Requested documents shall be hand delivered to the office of the undersigned counsel, or to the office of claimants' counsel if copying facilities are there provided, within the time frame ordered by the Special Master.

REQUEST FOR PRODUCTION OF DOCUMENTS

You are requested to produce originals or legible copies of the following documents at the time and place described above.

10. Copies of all contracts for movie, publication, and other commercial sales or utilization of your version of the Rosewood incident, whether by television, radio, movie, book, or otherwise.

11. All audio and video tapes and transcripts of prior presentations by you of the Rosewood incident.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Office of the Attorney General
Koger Center, Alexander Bldg.
2020 Capitol Circle, S.E.
Suite 102
Tallahassee, FL 32399-1050
(904) 488-1573
FAX: (904) 488-4872

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded by fax & mail to Stephen Hanlon, Esquire, Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, FL 32302-0810; and Holland & Knight, P.A., 315 S. Calhoun, Tallahassee, FL 32301, this 19 day of February, 1994.

JAMES A. PETERS
Assistant Attorney General

Rosewood.ksf<jimp>

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

RESPONDENT STATE OF FLORIDA'S
SECOND MOTION FOR DISCOVERY

Respondent, State of Florida, pursuant to House Rule 6.63(d) moves for an order granting discovery of claimants via the Second Interrogatories and Second Requests for Production of Documents attached hereto.

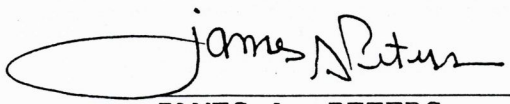
Respondent respectfully adopts and incorporates by reference argument presented in its first Motion for Discovery dated 13 February, 1994. Respondent otherwise submits that all discovery sought in the first and second request is immediately relevant to the liability determination and to application of time bars, prescribed by Section 11.065, Fla. Stat., and by the equitable defense of laches.

2/15/94
F

Respondent requests that its motions for discovery be granted accordingly and that claimants be required to respond in advance of their liability presentations.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL



JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Office of the Attorney General
Koger Center, Alexander Bldg.
2020 Capitol Circle S.E.
Suite 102
Tallahassee, FL 32399-1050

(904) 488-1573
FAX: (904) 488-4872

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded to Stephen Hanlon, Esquire, Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, FL 32302-0810, this 15 day of February, 1994. by fax & mail

James A. Peters

JAMES A. PETERS
Assistant Attorney General

<JimP>Rosewood.M/Disc2

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

THE STATE OF FLORIDA'S SECOND INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Respondent, State of Florida, pursuant to House Rule 6.63(d), and Rules 1.280, 1.340, and 1.350, Fla.R.Civ.P., hereby requests that each claimant respond to the following interrogatories and request for production of documents within the time frame ordered by the Special Master.

Separate pages for response by each claimant are attached hereto with separate signature page. Requested documents shall be hand delivered to the office of the undersigned counsel, or to the office of claimants' counsel if copying facilities are there provided, within the time frame ordered by the Special Master.

2/15/94

INTERROGATORIES

13. If an element of your claim is based upon alleged concealment of facts and documentation relevant to the 1923 Rosewood incident, please identify by name, title, address, date of concealment, and activity all government officials and employees -- whether federal, state, county, or other -- who you allege so acted.

14. Identify by name, address, telephone number, all individuals with personal knowledge of the activity identified in number 13 above.

15. Identify by author, recipient, date, description, and present custodian all documents evidencing the activity described in number 13 above.

REQUEST FOR PRODUCTION OF DOCUMENTS

You are requested to produce originals or legible copies of the following documents at the time and place described above.

9. All materials in your possession corroborating your response to interrogatory number 15 above.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Office of the Attorney General
Koger Center, Alexander Bldg.
2020 Capitol Circle S.E.
Suite 102
Tallahassee, FL 32399-1050

(904) 488-1573
FAX: (904) 488-4872

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded to Stephen Hanlon, Esquire, Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, FL 32302-0810, this 15 day of February, 1994. by Fax & mail

JAMES A. PETERS
Assistant Attorney General

<JimP>Rosewood.Interr2

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

RESPONDENT'S CORRECTED FIRST INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Respondent, State of Florida, pursuant to House Rule 6.63(d) and Rules 1.280, 1.340, and 1.350, Fla.R.Civ.P., hereby requests that each claimant respond to the following Interrogatories and Request for Production of Documents within the time frame ordered by the Special Master.

Separate pages for response by each claimant are attached hereto with separate signature page. Requested documents shall be hand delivered to the office of the undersigned counsel or to the office of claimants' counsel if copying facilities are there provided, within the time frame ordered by the Special Master.

2/14/94
F

INTERROGATORIES

1. State your full name, age, education, and date and place of birth, and social secruity number.

2. State your residential address for all years since your birth and specify as to each whether that residence was (a) with a parent, (b) with grandparent, (c) with sibling, (d) with other family members, (e) with spouse, (f) alone. Ientify by full name the person(s) who shared each residential address with you.

3. Specify the eligibility category which you claim under paragraphs 1 and 2(a), (b) of House Bill 591.

4. If your claim is made pursuant to paragraph 2(a) or (b) of the claims bill, specify in detail your family lineage back to January, 1923, upon which your eligibility is claimed.

5. Specifically state the full name, date and location of death of each relative from whom your claim derives.

6. If your claim is based on ownership or leasehold interest in property in Rosewood or its surrounding vicinity so state and specifically describe the nature of the interest, the nature of the property and its legal description.

7. If you claim to be an eye witness to the Rosewood incident in January, 1923, state your age at the time, your location within the Rosewood vicinity at the time. (e.g., by

road, street, river, or other identifiable boundary, monument, or landmark), and the event or events which you observed.

8. If your claim is based on mental and emotional pain, suffering and anguish, loss of capacity, enjoyment of living, loss of community, specify in detail the nature of all mental health examinations and treatments you have received at any time and for any reason including particularly, the nature and location, the examining and treating physician and consultant, the dates of examination and treatment.

9. If you claim to have lacked mental or legal capacity to bring a civil action in state or federal court, or to testify as a competent witness in state or federal court, for any time since January, 1923, so please state and specify the basis for that incompetency or lack of capacity and identify the date or dates during which incompetency/lack of capacity is claimed.

10. Specifically identify by case name, number, tribunal, and nature of action, all civil and criminal litigation in which you participated as either a plaintiff, a defendant, or witness at all times subsequent to January, 1923. Summarize the outcome of all cases so identified.

11. State the case style, tribunal, the nature and amount of all adjudicated penalties, fines, fees, victim restitution, and other judgments-whether imposed by civil, criminal, or administrative tribunal-currently owed by you to the State of

Florida, its agencies, officers, or subdivisions at the state, county, city or other level. If there exists no prior adjudicated unpaid claim, so state.

12. Specifically describe all efforts which you have made to present your claim deriving from the events of January, 1923, to county, state and federal authorities, whether civil, legislative, prosecutory or other. Include in your response date(s), locations, persons contacted, and specific description and present custodian of the documentation presented.

REQUEST FOR PRODUCTION OF DOCUMENTS

You are requested to produce originals or certified copies of the following documents at the time and place described above:

1. Your birth certificate. If claim is based on relation deriving from adoption, court order evidencing that adoption.

2. Your social security card.

3. Certificate of death of the relative(s) (if your claim is based on deceased relative)

4. Original or certified copies of all titles, deeds, leases, mortgages, and other indicia of legal interest in property in Rosewood or its surrounding vicinity in January, 1923, corroborating your response to Interrogatory number 6.

5. All photographs in your possession of property corroborating your response to Interrogatory number 6.

6. All mental health and other medical records in your possession corroborating your response to interrogatory number 8.

7. All materials in your possession corroborating your response to Interrogatory number 12.

8. All diaries, correspondence, notes and other matters in your possession corroborating your claim.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Office of the Attorney General
Koger Center, Alexander Bldg.
2020 Capitol Circle S.E.
Suite 102
Tallahassee, FL 32399-1050

(904) 488-1573
FAX: (904) 488-4872

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded to Stephen Hanlon, Esquire, Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, FL 32302-0810, this 14 day of February, 1994. by Fax & mail

JAMES A. PETERS
Assistant Attorney General

<JimP>Rosewood.Interrog.

Claimant _____ First Interrogatory Responses

1.

2.

3.

4.

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned authority, appeared _____, personally known to me and being by me first duly sworn, states that he executed the foregoing answers to Interrogatories and that they are true and correct to the best of his knowledge and belief.

_____

Sworn to and subscribed before me
this ____ day of February, 1994.

_____
(Signature of Notary Public,
State of Florida)

_____
Print, type or stamp commissioned
name of Notary Public.

Commission No.:_____

My Commission Expires:_____

Personally Known _____ or
Produced Identification _____
(Check One)

Type of Identification Produced:

_____

Our f.4
copy

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

RESPONDENT STATE OF FLORIDA'S
FIRST MOTION FOR DISCOVERY

Respondent, State of Florida, pursuant to House Rule 6.63(d) moves for an order granting discovery of claimants via the First Interrogatories and First Requests for Production of Documents attached hereto.

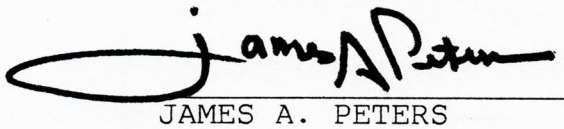
The generalized nature of claimants' 71 year old allegations, the hearsay basis of many if not all of those claims, claimants' open ended group, and fundamental elements of proof required for each claimant -- including lineage; ownership of property; mental health; and other matters apparent from the face of the attached discovery requests -- all warrant focused discovery at this prehearing stage of this claims procedure.

