be transmitted from a mother to her infant during delivery.² If a person with either HSV-1 or HSV-2 is pregnant, her physician may consider a delivery by cesarean section. Both of these viruses remain in the body throughout a person's life, even when they are not showing signs of infection.³

Not only was it discovered through the lumbar puncture that lyonna had HSV-2, it was clear that she had herpes meningoencephalitis. Essentially, the HSV-2 had infected lyonna's brain. She stayed at the Arnold Palmer Hospital for over a month receiving treatment, including being placed on Acyclovir to help suppress the infection.

As a result of the HSV-2, lyonna has suffered significant and long lasting developmental delays. Dr. Daniel Adler, M.D., who examined lyonna, states she has a chronic and permanent neurological disability.

lyonna is now seven years old and attends Palm Bay Elementary School. She has no wheelchair or walker but receives speech therapy and physical therapy at school.

LITIGATION HISTORY:

On October 9, 2012, Vonshelle Brothers, individually, and as natural parent of lyonna Hughey, filed a complaint in the Circuit Court of the Eighteenth Judicial Circuit in Brevard County alleging negligence against the BCHD, a department of the Florida Department of Health (DOH). On April 25, 2016, a week before the scheduled jury trial was to begin, the parties entered into a settlement agreement in the amount of \$3,200,000. As a term of the settlement agreement, DOH reserved the right to contest a claim bill. DOH paid the \$200,000 statutory cap, of which \$50,000 went towards the purchase of an annuity which will begin payments when lyonna turns 18.

Following the filing of the claim bill in January 2017, the parties reached another settlement. This settlement provides that the amount requested in the claim bill will only be \$1,000,000 and DOH will not contest enactment of the claim bill.

CLAIMANT'S POSITION:

Vonshelle, as parent and guardian of lyonna Hughey, argues the BCHD was negligent when it failed to conduct further testing and analysis when they received the results of the Pap test. The

² World Health Organization, "Herpes simplex virus" <http://www.who.int/mediacentre/factsheets/fs400/en/> .

³ Johns Hopkins Medicine, "Herpes Meningoencephalitis" http://www.hopkinsmedicine.org/healthlibrary/conditions/nervous_system_disorders/herpes_meningoencephalitis_134,27/ .

standard of care required the BCHD to have conducted more tests and take further precautions in the pregnancy, such as starting anti-viral medication or delivering Lyonna via cesarean section. If these precautions had been followed, Lyonna would not have suffered irreparable brain damage.

RESPONDENT'S POSITION:

DOH does not contest the claim bill and requests the Legislature provide an additional appropriation from General Revenue Fund to DOH to pay the claim.

CONCLUSION OF LAW:

Whether or not there is a jury verdict or a settlement agreement, as there is here, every claim bill must be based on facts sufficient to meet the preponderance of evidence standard.

Duty

In Florida, to prevail on a medical malpractice claim, a claimant must show what standard of care was owed by the defendant, how the defendant breached that standard of care, and that the breach was the proximate cause of damages.⁴ The professional standard of care is the level of care, skill, and treatment which, in light of all surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.⁵ Generally, expert testimony is required to establish the standard of care prevalent in a particular medical field. Thus, from a professional standpoint, the services rendered by a physician are scrutinized by other physicians in order to determine whether there was a failure to adhere to the requisite standard of care.⁶

Claimant has presented several different experts that testified the BCHD deviated from the standard of care. Sharon Hall, a registered nurse and expert on labor and delivery, stated that the standard of care required the nurses at the BCHD to report any abnormal results in the Pap test and failure to do so was a deviation from the standard of care. Additionally, Dr. Berto Lopez, a practicing medical doctor certified in Obstetrics and Gynecology, provided that the standard of care for ordering tests on patient's samples requires the physician to follow up and be responsible for knowing those test results. Under Dr. Lopez's view of the standard of care, the nurse reviewing the test results and being the arbitrator of what is important falls below the standard of care. The failure of the treating physician to not review the lab results deviates below the standard of care.

