



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

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DATE	COMM	ACTION
12/1/01	SM	Favorable
2/21/02	FT	Favorable/CS

December 1, 2001

The Honorable John M. McKay
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 14 (2002)** – Finance and Taxation Committee and Senator Charlie Clary
HB 419 – Representative Donald Brown
Relief of Billie Jo McIntire, Sarah
McIntire, and Christian McIntire

SPECIAL MASTER'S FINAL REPORT

THIS IS AN EQUITABLE CLAIM FOR \$1,000,000 BASED UPON A SETTLEMENT AGREEMENT BETWEEN THE CLAIMANTS AND THE FLORIDA DEPARTMENT OF TRANSPORTATION TO COMPENSATE THE CLAIMANTS FOR THE WRONGFUL DEATH OF JEFFREY SCOTT MCINTIRE WHO DIED IN A MOTOR VEHICLE ACCIDENT INVOLVING HIS VEHICLE AND A FLORIDA DEPARTMENT OF TRANSPORTATION VEHICLE DRIVEN BY CHARLES J. WASHINGTON.

FINDINGS OF FACT:

The Accident: On July 17, 1997, 24-year-old Jeffrey Scott McIntire was traveling eastward on SR 10 (US Highway 90). Mr. McIntire was traveling toward his home in the Defuniak Springs area from the Crestview Police Department, where Mr. McIntire was employed. Mr. McIntire was wearing his seatbelt while driving his 1987 Ford F-150 pick-up truck slightly below the posted speed limit of 55 miles per hour. Charles J. Washington, an employee of the Department of Transportation, was traveling westward from the department's offices in Defuniak Springs, Florida, where he had gone to pick up paychecks for his co-workers, and to the department's offices in Crestview, Florida. Mr. Washington

was driving a 1995 Ford F-150 pick-up truck, owned by the Florida Department of Transportation. Mr. Washington lost control of his vehicle, and his vehicle abruptly crossed over the centerline and collided with Mr. McIntire's vehicle. Jeffrey Scott McIntire was fatally injured in this collision. The cause of death was due to cranial cerebral injuries from blunt force head trauma.

State Road 10 is an east-west roadway that has one lane in each direction. The roadway is 23 feet in width and has wide grassy shoulders on both the north and south sides. Each lane is 11 feet 6 inches wide. A broken yellow line divides the lanes, and a solid white line marks the outer edges. The posted speed limit is 55 miles per hour. There were no other traffic control devices, or visual obstructions in the area of the collision. The collision occurred during daylight hours, and during a period of heavy rain. The roadway was extremely traffic worn and cracked which caused puddles of water to stand on the roadway during the rainfall. The standing water on the roadway caused Mr. Washington to lose control of his vehicle and caused his vehicle to rotate into the opposite lane. In addition to the standing water on the roadway, Mr. Washington was traveling at approximately 60-65 miles per hour at the time of the collision. There was no evidence of intoxicants on the part of either Mr. Washington or Mr. McIntire.

A post crash examination of both of the vehicles involved in the collision showed no evidence of any type of mechanical failure. Both vehicles were in good repair. The vehicle driven by Mr. Washington had tires with minimal tread depths.

Liability: Mr. Washington was charged with violating §316.185, F.S., which states the following: "Special hazards. --The fact that the speed of a vehicle is lower than the prescribed limits shall not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, or when special hazards exist or may exist with respect to pedestrians or other traffic or by reason of weather or other roadway conditions, and speed shall be decreased as may be necessary to avoid colliding with any person, vehicle, or other conveyance on or entering

the street in compliance with legal requirements and the duty of all persons to use due care.” A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318, F.S.

Damages: Mr. McIntire was married to Billie Jo McIntire. He had a daughter Sarah Ellen Megan McIntire who was born on January 16, 1996. Mrs. McIntire was pregnant at the time of the collision, and gave birth to Christian Jeffery Taylor McIntire on January 26, 1998.

Mr. McIntire graduated from Crestview High School in 1991. He went to Okaloosa Walton Community College and obtained an Associate of Science Degree in Criminology. He also received a certification as a law enforcement officer. At the time of the collision, he was employed as a police officer with the City of Crestview Police Department.