2/13/94
F

Each of the items for which discovery is sought is relevant to a responsible resolution of these claims and each must be a matter for proof at hearing. Respondent submits substantial economies of time and human resources will otherwise be accomplished if discovery responses are timely provided and if the parties have the opportunity to at least attempt stipulation to documents and fact matters - after their submission under oath - which would otherwise required to be presented at hearing on the merits of these claims.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL



JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Office of the Attorney General
Koger Center, Alexander Bldg.
2020 Capitol Circle S.E.
Suite 102
Tallahassee, FL 32399-1050

(904) 488-1573
FAX: (904) 488-4872

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded to Stephen Hanlon, Esquire, Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, FL 32302-0810, this 13 day of February, 1994.

James A Peters

JAMES A. PETERS
Assistant Attorney General

<JimP>Rosewood.M/Disc.

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CORRECTED

RESPONDENT'S FIRST INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Respondent, State of Florida, pursuant to House Rule 6.63(d) and Rules 1.280, 1.340, and 1.350, Fla.R.Civ.P., hereby requests that each claimant respond to the following Interrogatories and Request for Production of Documents within the time frame ordered by the Special Master.

Separate pages for response by each claimant are attached hereto with separate signature page. Requested documents shall be hand delivered to the office of the undersigned counsel or to the office of claimants' counsel if copying facilities are there provided, within the time frame ordered by the Special Master.

INTERROGATORIES

1. State your full name, age, and date and place of birth, and social secruity number.

2. State your residential address for all years since your birth and specify as to each whether that residence was (a) with a parent, (b) with grandparent, (c) with sibling, (d) with other family members, (e) with spouse, (f) alone. Ientify by full name the person(s) who shared each residential address with you.

3. Specify the eligibility category which you claim under paragraphs 1 and 2(a), (b) of House Bill 591.

4. If your claim is made pursuant to paragraph 2(a) or (b) of the claims bill, specify in detail your family lineage back to January, 1923, upon which your eligibility is claimed.

5. Specifically state the full name, date and location of death of each relative from whom your claim derives.

6. If your claim is based on ownership or leasehold interest in property in Rosewood or its surrounding vicinity so state and specifically describe the nature of the interest, the nature of the property and its legal description.

7. If you claim to be an eye witness to the Rosewood incident in January, 1923, state your age at the time, your location within the Rosewood vicinity at the time. (e.g., by

road, street, river, or other identifiable boundary, monument, or landmark), and the event or events which you observed.

8. If your claim is based on mental and emotional pain, suffering and anguish, loss of capacity, enjoyment of living, loss of community, specify in detail the nature of all mental health examinations and treatments you have received at any time and for any reason including particularly, the nature and location, the examining and treating physician and consultant, the dates of examination and treatment.

9. If you claim to have lacked mental or legal capacity to bring a civil action in state or federal court, or to testify as a competent witness in state or federal court, for any time since January, 1923, so please state and specify the basis for that incompetency on lack of capacity and identify the date or dates during which incompetency/lack of capacity is claimed.

10. Specifically identify by case name, number, tribunal, and nature of action, all civil and criminal litigation in which you participated as either a plaintiff, a defendant, or witness at all times subsequent to January, 1923. Summarize the outcome of all cases so identified.

11. State the case style, tribunal, the nature and amount of all adjudicated penalties, fines, fees, victim restitution, and other judgments-whether imposed by civil, criminal, or administrative tribunal-currently owed by you to the State of

Florida, its agencies, officers, or subdivisions at the state, county, city or other level. If there exists no prior adjudicated unpaid claim, so state.

12. Specifically describe all efforts which you have made to present your claim deriving from the events of January, 1923, to county, state and federal authorities, whether civil, legislative, prosecutory or other. Include in your response date(s), locations, persons contacted, and specific description and present custodian of the documentation presented.

REQUEST FOR PRODUCTION OF DOCUMENTS

You are requested to produce originals or certified copies of the following documents at the time and place described above:

1. Your birth certificate. If claim is based on relation deriving from adoption, court order evidencing that adoption.

2. Your social security card.

3. Certificate of death of the relative(s) (if your claim is based on deceased realtive)

4. Original or certified copies of all titles, deeds, leases, mortgages, and other indicia of legal interest in property in Rosewood or its surrounding vicinity in January, 1923, corroborating your response to Interrogatory number 6.

5. All photographs in your possession of property corroborating your response to Interrogatory number 6.

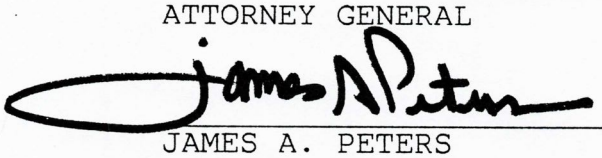
6. All mental health and other medical records in your possession corroborating your response to interrogatory number 8.

7. All materials in your possession corroborating your response to Interrogatory number 12.

8. All diaries, correspondence, notes and other matters in your possession corroborating your claim.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL



JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Office of the Attorney General
Koger Center, Alexander Bldg.
2020 Capitol Circle S.E.
Suite 102
Tallahassee, FL 32399-1050

(904) 488-1573
FAX: (904) 488-4872

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded to Stephen Hanlon, Esquire, Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, FL 32302-0810, this 13 day of February, 1994.

JAMES A. PETERS
Assistant Attorney General

<JimP>Rosewood.Interrog.

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

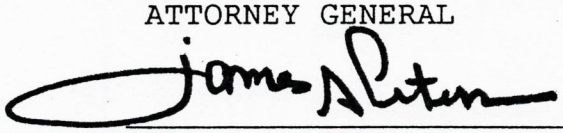
Respondent.
_____/

NOTICE OF APPEARANCE

JAMES A. PETERS, Florida Assistant Attorney General, notices his appearance as counsel for State of Florida in this matter. He requests that all pleadings, motions, notices, discovery requests and other filings in this matter be served upon him at the address noted below.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL



JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Office of the Attorney General
Koger Center, Alexander Bldg.
2020 Capitol Circle S.E.
Suite 102
Tallahassee, FL 32399-1050
(904) 488-1573

3/11/94
F

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded to Stephen Hanlon, Esquire, Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, FL 32302-0810, this 11 day of February, 1994.

JAMES A. PETERS
Assistant Attorney General

FLORIDA HOUSE OF REPRESENTATIVES

Tallahassee

IN THE MATTER FOR RELIEF OF:

Relief of Arnett T. Goins, Minnie L. Langley, et al.,

Claimants, HB 591

v.

State of Florida,

Respondent.

_____/

NOTICE OF HEARING

TO: Stephen Hanlon, Esquire
Martha Barnett, Esquire
Post Office Drawer 810
Tallahassee, Florida 32302-0810

Attorneys for Claimant

James Peters, Esquire
Office of the Attorney General
PL 01, The Capitol
Tallahassee, Florida 32399-1050

Attorney for Respondent

PLEASE TAKE NOTICE that the above claim bill will be heard on Friday, February 25, 1994, at 9:30 a.m., in Room 317, The Capitol, Tallahassee, Florida 32399-1300. In advance of the hearing, all parties are requested to furnish the Special Master, with a copy to the opposing party, the names of witnesses, and to the extent convenient, any documentary material that will be submitted.

DATED this 11th day of February, 1994.

Richard Hixson
Special Master

cc: The Honorable Ron Klein
The Honorable Miguel De Grandy
David Kerns, Senate Special Master
Clerk of the House

2/11/94
R

Elise -
this is the
caption

FLORIDA HOUSE OF REPRESENTATIVES

Tallahassee

IN THE MATTER FOR RELIEF OF

Relief of Arnett T. Goins, Minnie L. Langley, et al.,

Claimants,

HB 591

v.

State of Florida,

Respondent.

NOTICE OF HEARING

TO: Stephen Hanlon, Esquire
Martha Barnett, Esquire
Post Office Drawer 810
Tallahassee, Florida 32302-0810

Attorneys for Claimant

James Peters, Esquire
Office of the Attorney General
PL 01, The Capitol
Tallahassee, Florida 32399-1050

Attorney for Respondent

PLEASE TAKE NOTICE that the above claim bill will be heard on Friday, February 25, 1994, at 9:30 a.m., in Room 317, The Capitol, Tallahassee, Florida 32399-1300. In advance of the hearing, all parties are requested to furnish the Special Master, with a copy to the opposing party, the names of witnesses, and to the extent convenient, any documentary material that will be submitted.

DATED this 11th day of February, 1994.

Richard Hixson
Special Master

cc: The Honorable Ron Klein
The Honorable Miguel De Grandy
David Kerns, Senate Special Master
Clerk of the House

To: James Peters

Fax #: 488-4672

From: Lynn Imhof, House Judiciary Committee

Date: February 11, 1994

Pages: 2, including this cover sheet

Please see attached

fax

From the desk of...

Lynn Imhof
Administrative Assistant
House Judiciary Committee
412 House Office Building
Tallahassee, Florida
32399-1300

tel: 904/488-1663
fax: 904/488-9879

this is address for R. Hyer Special Master

CF

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

STATE OF FLORIDA'S WITNESS AND EXHIBIT LIST

State of Florida respectfully submits its Witness and Exhibit List for the hearing scheduled to commence on February 25, 1994:

WITNESSES

1. Members of the investigative team which prepared the "Documented History of the Incident Which Occurred at Rosewood, Florida."

2. Dr. Harry McClaren.

3. Dr. Carl Schmertmann.

4. Witnesses listed by Claimants.

5. Claimants (by statements or recorded interviews).

DOCUMENTARY EVIDENCE

1. The Report - A Documented History of the Incident Which Occurred at Rosewood, Florida.

2/23/94
F

2. Appendices to the Documented History of the Incident Which Occurred at Rosewood, Florida, with attachments.

3. Review of the Rosewood Project, with attachments.

4. Report of Dr. Carl Schmertmann.

5. Exhibits listed by Claimants.

6. Florida Road Condition Map - 1923

The State of Florida respectfully reserves the right to amend this listing after fair notice to Claimants.

Respectfully submitted,

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Counsel for the Respondent
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **STATE OF FLORIDA'S WITNESS AND EXHIBIT LIST** has been forwarded to Stephen Hanlon, Esquire, and Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, Florida 32302-0810 this 23 day of February, 1994.