From the expert testimony provided, I find the BCHD had a duty to review the lab results and to follow up with further diagnostic testing.

⁴ *Gooding v. Univ. Hosp. Bldg., Inc.*, 445 So. 2d 1015, 1018 (Fla. 1984).

⁵ s. 766.102(1), F.S.

⁶ *Moisan v. Frank K. Kriz, J.K., M.D., P.A.*, 531 So. 2d 398, 399 (Fla. 2d DCA 1988).

Breach

If the standard of care required the BCHD to follow up on any abnormal reports, then the BCHD clearly breached its duty. From the BCHD's own policy regarding lab results, the BCHD failed to have a clinician review any abnormal test results.

Causation

In order for a defendant to be liable to a claimant, the claimant must show the defendant's actions were the proximate cause of claimant's injuries.⁷ In this case, causation was the most contentious issue prior to settlement. The BCHD failed to notice the abnormal test and failed to follow up with any further diagnostic testing. It is clear Lyonna has HSV-2 and herpes encephalitis. At contention in litigation was how Lyonna contracted HSV-2.

The lab results from Quest Diagnostics stated that Vonshelle's Pap test showed "cellular change consistent with Herpes simplex virus." She was not given a more extensive test while pregnant with Lyonna. In the midst of litigation, Vonshelle was tested three times for HSV-2. In two of the tests, which analyzed her blood, Vonshelle tested negative for HSV-2. In a more thorough test, in which Vonshelle's DNA was analyzed, she tested positive for HSV-1 and indeterminate for HSV-2. Dr. Lopez testified that Vonshelle's negative test results for HSV-2 do not preclude her from actually having HSV-2. According to Dr. Lopez, Vonshelle's viral load may not have been sufficient at the time the tests were performed to trigger a positive test result. Vonshelle stated that she had two boils during her pregnancy with Lyonna, one under her arm and another near her genitals. It is unclear whether or not these boils were lesions consistent with HSV-2.

Claimant's attorney argues that despite the inconclusive test results of Vonshelle, based on the timing of the onset of symptoms, it is more likely than not that Lyonna contracted HSV-2 from Vonshelle via vaginal delivery. Nurse Hall, an expert on labor and delivery, stated symptoms of HSV-2 will show up 12 to 14 days after exposure. Dr. Carl Barr, DOH's own medical expert, testified that the most common cause of exposure for infants with HSV-2 was through vertical transmission from mother to child during birth. Dr. Catherine Lamprecht, a pediatric infectious disease specialist, stated the timing of Lyonna's symptoms in late October is consistent with exposure to HSV-2 during labor and delivery. She stated that exposure in labor and delivery accounts for 98% of all cases of neonatal herpes. Dr. Daniel Adler, an expert on neonatal herpes simplex encephalitis and how newborns contract HSV, stated it was more likely than not an acquisition of HSV-2 occurred during delivery via the birth canal.

⁷ *Y.H. Invs. v. Godales*, 690 So. 2d 1273, 1279 (Fla. 1997).

Based on the onset of symptoms and the experts presented, I find lyonna contracted HSV-2 through vaginal delivery. Dr. Lopez testified that if further testing was done of Vonshelle following the Pap test, lyonna may have never contracted HSV-2. Specifically, a doctor could have started Vonshelle on antiviral therapy which would have lessened the chances of an active lesion and exposure to lyonna. If there was an acute outbreak of herpes, Vonshelle could have undergone a cesarean section to prevent the transmission of herpes to her child.

Comparative Negligence

One of the questions that would have been presented to a jury is whether anyone else was responsible for lyonna's injuries besides the BCHD. Certainly Quest Diagnostics knew of an abnormal result and there is no evidence anyone from Quest Diagnostics called the BCHD. Claimant's attorneys stated at the special master hearing that they looked into any claim of liability against Quest Diagnostics and it was seen to be without merit. Their own experts stated the lab company owed no duty to Vonshelle or lyonna, only to inform the clinician ordering the tests. Additionally, Claimant's attorneys pursued a claim against Wuesthoff Medical Center, the hospital that delivered lyonna, on whether they should have thoroughly reviewed Vonshelle's medical history and charts before delivery. Again, Claimant's attorney's experts stated that the hospital did not deviate from the standard of care.

