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DATE: April 6, 2007

Florida House of Representatives
Summary Claim Bill Report

Bill #: HB 1043
Sponsor: Rep. Bendross-Mindingall
Companion Bill: SB 76 Sen. Margolis
Special Master: Stephanie Birtman

Basic Information:

- 1. Claimants:** Claude and Martine Tunc, individually and as personal representatives of Stephanie Tunc, deceased; and Sandrine Tunc, sister of Stephanie Tunc.
- 2. Respondent:** City of Miami Beach
- 3. Amount Requested:** \$1,300,000
- 4. Type of Claim:** Equitable. Result of a settlement agreement.
- 5. Respondent's Position:** Agrees not to oppose and to fully cooperate with claim bill process. The City is holding the full amount in the City's Risk Management Fund.
- 6. Collateral Sources:** Sandrine has received 49,500 pounds (approximately \$92,000 US dollars as of the date of the initial report) as beneficiary of Stephanie's life insurance policy and has submitted her medical expenses to her travel insurance company (Tower, Gate, Chase, Parkinson Ltd.). Martine and Claude have received 10,000 pounds (approximately \$18,968 in US dollars) as the beneficiaries of Stephanie's death indemnity through her employer, The Royal Mail, and have submitted her medical expenses to her travel insurance (Voyagers Assistance).
- 7. Attorney's Fees:** The claimants' attorney has submitted an affidavit affirming that his fees are limited to 25% of any settlement as required by law. Lobbying fees are 3%, and are included within the 25% attorney's fees limitation. There are no outstanding costs.
- 8. Prior Legislative History:**

HB 1493 (2004) was filed by Rep. Barreiro. The bill died in the Subcommittee on Claims as there was no timely filed Senate companion bill pursuant to Senate Rule 4.81.

HB 731 (2005) was again filed by Rep. Barreiro. The bill died on the Second Reading Calendar of the House of Representatives. SB 34 (2005) by Sen. Margolis was never considered by the Senate.

HB 383 (2006) was filed by Rep. Barreiro and died in the Justice Council. SB 36 (2006) was filed by Sen. Margolis and was never considered by the Senate.

- A. Procedural Summary:** On September 18, 2003, Claude and Martine Tunc, and Sandrine Tunc filed a negligence lawsuit against the City of Miami Beach in the circuit court of the 11th Judicial Circuit in and for Dade County. Prior to trial, the parties entered into a settlement agreement whereby the City agreed to pay a total of \$1.5 million, \$200,000 of which has already been paid pursuant to the statutory cap on liability, and agreed to the entry of a final judgment for same.
- B. Facts of Case:** Stephanie (then aged 28) and her sister Sandrine Tunc (then aged 27) were French citizens visiting Miami Beach on the tail end of their trip to South America for a vacation. Neither sister was married or had children. The two were sunbathing on February 22, 2003 on Miami Beach near the 13th Street lifeguard stand in an authorized area of the beach with other sunbathers nearby. A Miami Beach police officer driving a marked city SUV in the course and scope of his employment, was looking for an alleged robbery suspect without using a siren or flashing lights. The officer drove over both girls, crushing Stephanie and pinning her under the SUV when he first stopped. As a result, Stephanie died; Sandrine suffered a lacerated liver, contusion of her lung, a fractured sacrum, lacerated spleen, contusion of her abdominal wall, numerous burns, and a fractured rib. Her medical bills totaled \$37,624. Stephanie's medical bills totaled \$45,030. Sandrine has suffered a permanent injury and serious psychological ramifications, including anorexia. Her parents, Claude and Martine Tunc flew to Miami from Forges Les Eaux, France, to bring Stephanie's body back for a funeral; they then returned to Miami to assist Sandrine in her recovery until she was well enough to return to her home in England.

An investigation by the State Attorney's Office for the 11th Circuit concluded that the driver was negligent in failing to observe the sunbathers on the beach. No criminal charges were filed against the driver. Miami Beach Police Department Standard Operating Procedure #14 states that police officers will drive in a defensive manner; the officer was found to have breached this policy. As a result of this accident, the City of Miami Beach changed their beach vehicle policy, prohibiting vehicles from patrolling the beach unless dispatched to respond to a call for service; and requiring vehicles that must drive on the beach to use their flashers.

SM: _____ Date: _____
Stephanie O. Birtman