JAMES A. PETERS

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

MEMORANDUM IN SUPPORT OF THE ADMISSIBILITY OF THE ROSEWOOD REPORT

The Claimants file this memorandum in support of the admissibility of the Documented History of the Incident Which Occurred at Rosewood, Florida in January, 1923 ("the Report") and the Review of the Rosewood Project, by Florida State University, (Richard L. Greaves and Patrick Riordan), dated February 2, 1994 ("the Review.")

NATURE OF THE ROSEWOOD REPORT

The Rosewood Report was prepared pursuant to a study funded by the Florida House of Representatives. The Report is a historical investigation of the facts relating to an incident which occurred at Rosewood, Florida in January, 1923. The Report was prepared through a joint effort of the University of Florida, Florida State University and Florida Agricultural and Mechanical University upon selection of their proposal by the Florida Board of Regents. The Report documents an incident occurring in Rosewood, Florida in January, 1923 in which racial violence resulted in the death of

2/22/94 TC

certain African-American residents as well as the destruction of the entire African-American community when members were driven from the area by white mobs who burned their homes, a church, masonic hall and a store. The Report identifies witnesses to the violence, describes the circumstances leading up to the massacre, contains the names of the residents of Rosewood prior to the massacre and provides a description of the community itself. The Report concludes that elected white state officials failed to take action to protect the safety and property of the African-American residents of Rosewood.

NATURE OF THE REVIEW OF THE ROSEWOOD REPORT

Shortly after the publication of the Rosewood Report, Mr. Gary Moore, a free-lance writer with long-standing interest in Rosewood, lodged a critique of the Report. Moore claimed a conspiracy to defraud the State of Florida through payment of claims to some allegedly spurious Rosewood survivors and the neglect of other legitimate claims. He also criticized the Rosewood Investigative Team's methodology and results.

Two reviewers at Florida State University were asked to review Moore's claims. After extensive work, they concluded that Moore's objections struck at the periphery of the Report, not its heart. The reviewers also concluded that Moore's suggestion of a conspiracy were unfounded.

Although Claimants could object to Moore's critique as almost complete hearsay, Claimants submit that in the interest of fairness Moore's critique and the Review of that critique by two professors at Florida State University should be received in evidence by the Hearing Officer, together with the Report itself.

1993 FLORIDA HOUSE BILL NO. 591

On December 30, 1993, Rep. Alfred Lawson, D-Tallahassee and Rep Miguel DeGrandy, R-Miami, filed a claim bill to compensate victims of the Rosewood massacre. The investigators compiling the Report did not discuss or address the issue of Claim Bill No. 591, nor make any recommendations with respect to any claim by an individual or heir of an individual which may arise from the violence described in the Rosewood Report.

THE ROSEWOOD REPORT SHOULD BE ADMITTED INTO EVIDENCE

The Report is a substantive and detailed historical investigation of the facts surrounding the massacre occurring in Rosewood, Florida in January, 1923. Although the Report contains testimony from eye witnesses to the Massacre, it is also based on hearsay reports and information. Nonetheless, the Report is admissible as an exception to the hearsay rule because it pertains to a matter of general historical significance.

Pursuant to Florida Statute, §90.803(20)(b), certain evidence will be admitted despite its hearsay characteristics, and even though the declarant originally making the statement is available

as a witness, when the evidence is based on reputation of general history important to the community. Specifically, §90.803(20) provides:

> ...the following are not inadmissible as evidence, even though the declarant is available as a witness:
>
> . . .
>
> **(20) Reputation Concerning Boundaries or General History.** Evidence of reputation:
>
> . . .
>
> (b) About events of general history which are important to the community, state, or nation where located.

The Report contains a comprehensive recital and evaluation of the violence which occurred in Rosewood in 1923 and the consequences of the racial violence on the African-American community. It documents a significant occurrence in the history of this predominantly African-American community. This Report contains evidence of reputation as to matters of general public interest and concern. This report should be admitted as an exception to the hearsay rule.

> 'The courts are generally agreed that there exists, as an exception to the hearsay rule, a principle justifying the admission of evidence of reputation as to matters of general public interest and concern.' Annot., Hearsay--Matter of Public Interest, 58 ALR 2d 615. The reputation is a testimonial inference introduced to prove the truth of the facts asserted.
>
> Reputation as to land boundaries, customs, general history, character, and marriage have come to be regarded as admissible. Trustworthiness of reputation evidence is found 'when the topic is such that the facts are likely to have been inquired about in that persons having personal knowledge have

> disclosed facts which have thus been discussed in the community; and thus the community's conclusion, if any has been formed, is likely to be a trustworthy one.' 5 Wigmore, Evidence, § 1580, p. 444 (3rd ed. 1940).

Fla. Legis. History, Sponsor's Report Fla. Stat. §90.803(20) (1979). See also, McCormick, Evidence, §324 (2d ed. 1972) (It is generally recognized that reputation is acceptable as proof of historical events of general interest in the community, despite the fact that such evidence is hearsay); Ehrhardt, Florida Evidence, §803.20, p. 680 (1993) (Reputation evidence may be admissible to prove events of general history. It is unlikely that other evidence can be obtained of these historical events); Read, Read's Florida Evidence, vol. 1, p. 726 (1993).

STEPHEN F. HANLON
Florida Bar No. 209430
ROBIN URICCHIO O'QUINN
Florida Bar No. 801534
HOLLAND & KNIGHT
315 South Calhoun Street
Post Office Drawer 810
Tallahassee, Florida 32302
904/224-7000

ORL-87898.1/079
80001-64

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Memorandum in Support of the Admissibility of the Rosewood Report has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle

S.E., Suite 102, Tallahassee, Florida 32399-1050, this 22 day of February, 1994.

Stephen F. Hanlon

RECEIVED
FEB 23 1994
Department of Legal Affairs
Civil Section

Docket
J.F.K

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CLAIMANTS' OPPOSITION TO RESPONDENT STATE OF FLORIDA'S FIRST AND SECOND MOTIONS FOR DISCOVERY

Claimants, pursuant to House Rule 6.63(d), hereby file their opposition to Respondent's first and second motions for orders granting discovery of Claimants in this matter, and as grounds therefor state as follows:

1. This matter is set for hearing on February 25, 1994. Respondent's first motion for discovery was served on February 13, 1994 and Respondent's second motion for discovery was served on February 15, 1994.

no state's fault

2. Claimants have insufficient time within which to respond to each said motion for discovery.

3. The subject matter of each said motion for discovery is inapposite to the bifurcated nature of the proceedings scheduled

2/22/94
R

for hearing in this case on February 25, 1994; that is, a hearing on liability and damages without presentation of any evidence with respect to individual claims. Respondent's first motion for discovery requests detailed personal information with respect to each claimant, all of which is well beyond the scope of the bifurcated proceedings scheduled for February 25, 1994 in this matter. Moreover, much of the information requested in the attached interrogatories and requests for production of documents would be irrelevant to a hearing on the individual claims.

4. Despite the fact that claimants believe that this kind of wide-ranging discovery is inappropriate for a hearing such as the hearing contemplated by the Hearing Officer for February 25, 1994, Claimants have furnished Respondent with substantial discovery materials which are appropriate to the issues to be determined at the February 25, 1994 hearing.

5. Respondent's second motion for discovery simply incorporates a second set of interrogatories and requests for production which appear to be corrected versions of Respondents first set of interrogatories and request for production of documents. The Claimants reiterate each of the arguments stated above in opposition to Respondent's first motion for discovery.

For all of the above and foregoing reasons, Claimants

respectfully request that the Respondent's first and second motions for discovery be denied.

RESPECTFULLY SUBMITTED,

HOLLAND & KNIGHT

Stephen F. Hanlon
FBN: 209430
P. O. Drawer 810
Tallahassee, Florida 32302
(904) 224-7000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Claimants' Opposition to Respondent State of Florida's First and Second Motions for Discovery has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle S.E., Suite 102, Tallahassee, Florida 32399-1050, this 22 day of February, 1994.

Stephen F. Hanlon

TAL-40075

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

MEMORANDUM IN SUPPORT OF THE ADMISSIBILITY OF EXPERT TESTIMONY ON HEDONIC DAMAGES

The Claimants will proffer Stan V. Smith, an economist and adjunct professor at DePaul University College of Law, as an expert to testify concerning the loss of enjoyment of life of the Rosewood survivors due to the Rosewood Massacre in January of 1923. Damages for the loss of enjoyment of life, sometimes referred to as hedonic damages, compensate an individual for loss in the value of a person's future life experiences due to injury. This decrease in the value of enjoyment of life is separate and apart from palpable pain and the consequent suffering that may accompany an injury, such as fear, worry, mental disturbance or humiliation. It is based on a measure of the reduction in the capacity to function in and experience life as a whole individual. Pain and suffering, mental anguish and the loss of capacity for the enjoyment of life

2/22/94

are proper damages in Florida. Fraysier v. United States, 566 F.Supp. 1085, 1090 (S.D. Fla. 1983); Food Fair Stores, Inc. v. Morgan, 338 So.2d 89, 91 (Fla. 2d DCA 1976); Florida Standard Jury Instructions and Civil Cases, Instruction No. 6.2(a)(b)(c) & (d).

Further, when it comes to expert witnesses, a court has broad discretion to allow an expert to testify about various matters. Harrison Land Development v. R&H Holding Co., 518 So.2d 353 (Fla. 4th DCA 1988); Holiday Inns, Inc. v. Shelburne, 576 So.2d 322, 335 (Fla. 4th DCA 1991) ("Generally, the decisions as to whether a witness possesses the necessary expertise and the range of subjects on which that expert may testify are within the discretion of the trial judge and will not be disturbed unless clearly erroneous and prejudicial to the adverse party").