Certainly one may choose to blame Vonshelle for contracting HSV-2 and transferring it to her daughter. It is unclear whether lyonna's father has HSV-2 and gave it to Vonshelle. It is unclear when or how Vonshelle contracted HSV-2. She reported boils on her skin but it is not clear whether they were associated with HSV-2. On October 31, 2010, she left the hospital without letting lyonna see a doctor, but later returned the next day. It is unclear whether those hours may have altered lyonna's condition in anyway. It is uncertain whether a jury would hold lyonna responsible for the actions of her mother and reduce any award to lyonna. What is clear is that Vonshelle's entire claim against DOH has been satisfied and any amount awarded in a claim bill will go to lyonna's claims and her future care.

Damages

lyonna's damages are severe and lifelong. Her neurological development is stunted and may never meet that of her peers. She is dependent on others to use the restroom, to bathe, and to walk. Dr. Paul Deutsch, a certified life care planner, opined that lyonna will remain dependent throughout the remainder of her life. She is currently receiving speech therapy and physical therapy. Claimant's attorneys submitted a life care plan which estimates lyonna's total economic loss at \$10,062,029. Even if this life care plan overestimates the cost of her future care, lyonna will be dependent and require care for the rest of her life. The settlement amount awarded in the bill of \$1,000,000, in

SPECIAL MASTER'S FINAL REPORT--

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addition to the \$50,000 annuity purchased, is a fair and appropriate amount to compensate Lyonna for her injuries.

ATTORNEY'S/
LOBBYING FEES:

Claimant's attorneys and lobbyist have submitted an affidavit stating their fees will be 15% of any amount awarded, with the lobbyist taking 5% and the attorneys taking 10%. Outstanding costs total \$2,214.

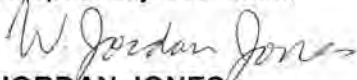
LEGISLATIVE HISTORY:

This is the second session this claim has been presented to the Legislature. It was initially filed in 2017 as House Bill 6535 by Representative Jenne and Senate Bill 316 by Senator Rodriguez. CS/HB 6535 passed the House by a vote of 114-4. In the Senate, CS/HB 6535 died in the Appropriations Committee.

RECOMMENDATION:

Accordingly, I respectfully recommend that House Bill 6505 be reported **FAVORABLY**.

Respectfully submitted,


JORDAN JONES

House Special Master

cc: Representative Jenne, House Sponsor
Senator Rodriguez, Senate Sponsor
Eva Davis, Senate Special Master

1 A bill to be entitled

2 An act for the relief of Vonshelle Brothers, as the
3 natural parent and legal guardian of Iyonna Hughey;
4 providing an appropriation to compensate her daughter
5 for injuries and damages sustained as a result of the
6 alleged negligence of the Brevard County Health
7 Department, an agency of the Department of Health;
8 providing that certain payments and the appropriation
9 satisfy all present and future claims related to the
10 alleged negligent acts; providing a limitation on the
11 payment of compensation, fees, and costs; providing an
12 effective date.

13
14 WHEREAS, on March 16, 2010, Vonshelle Brothers visited a
15 location of the Brevard County Health Department for her initial
16 prenatal visit, during which a complete obstetrical and
17 gynecological examination was conducted, including a Pap smear,
18 and

19 WHEREAS, the laboratory results of the examination were
20 reported to be within normal limits with the exception of the
21 Pap smear, which had tested negative for intraepithelial lesion
22 or malignancy but showed cellular changes consistent with herpes
23 simplex virus and bacterial vaginosis, and

24 WHEREAS, despite the results of the Pap smear, the Brevard
25 County Health Department did not report the results to Vonshelle