Evidence was presented regarding the claimants damages as follows: (a) Loss of net accumulations to the estate of Jeffrey Scott McIntire of \$123,000 based upon retained earnings for investment of \$3000 per year for 41 years; (b) Loss of Services and Support to Billie Jo McIntire of \$561,600 based upon \$10 per hour for 20 hours per week for 52 weeks a year for 54 years (life expectancy of Jeffrey Scott McIntire); (c) Loss of services and support to Sarah McIntire of \$78,000 based upon \$10 per hour for 10 hours per week for 52 weeks a year for 15 years (when Sarah would reach age of majority); (d) Loss of services and support to Christian McIntire of \$93,600 based upon \$10 per hour for 10 hours a week for 52 weeks a year for 18 years (when Christian would reach age of majority); (e) Loss of companionship, protection, and for mental pain and suffering of Billie Jo McIntire of \$1.56 million; (f) Loss of parental companionship, instruction, guidance, and for mental pain and suffering of Sarah McIntire of \$1 million; (g) Loss of companionship, instruction, guidance, and for mental pain and suffering of Christian McIntire or \$1 million; and (h) Funeral expenses in the amount of \$7,146.

Billie Jo McIntire has subsequently remarried.

Legal Proceedings: A probate action was filed regarding the estate of Jeffrey Scott McIntire in Walton County, Florida. Billie Jo McIntire was appointed personal representative of

the estate. Guardians Ad Litem were appointed for Sarah Ellen Megan McIntire and Christian Jeffery Taylor McIntire. Billie Jo McIntire filed suit as surviving spouse and as personal representative of the estate of Jeffrey Scott McIntire against the department. A General Release and a Settlement Contract were signed on December 8, 1999, requiring the department to pay the sum of \$200,000, and requiring the department to support a claim bill in the amount of \$1,000,000. No annuities or other financial products were to be purchased by the department. The department has paid the sum of \$200,000. An Order of Dismissal With Prejudice was entered on December 30, 1999.

Additional Sources of Income: In addition to the \$200,000 mentioned above, the claimants have received the following amounts resulting from the death of Mr. McIntire: (a) \$100,613.70 death benefit from New York Life Insurance Company; (b) \$10,000 personal injury protection coverage from Florida Farm Bureau Insurance Companies; and (c) \$25,000 death benefit from AFLAC. In addition, Sarah McIntire and Christian McIntire receive a combined SSI benefit of approximately \$1,200 per month.

CONCLUSIONS OF LAW:

Competent and Substantial Evidence: There is competent and substantial evidence to support a finding of causation and liability on the part of the department and to support the damages of the claimants in the amount of \$1,000,000.

I conclude Mr. Washington did not exercise due care in violation of §316.185, F.S., exceeded the posted speed limit in violation of §316.187 and 316.1925, F.S., and crossed the centerline in violation of §316.081 and 316.089, F.S. I further conclude the actions of Charles J. Washington, an employee of the department who was acting within the scope of his employment, resulted in the death of Jeffrey Scott McIntire and resulted in damages to the claimants.

ATTORNEYS FEES:

Attorney's fees are limited to 25 percent of recovery pursuant to the provisions of §768.28, F.S. Attorney's fees and costs are included in the settlement amount.

LEGISLATIVE HISTORY:

The subject matter of this claim bill was considered during the 2001 Legislative Session as SB 8, which the Special Master recommended favorably with one amendment. Senate Bill 8 died on the Senate Calendar. Upon the filing of SB 14 for the 2002 Legislative Session, the parties were given the opportunity to supplement the previous record but declined to do so.

RECOMMENDATIONS:

Based upon the foregoing, I recommend that Senate Bill 14 be reported FAVORABLY.

Respectfully submitted,

Reynold Meyer
Senate Special Master

cc: Senator Charlie Clary
Representative Donald Brown
Faye Blanton, Secretary of the Senate
Nathan Bond, House Special Master

Statement of Substantial Changes in CS/SB 14:

The committee substitute directs the Executive Office of the Governor to establish spending authority from unappropriated trust fund balances in the Department of Transportation to pay this claim.