Under Florida law, there are four requirements for determining the admissibility of expert testimony: (1) that the opinion evidence be helpful to the trier of fact; (2) that the witness be qualified as an expert; (3) that the opinion evidence can be applied to evidence offered at trial; and (4) that the evidence, although technically relevant, does not present a substantial danger of unfair prejudice that outweighs its probative value. Holiday Inns at 335. Citing Kruse v. State, 483 So.2d 1383 (Fla. 4th DCA 1986). In Kruse, the court rejected the requirement that the expert's testimony be generally accepted in the scientific community, which evolved from the decision in Frye v. United States, 293 Fed. 1013 (D.C. Cir. 1923) (excluding results of a lie detector test because the test had not been generally accepted by the scientific community). Instead, Florida courts follow the above "relevancy/probative value" balancing test in determining the admissibility of expert testimony. Kruse at 1386.

In Sherrod v. Berry, 629 F.Supp. 159 (N.D. Ill. 1985), a district court held that Stan Smith's testimony concerning the hedonic value of life was admissible and assisted the jury in

enabling it to perform its function in determining the proper measure of damages in the case. Sherrod at 162. Sherrod was a civil rights suit was brought by a father to recover for the death of his son who was shot and killed by a city police officer. The court noted that Mr. Smith's testimony concerning the economic value of life gave insight to the jury concerning guidelines that an economist uses in looking at how society values life, separate from the economic productive value of an individual. The court noted that despite the fact that the hedonic value of human life is difficult to measure, it did not make Mr. Smith's testimony on damages speculative. "[U]ncertainty which affects merely the measure or extent of any injury suffered does not bar a recovery." Id. at 164.

On appeal, the seventh circuit ruled that Mr. Smith's testimony was "invaluable to the jury in enabling it to perform its function of determining the most accurate and probable estimate of the damages recoverable for the hedonic value of Ronald's [Sherrod] life. The trial court committed no error by admitting that testimony." Sherrod v. Berry, 827 F.2d 195, 206 (7th Cir. 1987), rehearing granted and vacated, 835 F.2d 122, on rehearing, 856 F.2d 802, rev'd on other grounds, 856 F.2d 802.[1] Stan Smith's testimony has been accepted in approximately 75 trials over the last five or six years in twenty different states. (See attached Exhibit "A" for listing of case names and dates). In Johnson v. Inland Steel Co., 140 FRD 367 (N.D. Ill. 1992), the court allowed the testimony of Mr. Smith concerning the value of loss of care, love and affection in a wrongful death case. The court noted:

---

[1] Because Sherrod v. Berry was reversed and remanded for a new trial, the seventh circuit did not discuss the district court's evidentiary rulings. Instead, the court stated "we leave these questions for the district court on remand to decide in light of this court's prior discussions of those matters, specifically as found in our earlier vacated opinion." Sherrod v. Berry, 856 F.2d 802, 807-08 (7th Cir. 1988).

> "... taking into account that hedonic value of human life is difficult to measure, expert testimony becomes exceedingly important and may be of particular use to the trier of fact in this case." Sherrod v. Berry, 827. F.2d 195 (7th Cir. 1987).

Id. at 372. But see, Mercado v. Ahmed, 756 F.Supp. 1097 (N.D. Ill. 1991) (aff'd 974 F.2d 863 (7th Cir. 1992) (ruling that the circuit court had not abused its discretion in excluding the expert testimony of Stan Smith on "pleasure of living damages").

In Mercado v. Ahmed, 974 F.2d 863 (7th Cir. 1992), the court noted that an appellate review of a district court's decision to exclude expert testimony is based upon an "abusive of discretion" standard. Since the lower court's determination to exclude Mr. Smith's testimony was not "manifestly erroneous", the court held that the district court's decision to bar Mr. Smith's testimony was not reversible error. As discussed above, however, each judge is granted broad discretion concerning the admissibility of expert testimony. In this case, Mr. Smith's testimony provides useful guidance in determining the level of loss suffered by the Rosewood survivors and is helpful as an aid to the trier of fact, although it does not dictate the resulting damage calculation. Moreover, as noted by the Mercado district court, it did not question the possible utility of Mr. Smith's testimony as "evidence for a legislature wishing to adopt, by statute, a table of damages." Mercado v. Ahmed, 756 F.Supp. 1097, 1103 (N.D. Ill. 1991). Similarly, in the Rosewood proceeding, Mr. Smith's testimony is offered in order to help create a workable guide for the loss of enjoyment of life suffered by the Rosewood survivors in the form of a table which could be adapted to the recovery received by each of the claimants. It is therefore helpful in quantifying the total amount of damages to be awarded to the claimants by the Florida legislature.

RESPECTFULLY SUBMITTED,

HOLLAND & KNIGHT

STEPHEN F. HANLON
Florida Bar No. 209430
ROBIN URICCHIO O'QUINN
Florida Bar No. 801534
315 South Calhoun Street
Post Office Drawer 810
Tallahassee, Florida 32302
904/224-7000

ORL-91763.1/079
80001-64

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Memorandum in Support of the Admissibility of Expert Testimony on Hedonic Damages has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle S.E., Suite 102, Tallahassee, Florida 32399-1050, this 22 day of February, 1994.

STEPHEN F. HANLON

TESTIMONY ON INTANGIBLE DAMAGES
BY STAN V. SMITH ALLOWED
IN THE FOLLOWING CASES
As of February 7 1994

I have testified (or my testimony has been ruled admissible prior to the settling of a case) as to loss of enjoyment of life in: (1) injury cases in the following 11 states at trial about 30 times, and (2) death cases in the following 14 states some 30 times. In addition, my colleagues in the economic profession have also testified in Pennsylvania, West Virginia, and almost certainly elsewhere.

	Death	Injury	Total Cases
Alaska	1	2	3
Arizona	1		1
California	*4	*3	*6
Florida	1	1	2
Georgia	4	1	5
Hawaii	1		1
Illinois	7	4	11
Louisiana	1	**12	13
Massachusetts		1	1
Michigan	1		1
Mississippi	9	4	13
Missouri	1		1
North Dakota	2		2
Ohio	2	2	4
South Dakota	1		1
Tennessee		1	1
Texas	1	2	3
Vermont	1		1
Wisconsin		3	3
Total States:	**16**	**12**	**18**
Total Cases:	**38**	**36**	***73**

* Zabojnik v. Burman counted both as a death and injury case.

**Gibson v. Central Mutual believed to be an injury case.

EXHIBIT "A"

TESTIMONY ON INTANGIBLE DAMAGES
BY STAN V. SMITH ALLOWED
IN THE FOLLOWING CASES
As of February 7, 1994

IN SOME CASES WHERE THE TESTIMONY WAS RULED ADMISSIBLE, THE CASES SETTLED BEFORE TESTIMONY

FEDERAL COURTS

Sherrod, et al. v. Berry, et al.
U. S. District Court, Northern District of IL, Eastern Division
Case No. 80 C 4117
Judge George N. Leighton
Law Firms: Horwitz, Horwitz & Associates, Ltd.;
Semmelman & Bertucci, Ltd.
Attorneys: Andrew J. Horwitz; Douglas Rallo
Testimony Date: 02 02 84 & at Retrial 10 29 86
Type of Case: Death
Opinions on file: 629 F.Supp. 159 (N.D.Ill.1985); Affirmed, 827 F.2d. (7th Cir. 1987) 195; reversed en banc on other grounds, 856 F.2d 802 (7th Cir. 1988), and reaffirmed the value of the economic testimony expressed in the first appellate opinion.

ALASKA

Faverty v. U. S. of America & Gill
U. S. District Court, District of Alaska
Case No. F88-015 CI
Judge Andrew J. Kleinfeld
Lawfirm: Call, Barrett & Burbank
Attorney: Paul A. Barrett
Testimony Date: 08 30 89
Type of Case: Death
Court Order or other supporting document on file.

Peterson v. U. S. of America
U. S. District Court for District of Alaska
Case No. A 89-49 Civil
Judge Von der Heydt
Law Firm: Jensen, Harris & Roth
Attorney: Scott A. Sterling
Testimony Date: 02 07 92; Judge Von der Heydt ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)

AK Contd...

ALASKA, Contd.

Baptiste v. Blumenshine
Superior Court State of Alaska, 1st Judicial District at Juneau
Case No. 1JU-90-928CI
Judge Larry R. Weeks
Law Firm: Loren Domke Law Office
Attorney: Loren Domke
Testimony Date: 08 28 91
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

ARIZONA

Doty v. Grain Dealers
Court: Arbitrators
Case No. 227805
Judge: Panel of 3 Arbitrators
Law Firm: Dennis L. Parrott, Ltd.
Attorney: Dennis L. Parrott
Arbitration Date: 11 20 89
Type of Case: Death

CALIFORNIA

Penny Newman, et al. v. J. B. Stringfellow, Jr., et al.
Superior Court of the State of California for County of Riverside
Case Nos. 165994 MF and 167122, 167173, 167291, 167327, 167467, 167691, 168088, 168349, 168591, 168939, 169223, 169610, 169999
Judge E. Michael Kaiser
Lawfirm: Milberg Weiss Bershad Specthrie & Lerach
Welebir & Lister
Attorney: Anita Laing & Douglas Welebir
Testimony Admitted: January, 1993
Type of Case: Injury (Loss of Enjoyment of Life); Mass Toxic Tort

Aguayo v. Viking Tire Co.
Riverside County Superior Crt, Indio Branch, Indio, CA
Case #I65959
Judge Low
Law Firm: Law Office of Jack H. Anthony
Attorney: Jack H. Anthony
Testimony Date: 10 13 92
Type of Case: Death

CA Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

CALIFORNIA, Contd.