26 Brothers, and

27 WHEREAS, Vonshelle Brothers continued to receive treatment
 28 from the Brevard County Health Department through the duration
 29 of her pregnancy until the birth of her daughter, Iyonna Hughey,
 30 on October 14, 2010, at the Wuesthoff Medical Center, and both
 31 were discharged from the hospital 2 days later in good
 32 condition, and

33 WHEREAS, on November 1, 2010, Vonshelle Brothers brought
 34 Iyonna to the emergency room at Wuesthoff Medical Center citing
 35 Iyonna's lack of eating, weak condition, and fever, and

36 WHEREAS, a lumbar puncture was performed and cerebral
 37 spinal fluid was collected which initially suggested that Iyonna
 38 had meningitis, which prompted her transfer to the Arnold Palmer
 39 Hospital for Children for further evaluation and management, and

40 WHEREAS, on November 3, 2010, the final results of the
 41 cerebral spinal fluid collection were reported, and the fluid
 42 had tested positive for herpes simplex type 2, and

43 WHEREAS, as a result of her diagnosis, Iyonna continues to
 44 experience significant developmental delay and neurologic
 45 impairment related to the herpes meningoencephalitis and has
 46 required continued treatment, including physical therapy,
 47 occupational and speech therapy, and neurologic and
 48 ophthalmologic care, and

49 WHEREAS, Iyonna's condition requires her to be under the
 50 constant care and supervision of Vonshelle Brothers, and

51 WHEREAS, the Brevard County Health Department had a duty to
 52 provide a reasonable level of care to Vonshelle Brothers and
 53 Iyonna Hughey, but that duty was allegedly breached by the
 54 department's failure to disclose the presence of the herpes
 55 simplex virus in Vonshelle Brothers and to order proper
 56 treatment of the virus, which eventually resulted in Iyonna's
 57 diagnosis, and

58 WHEREAS, in June 2016, a final order was entered approving
 59 a settlement in the sum of \$3.2 million between Vonshelle
 60 Brothers, individually, and as natural parent and legal guardian
 61 of Iyonna Hughey, and the Brevard County Health Department to
 62 settle all claims arising out of the factual situation described
 63 in this act, and

64 WHEREAS, the Department of Health has paid \$200,000 to Ms.
 65 Brothers under the statutory limits of liability set forth in s.
 66 768.28, Florida Statutes, and the parties have agreed to a
 67 reduced settlement in the amount of \$1 million, NOW, THEREFORE,

68

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

70

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

73 Section 2. The sum of \$1 million is appropriated from the
 74 General Revenue Fund to the Department of Health for the relief
 75 of Vonshelle Brothers, as natural parent and legal guardian of

HB 6505

2018

76 Iyonna Hughey, to compensate Iyonna Hughey for injuries and
77 damages sustained.

78 Section 3. The Chief Financial Officer is directed to draw
79 a warrant in favor of the Supplemental Care Trust for the
80 Benefit of Iyonna Hughey or other special needs trust for the
81 exclusive use and benefit of Iyonna Hughey, in the sum of \$1
82 million upon funds of the Department of Health in the State
83 Treasury and to pay the same out of such funds in the State
84 Treasury.

85 Section 4. The amount paid by the Department of Health
86 pursuant to s. 768.28, Florida Statutes, and the amount awarded
87 under this act are intended to provide the sole compensation for
88 all present and future claims arising out of the factual
89 situation described in this act which resulted in injuries and
90 damages to Vonshelle Brothers and Iyonna Hughey. Of the amount
91 awarded under this act, the total amount paid for attorney fees
92 may not exceed \$100,000, the total amount paid for lobbying fees
93 may not exceed \$50,000, and the total amount paid for costs and
94 other similar expenses relating to this claim may not exceed
95 \$2,214.

