



STORAGE NAME: h3549.CJS

DATE: 4/3/2015

Florida House of Representatives Summary Claim Bill Report

Bill #: HB 3549; Relief/Monica Cantillo Acosta & Luis Alberto Cantillo Acosta/Miami-Dade County
Sponsor: Santiago
Companion Bill: SB 64 by Legg
Special Master: Parker Aziz

Basic Information:

Claimants: Monica Cantillo Acosta and Luis Alberto Cantillo Acosta

Respondent: Miami-Dade County

Amount Requested: \$940,000

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

Respondent's Position: Miami-Dade County supports the claim bill in the amount of \$940,000.

Collateral Sources: None reported.

Attorney's/Lobbying Fees: The claimant's attorney provided an affidavit stating that the attorney's fees will be capped at 25% of the total claim award in accordance with s. 768.28(8), F.S., and that the lobbyist's fees, if any, will be included in the 25% fee cap.

Notwithstanding the attorney's affidavit, the bill specifically provides that the total amount paid for attorney fees, lobbying fees, costs, and similar expenses relating to the claim may not exceed 25% of the total awarded under the bill.

Prior Legislative History: House Bill 1075 by Representative Steube and Senate Bill 60 by Senator Bogdanoff were filed during the 2011 Legislative Session. Neither bill was ever heard in any committee.

House Bill 1485 by Representative Steube and Senate Bill 50 by Bogdanoff were filed during the 2012 Legislative Session. The House Bill passed its committees of reference (Civil Justice and Judiciary), passed the full House, passed the Senate as amended, and passed the House again, but died in Messages. The Senate Bill passed its only committee of reference (Rules), and was laid on the table in lieu of the House Bill.

House Bill 1413 by Representative Santiago and Senate Bill 188 by Senator Legg were filed during the 2013 Legislative Session. The House Bill passed its committees of reference (Select Committee on Claim Bills and Judiciary) but died on the House Calendar. The Senate Bill was never considered in its committees of reference.

House Bill 3519 by Representative Santiago and Senate Bill 52 by Senator Legg were filed during the 2014 Legislative Session. The House Bill passed its committees of reference (Civil Justice and Judiciary) and passed the full House but died in Senate Judiciary. The Senate Bill was never considered in its committees of reference.

Procedural Summary: A civil suit was filed in the Eleventh Judicial Circuit in and for Miami-Dade County. After trial, the jury returned a verdict in favor of the plaintiffs on November 5, 2007, finding Miami-Dade County bus driver 100 percent negligent and responsible for the wrongful death of Nhora Acosta, and determined the damages of Monica Cantillo Acosta and Luis Alberto Cantillo Acosta to be \$3 million each. The defendant appealed the jury verdict, however, the parties entered into a settlement agreement while the appeal was pending. The settlement calls for \$200,000 to be paid immediately in accordance with the statutory limits of liability in s. 768.28, Florida Statutes, and support for a claim bill in the amount of \$940,000.

Facts of Case: On November 12, 2004, at approximately 2:28 p.m., in Miami-Dade County, Nhora Acosta entered Miami-Dade County bus #04142 at a stop on S.W. 8th Street in Miami, Florida, paid the driver, and was trying to find a seat on the crowded bus. While Ms. Acosta walked toward the rear of the bus in search of a seat, the bus driver accelerated. In order to avoid a collision with another vehicle, the driver then hit the brakes, causing Ms. Acosta to fall and strike her head on an interior portion of the bus. Because of the force upon which Ms. Acosta struck her head within the bus interior, she suffered a severe closed head injury and massive brain damage, including a right subdural hemorrhage, a left dural hemorrhage, diffused cerebral edema, and basilar herniations. Ms. Acosta was rushed to the trauma resuscitation bay at Jackson Memorial Hospital in a comatose state, was placed on a ventilator, underwent various procedures to no avail, and was pronounced dead at 2:05 p.m. the next day.

Ms. Acosta was a 54-year-old single mother of two children, Monica Cantillo Acosta and Luis Alberto Cantillo Acosta, who were raised exclusively by their mother. At the time of the accident, Monica was 21 years old and Luis was 16 years old.

Recommendation: I respectfully recommend House Bill 3549 be reported **FAVORABLY**.

Parker Aziz, Special Master

Date: April 3, 2015

cc: Representative Santiago, House Sponsor
Senator Legg, Senate Sponsor
Sandra Stovall, Senate Special Master