McColm v. Carter-Hawley Hale Stores, Inc.
California Superior Court, City & County of San Francisco
Case No. 890203
Judge Lenard Louie
Law Firm: Patricia McColm Law Office
Attorney: Patricia McColm
Testimony Date: 08 06 90
Type of Case: Injury (Loss of Enjoyment of Life)

Rose v. Sarkisian, et. al.
Superior Court of the State of California, County of Los Angeles
Case No. C 579515
Judge Edward Kakita
Law Firm: Agnew & Brusavich
Attorney: Bruce Brusavich
Testimony Date: 04 23 90
Type of Case: Death

Jafarian v. Drs.....Kim
Superior Court, Orange County, CA
Case No. 422-004
Judge Luis Cardenas
Law Firm: Roslyn J. Stewart Law Office
Attorney: Roslyn J. Stewart
Testimony Date: 04 18 89
Type of Case: Death

Zabojnik v. Burman, et al.
Superior Court of State of California, County of Los Angeles
Case No. NWC 01923 (Consolidated with NWC 03100)
Judge
Law Firm: Law Offices of Barry Bernstein
Attorney: Barry Bernstein
Testimony Date: 12 07 87
Type of Case: Death & Injury (Loss of Enjoyment of Life)

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

FLORIDA

White v. American Automobile Insurance Co., Newhouse & White Bros
Circuit Court of 15th Judicial Circ. of Florida, Palm Beach County
Case No. 1358CA(L)
Judge James Minnet
Law Firm: Ricci & Roberts
Attorney: Edward M. Ricci
Testimony Date: 08 85
Type of Case: Death

Drakos v. Greenblatt
Circ. Crt of the 15th Judicial Circuit, Palm Beach County, FL
Case No. CL-88-11921-AD
Judge Timothy Poulton
Law Firm: Frank, Mallory, Shooster
Attorney: Frank M. Shooster
Testimony Date: 02 05 91
Type of Case: Injury (Loss of Enjoyment of Life)

GEORGIA

Lytel v. Roos
U. S. District Court for Northern District of GA, Atlanta Div.
Civic Action File No. 1:91-CV-2585-JTC
Judge Jack T. Camp
Law Firm: Calabro & Jennette
Attorney: Larry F. Jennette, Jr.
Testimony Date: 09 21 93; Judge Camp denied motion to exclude testimony; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

William L. Pippin, Jr., v. Hennessy Cadillac, Inc.
Superior Court of Fulton County, State of Georgia
Civil Action File No. D-66356
Judge Thelma Wyatt Cummings
Law Firm: Doffermyre Shields Canfield & Knowles
Attorney: Robert E. Shields
Testimony Date: 04 23 93; Judge Cummings denied motion to exclude testimony; case settled prior to testimony.
Type of Case: Death

GA Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

GEORGIA, Contd.

Lorenz v. Bean
Superior Court for County of Fulton, State of Georgia
Case No. D96834
Judge Frank M. Eldridge
Lawfirm: Johnson & Cooper
Attorney: Lance Cooper
Testimony Date: 08 11 93; Judge Eldridge ruled testimony admissible; case settled prior to testimony.
Type of Case: Death

Wood, Garrett v. Apac-Georgia, Inc, Gervin & Vajda
State Court for County of Fulton, State of Georgia
Case No. 179220
Judge Albert L. Thompson
Law Firm: Smolar, Roseman & Barnes
Attorney: Yehuda Smolar
Testimony Date: 03 29 90
Type of Case: Death

Bentley v. BMW Inc. et al.
Georgia Superior Court, Mitchell County
Case No. 87-V-430
Judge Willard Chason
Law Firm: Agnew & Schlam
Attorney: Paul E. Schlam
Testimony Date: 04 17 91
Type of Case: Injury (Loss of Enjoyment of Life)

HAWAII

Conrad, et al. v. Lamb, et al,
Circuit Court of 3rd Circuit, State of Hawaii
Civil No. 89-369 (Hilo)
Judge Shunichi Kimura
Law Firm: Lerma & Goya
Attorney: Dwayne Stephen Lerma
Testimony Date: 10 21 91; Judge Kimura ruled testimony admissible; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

ILLINOIS

Phyllis Shaw executrix & personnal representative of Edith Henson, et al. v. Magna Trust Co.
Circuit Court for 3rd Judicial Circuit, Madison County, IL
No. 92-L-1237
Judge Nicholas G. Byron
Law Firm: Brown & James
Attornney: Robert Cockerham
Testimony Date: December, 1993; Judge Byron ruled testimony in S&C admissible in a pretrial ruling.
Type of Case: Death

Duncavage v. Allen
Appellate Court of Illinois, 1st District, 2nd Division
Case No. 85-2625
Illinois Department of Insurance; Claim No. 37-5200221182
Judge Edwin M. Berman
Law Firm: Cichocky & Armstrong
Attorney: Jon A. Duncan
Testimony Date: Report submitted in lieu of testimony
Type of Case: Death

Drumgoole v. Harnischfeger Corp., et al.
Circuit Court of Cook County, IL
Case No. 85 L 12041
Judge John V. Virgilio
Law Firm: Sheldon A. Harris Law Office
Attorney: Sheldon A. Harris
Testimony Date: 10 31 91
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

Shields v. Rients & Luckey Trucking
Circuit Court of 7th Judicial Court, Sangamon County, IL
Case 90-L-335
Judge Sue E. Myerscough
Law Firm: Delano Law Offices, P.C.
Attorney: Charles H. Delano, III
Testimony Date: 10 17 91; Judge Myerscough ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

IL Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

ILLINOIS, Contd.

Martin & McFarland v. Valley Industries, Inc., Auto Shack, Ford Motor Co., Auffenberg Lincoln Mercury, Inc., Hanger & Kannewurf
Circuit Court, 20th Judicial Circuit of Illinois, St. Clair County
Case No. 89-L-148
Judge Lopinot
Law Firm: Jack Carey Law Offices
Attorney: Steve Woodley
Testimony Date: 10 09 91; Judge Lopinot ruled testimony admissible; case settled prior to testimony.
Type of Case: Death

Qualls v. Valley Industries, Inc., et al.
Circuit Court, 20th Judicial Circuit, St. Clair County, Illinois
Case No. 89-L-1090
Judge Lopinot
Law Firm: Gray & Ritter
Attorney: Steve Woodley
Testimony Date: 08 16 91; Judge Lopinot ruled testimony admissible; case settled prior to testimony.
Type of Case: Death

Miller v. American Central Transport, Inc.
Circuit Court, 20th Judicial Circuit, St. Clair County, IL
Cause No. 90-L-826
Judge Roger Scrivner
Law Firm: Bassett Law Office
Attorney: Merle C. Bassett
Testimony Date: 07 22 91; Judge Scrivner ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)

Porter v. Illinois Central Gulf Railroad
Circuit Court, 3rd Judicial Circuit, Madison County, IL
Case No. 86-L-507
Judge Nicholas G. Byron
Law Firm: Schlichter Law Assoc.
Attorney: Jerome J. Schlichter
Testimony Date: 04 24 90
Type of Case: Death

IL Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

ILLINOIS, Contd.

Saldana v. Dynapac Mfg., Inc. & Howell Tractor & Equipment Co.
Circuit Court of Cook County, IL, County Dept. Law Division
Case No. 84 L 15330
Judge E. C. Johnson
Law Firm: Sheldon A. Harris Law Office
Attorney: Sheldon A. Harris
Testimony Date: 12 05 89
Type of Case: Death
Court Order or other supporting document on file.

Ferguson v. Vest, Doctors' Clinic of Alton, Ltd., & Mucci, M.D.
Circuit Court, 3rd Judicial Circuit, Madison County, IL
Case No. 87-L-207
Judge Nicholas G. Byron
Law Firm: Bassett Law Office; Mateyka & Hill, P. C.
Attorneys: Merle Bassett; William J. Mateyka
Testimony Date: 03 08 89
Type of Case: Injury (Loss of Enjoyment of Life)

Sherrod, et al. v. Berry, et al. (See Federal Courts)

LOUISIANA

LeBert v. Penn & Sons
14th Judicial District court, Parish of Calcasieu, State of LA
No. 92-2821
Judge Gregory Lyons
Law Firm: Badon & Ranier
Attorney: Kenneth E. Badon
Testimony Date: 01 12 94; case settled prior to testimony.
Type of Case: Injury

LA Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

LOUISIANA, Contd.

Theriot, et al. v. Starks, Sulphur Electric Co., et al.
38th Judicial District Court, Parish of Cameron, State of LA
No. 10-12574
Judge Ward Fontenot
Law Firm: Badon & Ranier
Attorney: Drew Ranier
Testimony Date: 11 12 93; Video deposition presented after Appellate Court Judges Thibodeaux, Woodard, & Yelberton overturned District Court Judge Fontenot's ruling to exclude the testimony.
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

Hall, et al. v. Dufrene, et al
29th Judicial District Court, Parish of St. Charles, Louisiana
No. 37,172 Div. E
Judge Chaisson
Law Firm: Gordon Hackman, P.L.C.
Attorney: Gordon Hackman
Testimony Date: 08 11 92
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

Diez, Sr. v. Luther's Bar BQ & Home Insurance
24th Judicial Dist. Court, Div. D., Parish of Jefferson
No. 387-611
Judge Walter E. Kolin
Law Firm: James Minge & Assoc.
Attorney: Dennis P. Couvillion
Testimony Date: 05 04 92; Judge Kolin ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

Boyd v. No. 66,142 Hartford Accident & Indemnity Co., et al.
St. of Louisiana, Parish of LaFourche, 17th Judicial Dist. Court
Judge Randolph H. Parro
Law Firm: O'Neal Law Offices
Attorney: Hodge O'Neal, III
Testimony Date: 10 30 91
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

LA Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

LOUISIANA, Contd.

Berrera, et al, v. Hyundai Motors America Corp., et al,
25th Judicial Dist. Crt., Parish of Plaquemines, St.of LA, Div. B
Case No. 32-724
Judge William A. Roe
Law Firm: Ballay & Braud
Attorney: Charles Ballay
Testimony Date: 09 13 91
Type of Case: Death
Court Order or other supporting document on file.