96 Section 5. This act shall take effect upon becoming a law.

AFFIDAVIT

COMES NOW, RONALD S. GILBERT, ESQUIRE, who was sworn and declares the following:

1. Affiant was retained by Claimant, Vonshelle Brothers, Individually and as Natural Parent and Guardian of Iyonna Hughey, a Minor, for representation regarding the birth related injury/medical malpractice claim involving her daughter.
2. The representation agreement was pursuant to a contingency fee contract, which has been approved by the Florida Supreme Court.
3. Notwithstanding the representation agreement, Affiant has agreed to represent Claimant through the Claims Bill process for a total amount of fifteen percent (15%) of the Claims Bill for attorney's fees, lobbyist fees, and costs.
4. It has been agreed between Affiant, Claimant, and Lobbyist that fifteen percent (15%) of the Claims Bill will be paid for full satisfaction of the contingency fee, lobbyist fees, and all costs.
5. The total attorney's fees, lobbyist fees, and costs shall be fifteen percent (15%) of the total approved Claims Bill.
6. The lobbyist fees shall be five percent (5%) of the total approved Claims Bill.
7. The attorney's fees shall not exceed ten percent (10%) less any accrued costs. The current accrued costs total Three Hundred Eighty-Eight Dollars and Thirty-Four Cents (\$388.34) for actual costs incurred and paid by Claimants' law firm and One Thousand, Eight Hundred Twenty-Five Dollars and Sixty-Six Cents (\$1,825.66) for internal costs accrued by Claimants' law firm. Additional costs will be taken as a reduction in the amount of attorney's fees to Claimants' law firm.
8. Claimants' law firm has already received reimbursement of Ninety-Five Thousand, Three Hundred Ninety-Two Dollars and Ninety-Four Cents (\$95,392.94) for actual costs incurred and paid by Claimants' law firm and Six Thousand, Four Hundred Nineteen Dollars and Sixty-Six Cents (\$6,419.66) for internal costs accrued by Claimants' law firm. No attorney's fees have been received by Claimants' law firm from the statutory cap payment of Two Hundred Thousand Dollars (\$200,000.00).

9. The Senate and House Bills shall be amended to reflect the amount sought for this Claims Bill is One Million Dollars (\$1,000,000.00).


Further Affiant Sayeth Naught.



RONALD S. GILBERT, ESQUIRE
Colling Gilbert Wright & Carter

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing Affidavit was acknowledged before me this 25th day of September, 2017, by Ronald S. Gilbert, Esquire, who is personally known to me.


Signature of Notary Public

Printed Name of Notary Public

AFFIDAVIT

COMES NOW, MATTHEW BLAIR, who was sworn and declares the following:

1. Ronald S. Gilbert, Esquire was retained by Claimant, Vonshelle Brothers, Individually and as Natural Parent and Guardian of Iyonna Hughey, a Minor, for representation regarding the birth related injury/medical malpractice claim involving her daughter.
2. The representation agreement was pursuant to a contingency fee contract, which has been approved by the Florida Supreme Court.
3. Notwithstanding the representation agreement, Ronald S. Gilbert, Esquire has agreed to represent Claimant through the Claims Bill process for a total amount of fifteen percent (15%) of the Claims Bill for attorney's fees, lobbyist fees, and costs.
4. It has been agreed between Affiant, Claimant, and Attorney that fifteen percent (15%) of the Claims Bill will be paid for full satisfaction of the contingency fee, lobbyist fees, and all costs.
5. The total attorney's fees, lobbyist fees, and costs shall be fifteen percent (15%) of the total approved Claims Bill.
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9. The Senate and House Bills shall be amended to reflect the amount sought for this Claims Bill is One Million Dollars (\$1,000,000.00).



MICHELLE A KAZOURIS
Commission # GG 121994
Expires August 7, 2021
Bonded Thru Budget Notary Services

Further Affiant Sayeth Naught.

MATTHEW BLAIR
Corcoran & Johnston

STATE OF FLORIDA
COUNTY OF Pasco

The foregoing Affidavit was acknowledged before me this 30th day of September , 2017,
by Matthew Blair, who is personally known to me.

Signature of Notary Public

 Michelle A. KAZOURIS

Printed Name of Notary Public