David v. Cajun Printing, Inc., et al,
23rd Judicial Dist. Court, No. 19,535, Div. C
Judge Guy Holdridge
Law Firm: Unglesby Law Offices
Attorney: Lewis O. Unglesby
Testimony Date: 08 27 91
Type of Case: Injury (Loss of Enjoyment of Life)

Black v. Parish, Allen-Bradley Co., et al
24th Judicial Dist. Court, Div. C. Parish of Jefferson, St. of LA
No. 377-334
Judge Joseph F. Grefer
Law Firm: James Minge & Assoc.
Attorney: Dennis P. Couvillion
Testimony Date: 05 20 91; Judge Grefer ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

Normand v. Gerald, et al
21st Judicial Dist. Court, No. 51,037, Div. B
Judge Bruce Bennett
Law Firm: Unglesby Law Offices
Attorney: Lewis O. Unglesby
Testimony Date: 05 20 91
Type of Case: Injury (Loss of Enjoyment of Life)

LA Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

LOUISIANA, Contd.

Arceneaux v. Aetna Casualty & Surety Co.
32nd Jud. Dist. Crt., No. 92,318, Parish of Terrebonne, Houma, LA
No. 92,318
Judge Wilmore Broussard, Jr.
Law Firm: St. Martin, Lirette, Shea & Watkins
Attorney: Carolyn A. McNabb
Testimony Date: 11 28 90
Type of Case: Injury (Loss of Enjoyment of Life)

Gibson & James v. Central Mutual Ins. Co., et al,
Civil District Court for Parish of Orleans, St. of LA, Div. C
No. 89-12170 Docket #4
Judge Richard Garvey
Law Firm:
Attorney: Robert L. Manard
Testimony Date: 11 90
Type of Case: Believed to be Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

Gautreaux v. Cooper T. Smith Stevedoring
23rd Judicial Dist. Court, Div. C
No. 44,276
Judge John L. Goldsmith
Law Firm: Unglesby Law Offices
Attorney: Lewis O. Unglesby
Testimony Date: 10 90; Judge Goldsmith ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)

Pourciau, et ux v. Threeton, et ux
21st Judicial Dist. Crt, Parish of Tangipahoa, St. of LA, Div. B
Nos. 83870, 86804, & 86995
Judge Bruce Bennett
Law Firm: Dué, Smith & Cabellero; Simpson & Schwartz
Attorneys: Paul H. Dué; Joseph H. Simpson
Testimony Date: 08 01 90; Judge Bennett ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

MICHIGAN

Morrow/Yeager v. Michigan Department of Transportation (MDOT)
St. of Michigan in the Crt. of Claims, Circ. Court, Cnty of Eaton
No. 91-13687-CM
Judge G. Michael Hocking
Law Firm: Nolan Reincke Thomsen & Villas
Attorney: Lawrence P. Nolan
Testimony Date: 07 06 93; Judge Hocking ruled testimony admissible in S&C.
Type of Case: Death
Court Order or other supporting document on file.

MASSACHUSETTS

Vinal v. New England Telephone & Telegraph Co.
Middlesex Superior Court, Gorham St., Lowell, MA
Civil Action No. 91-0564
Judge Wendie Gershengorn
Law Firm: Kinson & Wallace
Attorney: Edward F. Wallace
Testimony Date: 09 13 93 by video deposition
Type of Case: Injury (Loss of Enjoyment of Life)

MISSISSIPPI

Rigdon v. APAC-Mississippi, Inc.
Circuit Court of the First Judicial District, Hinds, County, MS
Civil Action No. 92-73-201
Judge Robert Gibbs
Law Firm: Witherspoon & Compton
Attorney: Robert Compton
Testimony Date: 12 14 93
Type of Case: Death (Loss of Value of Life; Loss of Society & Companionship)

MS Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

MISSISSIPPI, CONTD.

Young v. McDonald's Corp. & LTM Enterprises, Inc.
Circuit Court for The First Judicial District of Hinds County, MS
Civil Action No. 91-68-357
Judge James E. Graves, Jr.
Law Firm: Langston & Frazer
Attorneys: Shane F. Langston & Roe Frazer
Testimony Date: 01 20 93
Type of Case: Death

Lewis, et al. v. Mississippi Baptist Medical Center, et al.
Jackson, Hinds County, MS
Case No. 90-64-340
Judge Robert Gibbs
Law Firm: David Nutt & Associates
Attorney: Harry Rayburn
Testimony Date: 09 22 92
Type of Case: Death

King v. H. C. Bailey Management Co.
Circuit Court of 1st Judicial District of Hinds County, MS
Civil Action No. 91-67-203
Judge James E. Graves
Law Firm: Langston & Frazer
Attorney: T. Roe Frazer II
Testimony Date: 05 21 92
Type of Case: Death
Court Order or other supporting document on file.

Berry v. Westwick II, Ltd.
Circuit Court of 1st Judicial Dist. of Hinds County, MS
Case No. 91-67-455
Judge Francis S. Bowling
Law Firm: Waycaster & Warren
Attorney: Jim Warren
Testimony Date: 05 13 92; Judge Bowling ruled testimony admissible; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

MS Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

MISSISSIPPI, CONTD.

Brown v. Parke-Davis, a Division of Warner Lambert Co. & Dr. John R. Pieklik
Circuit Court of 1st Judicial Dist. of Hinds County, MS
Cause No. 37,864
Judge Robert Gibbs
Law Firm: Byrd & Assoc.
Attorney: Isaac Byrd, Jr.
Testimony Date: 01 30 92
Type of Case: Injury (Loss of Enjoyment of Life)

Robertson v. McKenzie Trucking & McKenzie
Circuit Court of DeSoto County, Mississippi
Cause No. CV90-406-C/D
Judge George C. Carlson, Jr.
Law Firm: Gerald W. Chatham Law Office
Attorney: Gerald W. Chatham
Testimony Date: 11 08 91
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

Gray v. Duckworth, McGowan, & Lufkin Industries, Inc.
Circuit Court of 1st Judicial District of Hinds County, MS
Civil Action No. 90-64-164CV
Judge James E. Graves
Law Firm: Dockins & Sweet
Attorney: Dennis C. Sweet, III
Testimony Date: 09 24 91; Judge Graves ruled testimony admissible; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

Ladd, Dorman, et al. v. Cox Development Co. & Ladd Homebuilders & Graham
Circuit Court of Neshoba County, Philadelphia, MS
Case No. 6744
Judge Francis S. Bowling, Special Circuit Judge
Law Firm: Roy O. Parker & Assoc.
Attorney: Roy O. Parker
Testimony Date: 07 24 91
Type of Case: Death

MS Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

MISSISSIPPI, CONTD.

Tighe, Jr. v. Crosthwait, M.D., Jackson Heart Clinic, Tyler, M.D., & Cardiovascular Surgical Clinic
Circuit Court of 1st Judicial District of Hinds County, MS
Cause No. 38,055
Judge James E. Graves
Law Firm: Liston & Lancaster
Attorney: John W. Chapman
Testimony Date: 05 22 91
Type of Case: Death

Nelson v. Griner Drilling Service, Inc.
Amite County Circuit Court No. 3683 (Liberty) MS
Judge Richard T. Watson
Law Firm: Clyde Ratcliff Law Office
Attorney: Clyde Ratcliff, McComb, MS
Testimony Date: 03 08 91
Type of Case: Injury (Loss of Enjoyment of Life)

McCraw v. Pierce & Capital City Beverages
Circuit Court, 1st Jud. Dist. of Hinds County, State of MS
Case No. 37,701
Judge Breeland Hilburn
Law Firm: Liston & Lancaster
Attorney: William Liston
Testimony Date: 05 24 90; Judge Hilburn ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)

Autry v. Morgan, Hailey, et al.
Circuit Court of Benton County, Ashland, MS
Civil Action File No. 1902
Judge William Lamb
Law Firm: Tollison & Alexander
Attorney: Grady Tollison
Testimony Date: 01 31 91
Type of Case: Death

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

MISSOURI

Myers v. Union Electric Company
Circuit Court of the City of St. Louis, State of Missouri
Cause No. 862-00043, Division No. 6
Judge Robert H. Dierker, Jr.
Law Firm: Newman & Bronson
Attorney: Mark Bronson
Testimony Date: 11 16 92; Judge Dierker ruled testimony admissible; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

NORTH DAKOTA

Baehm v. Steen
State of North Dakota in District Court, County of Ward, Northwest Judicial District
Civil No. 90-1100
Judge Jon Kerian
Law Firm: Farhart Lian Maxson Howard Sorensen Louser & Zent, P.C.
Attorney: Steven C. Lian
Testimony Date: 10 20 93; Judge Kerian denied motion to exclude testimony; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

Werner v. Pueringer Distributing, Inc.
State of North Dakota in District Court, County of Ward, Northwest Judicial District
Civil No. 91-0892
Judge Wallace D. Berning
Law Firm: Farhart Lian Maxson Howard Sorensen Louser & Zent, P.C.
Attorney: Steven C. Lian
Testimony Date: 08 20 93; Judge Berning ruled testimony admissible; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

OHIO

Schwochow v. Chung, M.D., et al
Sandusky County Court of Common Pleas, Fremont, Ohio
Case No. 92-CV-348
Judge J. Sargeant, Jr.
Law Firm: McGehee & Pianelli
Attorney: Jack E. McGehee
Testimony Date: 01 20 94; Judge Sargeant ruled testimony in LVL & S&C admissible.
Type of Case: Death

Beaver v. Belles, M.D.
Common Pleas Court of Miami County, Ohio, General Division
Case No. 92-289
Judge Robert J. Lindeman
Law Firm: Weisbrod Law Office
Attorney: Alfred J. Weisbrod
Testimony Date: 10 25 93; Testimony Admitted, but not presented.
Type of Case: Injury (Loss of Enjoyment of Life)

Reeser, et al. v. Weaver Bros., Inc.
Court of Common Pleas, Darke County, Ohio
Case No. 48621
Judge Lee A. Bixler
Law Firm: Sunderland & Moore
Attorney: Stephen E. Klein
Testimony Date: 03 03 88
Type of Case: Injury (Loss of Enjoyment of Life)

Urseth v. City of Dayton, et al.
U. S. District Court for Southern Dist. of Ohio, Western Division
Case No. C-3-84-103
Judge Walter H. Rice
Law Firm: Moorman, Wist & Kemmer
Attorney: Robert J. Moorman
Testimony Date: 06 18 86
Type of Case: Death
Court Order or other supporting document on file.

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

SOUTH DAKOTA

Ames, Pugh v. Coss, et al.
3rd Judicial Circuit Court, Miller, Hand County., St. of SD
Civil No. 90-11
Judge Jon R. Erickson
Law Firm: Heidepriem, Widmayer, Zell & Jones
Attorney: Bradley G. Zell
Testimony Date: 02 26 92; Judge Erickson ruled testimony admissible; case settled prior to testimony.
Type of Case: Death
Court Order or other supporting document on file.

TENNESSEE

Speed, et ux v. Hughes, et al
Hamilton County Circuit Court, State of Tennessee
Case No. 89-CV-911
Judge Summitt
Law Firm: Patrick, Beard & Richardson
Attorney: Gary R. Patrick
Testimony Date: 10 05 90; Judge Summitt ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)

TEXAS

Garrett v. Lockett, M.D.
345th Judicial District Court, Travis County, State of Texas
No. 455,290
Judge James R. Meyers
Law Firm: Mounger & Campbell
Attorney: Don Campbell
Testimony Date: 08 24 90
Type of Case: Injury (Loss of Enjoyment of Life)

TX Contd...

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

TEXAS, CONTD.

Klekar v. Southern Pacific Transportation Co. & Englebert
District Court of Harris County, Texas
Case No. 88-057280
Judge Eugene Chambers
Law Firm: Stephens & Clark
Attorney: Joe B. Stephens
Testimony Date: 05 31 90
Type of Case: Death

Ray v. David Mfg. Co. & Gilmore & Tatge Mfg. Co., Inc.
U. S. Dist. Court for the Eastern Dist. of Texas, Beaumont Div.
Civil Action No. B-87-1285-CA
Judge Fisher
Law Firm: Fisher, Gallagher, Perrin & Lewis
Attorney: Price Ainsworth
Testimony Date: 10 09 89
Type of Case: Injury (Loss of Enjoyment of Life)

VERMONT

Gray v. Gifford Memorial Hospital, Inc. & Burgee, M.D.
Orange Superior Court
Docket No. S27-91 OeC
Judge Alan W. Cheever
Law Firm: Caldbeck & Schweitzer
Attorney: Gareth Caldbeck
Testimony Date: 10 16 91
Type of Case: Death
Court Order or other supporting document on file.

TESTIMONY ON INTANGIBLE DAMAGES BY STAN V. SMITH

WISCONSIN

Grant & Aetna Insurance Co. v. Halberg Realty & Miljean Bldg Co.
State of Wisconsin, Circuit Court of Milwaukee County
Case No. 190-CV-011497
Judge Crivello
Law Firm: Cunningham Lyons & Cabaniss
Attorney: Thomas W. Cunningham
Testimony Date: 02 04 94; Judge Crivello ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)

Stenman v. Larson Picture Frame, Inc.
Circuit Court Branch I, Douglas County Courthouse, Superior, WI
Case No. 90 CV 147
Judge Michael T. Lucci
Law Firm: Marcovich Cochrane and Milliken
Attorney: Toby E. Marcovich
Testimony Date: 10 26 92; Judge Lucci ruled testimony admissible; case settled prior to testimony.
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

O'Brien v. Duluth, Missabe & Iron Range Railway Co.
State of Wisconsin Circuit Court Douglas County
Case No. 90-CV-250
Judge Joseph A. McDonald
Law Firm: Marcovich Cochrane and Milliken
Attorney: Toby Marcovich
Testimony Date: 08 08 91
Type of Case: Injury (Loss of Enjoyment of Life)
Court Order or other supporting document on file.

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

RESPONDENT'S STATE OF FLORIDA'S
THIRD MOTION FOR DISCOVERY

Respondent, State of Florida, pursuant to House Rules 6.63(d), moves for an order granting discovery of claimants via the Third Request for Production of Documents attached hereto.

The requested documents will provide insight into the nature of claimants' apprehension and motivations and access to earlier of claimants' public narratives of the Rosewood incident.

THE STATE OF FLORIDA'S THIRD
REQUEST FOR PRODUCTION OF DOCUMENTS

Respondent, State of Florida, pursuant to House Rule 6.63(d), and Rules 1.280, 1.340, and 1.350, Fla.R.Civ.P., hereby requests that each claimant respond to the following request for production of documents within the time frame ordered by the Special Master.

2/19/96
F

CF

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

STATE OF FLORIDA'S RESPONSE TO
CLAIMANTS' MEMORANDUM IN SUPPORT OF ADMISSIBILITY
OF EXPERT TESTIMONY OF HEDONIC DAMAGES

State of Florida respectfully submits its Memorandum concerning the admissibility of the testimony of Stan Smith concerning hedonic damages - compensation for "lost pleasures" or "the larger value of life." The Special Master, like a Court, has broad discretion to allow an expert to testify about matters before it. That discretion should be exercised, however, only after fair and objective consideration of the record and of the consequences to other cases and claims.

I

There are four requirements for determining the admissibility of expert testimony under Florida law:

1. That the opinion evidence be helpful to the trier of fact;

2. That the witness be qualified as an expert;

2/28/94
F

3. That the opinion evidence can be applied to evidence offered at trial;

4. That the evidence, although technically relevant, does not present a substantial danger of unfair prejudice that outweighs its probative value.

Holiday Inns, Inc. v. Shelburne, 576 So.2d 322, 355 (Fla. 4th DCA 1991).

In the context of HB 591, admissibility of expert testimony on hedonic damages is particularly troublesome under requirements number 3 and 4 above, even assuming, arguendo, the initial two requirements are satisfied. Other than the testimony of three claimants on February 25, 1994, there is little or no evidence offered thus far at trial to which Mr. Smith's testimony could be applied. Certain conclusions of claimants' psychologist, Dr. Turner - for reasons to be developed during State of Florida's case - are dubious. Her examination of claimants was brief and otherwise lacked verification and corroborative records as would render her generalized opinion, even under a "substantial competent evidence" standard, sufficient to sustain a claim for seven million dollars after passage of a generation.

The testimony of Stan Smith should also fail under the fourth criteria. It presents a substantial danger of unfair prejudice to the State of Florida. This deficiency derives in great part from the one noted above - absence of evidence offered at trial. The hearing testimony of less

than six percent of the claimants and the brief examination of a few of them by Dr. Turner should be no responsible basis for a second tier of expert opinion testimony.

Further, admissibility at this date poses an unfair prejudice to the State of Florida as Mr. Smith has not been subject to prior cross-examination, or even informal interview, by State counsel even at this date. More particularly, the "workable guide for the loss of enjoyment of life suffered by the Rosewood survivors in the form of a table which could be adopted to recovery received" referenced in the claimants' Memorandum is neither attached to the Memorandum or available for examination as this Response is prepared. There can be no meaningful cross-examination of this witness about this "workable guide" absent opportunity to refer it to others of Mr. Smith's profession for analysis.

Clearly admission of this evidence is, at least, premature and poses an unfair prejudice to the State.

II

There is no record of causation (or liability) to attribute to the State the damages sought by claimants. In Sherrod v. Berry, 629 F.Supp. 159 (N.D. Ill. 1985), affirmed, 827 F.2d 195 (7th Cir. 1987), reversed on other grounds, 856 F.2d 802 (7th Cir. 1989), the trial court spoke to the issue of speculative damages and determined the general rule against them is usually directed against

uncertainty as to the cause rather than uncertainty as to the measure or extent.

State of Florida submits proof of this causative link is absent from the record in this cause, when evaluated objectively, and particularly so when measured under the sources of the claims alleged in HB 591, e.g. violations of the United States Constitution and the Florida Constitution and gross negligence. Similarly, the record will evidence no "direct and proximate result" of activity of the State as would entitle claimants to recovery from it under these theories, or any other, under the facts at bar.

Mr. Turner's testimony should be weighed, and rejected accordingly.

III

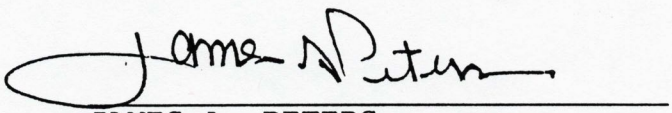
The Florida Courts do not recognize hedonic damages. In the only Florida reported decision on "hedonic damages," Brown v. Seebach, 763 F.Supp. 574 (S.D. Fla. 1991), the trial court construed Florida Statute §768.21 in a claim submitted on behalf of parents and the estate of automobile passengers killed in an automobile accident against a minor driver, the driver's parents, and the minor's father's company which owned the automobile. The Court determined:

> Florida Statute §768.21 controls what damages may be awarded in a wrongful death action. Hedonic damages are not made a part of Florida Statute §768.21. Furthermore the court is unaware of any

> Florida case law where hedonic damages were awarded. At this junction the court is inclined to grant the defendants motion to dismiss count X. The court bases its decision on the fact that it appears beyond a reasonable doubt that the plaintiff can prove no set of facts which would entitle him to relief in Florida. (Citation omitted.) The court is of the opinion that there is no cause of action for hedonic damages in Florida. The court must follow the guidelines established by Florida Statutes §768.21 and Florida case law until such time as the Supreme Court or the Florida Legislature decides differently. 763 F.Supp. at 583.

The Florida Legislature may, of course, in this claims process "decide differently." If the Legislature does so, however, it must be with the recognition that it is departing from the standards otherwise codified in Florida law for all other categories of persons who have suffered harm and injury - persons who have timely presented their claims and persons who have proven their claims with conventional (non-hearsay) evidence presented for rebuttal and response during the lives of those to whom fault is alleged.

Respectfully submitted,



JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Counsel for the Respondent
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **STATE OF FLORIDA'S RESPONSE TO CLAIMANTS' MEMORANDUM IN SUPPORT OF ADMISSIBILITY OF EXPERT TESTIMONY OF HEDONIC DAMAGES** has been forwarded to Stephen Hanlon, Esquire, Post Office Drawer 810, Tallahassee, Florida 32302-0810 this 28 day of February, 1994.

James A. Peters

JAMES A. PETERS

<jimp>Rosewood.Resp

FLORIDA HOUSE OF REPRESENTATIVES

Tallahassee

IN THE MATTER FOR RELIEF OF:

Arnett T. Goins, Minnie L. Langley, et al.,

Claimants, **HB 591**

v.

State of Florida,

Respondent.

_____/

NOTICE OF HEARING

TO: Stephen Hanlon, Esquire
Martha Barnett, Esquire
Post Office Drawer 810
Tallahassee, Florida 32302-0810

Attorneys for Claimant

James Peters, Esquire
Office of the Attorney General
PL 01, The Capitol
Tallahassee, Florida 32399-1050

Attorney for Respondent

PLEASE TAKE NOTICE that further hearings on the above claim bill will be conducted on Tuesday, March 1, 1994, at 1:30 p.m., in Room 217, House Office Building, and on Friday, March 4, 1994, at 9:30 a.m. in Room 317, The Capitol, Tallahassee, Florida 32399-1300.

DATED this 25th day of February, 1994.

Richard Hixson
Special Master

cc: The Honorable Ron Klein
The Honorable Miguel De Grandy
David Kerns, Senate Special Master
Clerk of the House

2/25/94

RECEIVED
MAR 1 1994
Department of Legal Affairs
Civil Section

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CLAIMANTS' LIST OF WITNESSES AND DOCUMENTS

Pursuant to the directions of the Special Master set forth in the Notice of Hearing issued in this matter on February 11, 1994, Claimants hereby furnish to the Special Master, with copy of Counsel for Respondent, the names of witnesses and documentary material that will or may be submitted at the hearing of this matter on February 25, 1994.

WITNESSES

1. Arnett Turner Goins
2. Eva Jenkins
3. Lillie Mae Washington
4. Willie Evans
5. Dorothy Goins Hosey
6. Minnie Lee Langley
7. Wilson Hall
8. Arnett Doctor

9. Annette Shakir

10. Rep. Miguel DeGrandy

11. Rep. Al Lawson

12. Professor Maxine D. Jones

13. Professor Larry E. Rivers

14. R. Tom Dye

15. Professor William R. Rogers

16. Richard L. Greaves

17. Patrick Riordan

18. Any witnesses listed by Respondent.

19. Rebuttal witnesses as necessary.

DOCUMENTS

1. A Documented History of the Incident Which Occurred at Rosewood, Florida in January, 1923 submitted to the Florida Board of Regents on December 22, 1993, Associate Professor Maxine D. Jones, Principal Investigator.

2. Review of the Rosewood Project, Florida State University, (Richard L. Greaves and Patrick Riordan) dated February 2, 1994.

3. All documents relied upon by the authors of the documents listed in numbers 1 and 2 above.

4. Lineage chart prepared by Arnett Doctor.

5. Family meeting brochures.

6. Letter dated November 1, 1993 from Stephen F. Hanlon to Rep. Miguel DeGrandy, with enclosures.

7. Any documents submitted by Respondent.

RESPECTFULLY SUBMITTED,

HOLLAND & KNIGHT

Stephen F. Hanlon
FBN: 209430
P. O. Drawer 810
Tallahassee, Florida 32302
(904) 224-7000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Claimants' List of Witnesses and Documents has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle S.E., Suite 102, Tallahassee, Florida 32399-1050, this 24 day of February, 1994.

Stephen F. Hanlon

TAL-40144

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CLAIMANTS' RESPONSES TO RESPONDENT'S THIRD MOTION FOR DISCOVERY

Claimants have no objection to this motion. However, Claimants do not have any of the documents listed in No. 10. Claimants are trying to obtain the tapes and transcripts listed in No. 11, and will present them to Respondents if they can be located.

RESPECTFULLY SUBMITTED,

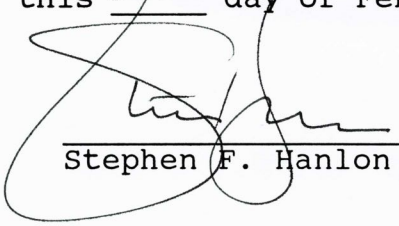
HOLLAND & KNIGHT

Stephen F. Hanlon
FBN: 209430
P. O. Drawer 810
Tallahassee, Florida 32302
(904) 224-7000

2/24/94
TR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Claimants' List of Witnesses and Documents has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle S.E., Suite 102, Tallahassee, Florida 32399-1050, this 24 day of February, 1994.



Stephen F. Hanlon

TAL-40146

RECEIVED
FEB 25 1994
Department of Legal Affairs
Civil Section

IN THE HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CLAIMANTS' MEMORANDUM OF LAW RE TOLLING THE SECTION 1983 STATUTE OF LIMITATIONS

Section 11.065, Florida Statutes, contains a four year-claims period. However, the current Legislature is not bound by that four-year claims period. See 1955 Op. Atty. Gen. Fla. 055-82 (April 14, 1955). Certain general principles found in the equitable tolling jurisprudence justify a decision by the current Legislature not to enforce that limitations period in this case.

A statute of limitations is not contained in 42 U.S.C. §1983 itself. Therefore, federal civil rights actions are subject to the forum state statute of limitations governing a similar action. Board of Regents v. Tomanio, 446 U.S. 478, 483, 100 S.Ct. 1790, 64 L.Ed.2d 440. In Florida, Section 95.11(3)(o), Florida Statutes, the four-year limitations period governing intentional torts, appears to be the most analogous statute of limitations.[1]

[1] The statute of limitations for filing a Claim Bill with the legislature is four years as well. Section 11.065, Florida Statutes (1993).

2/24/94
R

Obviously, discriminatory acts that took place in 1923 are well outside the statutory limitations period.

However, the Florida Supreme Court has adopted an expansive view of equitable tolling. In Machules v. Department of Admin., 523 So.2d 1132 (Fla. 1988), the plaintiff appealed his dismissal from the State by filing a union grievance. The grievance hearing was set for a date after the twenty-day period for appealing to the State itself had expired. After the hearing, the State denied the union's request to toll the statute of limitations and permit the plaintiff to file a formal appeal.

The court disagreed with the lower court's conclusion that equitable tolling required active deception by a defendant. The Court recognized that generally, equitable tolling occurs "when the plaintiff has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum." Machules, 523 So.2d at 1134(emphasis supplied). The court cited favorably Judge Zehmer's dissent in the lower court's decision that

> The doctrine [of equitable tolling] serves to ameliorate harsh results that sometimes flow from a strict, literalistic construction and application of administrative time limits contained in statutes and rules.

Machules, 523 So.2d at 1134, quoting Machules v. Department of Administration, 502 So.2d 437, 446 (Fla. 1st DCA 1986)(Zehmer, J. dissenting).

Thus, the Florida Supreme Court has recognized that a statute of limitations may be tolled when "extraordinary circumstances"

prevent a plaintiff from timely filing a claim. The circumstances surrounding the Rosewood incident may be fairly characterized as "extraordinary." The failure of State and local officials to protect African American persons and property during the week of violence instilled a life-long fear of retaliation in the survivors of Rosewood. After the massacre, they were witnesses to crimes which were never prosecuted by the State. They quite reasonably feared - and continue to reasonably fear - retaliation from those who murdered their relatives in the event they came forward to assert claims against the same State that failed to protect them in 1923. This entirely rational fear prevented the survivors from timely asserting a claim against law enforcement officials.

The Rosewood survivors' fear has been exacerbated by well known problems in both our judicial and legislative systems.

> "The current system - characterized by an abundance of minorities in positions of valuability and a death of minorities in positions of responsibility - disadvantages the individual and society as a whole. Both fairness to the individual and economic self interest of the state mandate the need for fundamental reforms to eradicate the stain of racism from the garments of justice in Florida. Report and Recommendations of the Florida Supreme Court Racial and Ethnic Bias Study Commission, p. viii, (December 11, 1991) (Emphasis added).

These same concerns are equally applicable to the Florida Legislature, which has only in the last few years been reapportioned so as to allow the full participation of African-Americans in the political processes of that body.

RESPECTFULLY SUBMITTED,

HOLLAND & KNIGHT

Stephen F. Hanlon
FBN: 209430
P. O. Drawer 810
Tallahassee, Florida 32302

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Claimants' Memorandum of Law Re Tolling the Section 1983 Statute of Limitations has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle, S.E., Suite 102, Tallahassee, Florida 32399-1050, this 24 day of February, 1994.

Stephen F. Hanlon

TAL-40108

IN THE HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CLAIMANTS' MEMORANDUM OF LAW
RE TOLLING THE SECTION 1983 STATUTE OF LIMITATIONS

Section 11.065, Florida Statutes, contains a four year-claims period. However, the current Legislature is not bound by that four-year claims period. See 1955 Op. Atty. Gen. Fla. 055-82 (April 14, 1955). Certain general principles found in the equitable tolling jurisprudence justify a decision by the current Legislature not to enforce that limitations period in this case.

A statute of limitations is not contained in 42 U.S.C. §1983 itself. Therefore, federal civil rights actions are subject to the forum state statute of limitations governing a similar action. Board of Regents v. Tomanio, 446 U.S. 478, 483, 100 S.Ct. 1790, 64 L.Ed.2d 440. In Florida, Section 95.11(3)(o), Florida Statutes, the four-year limitations period governing intentional torts, appears to be the most analogous statute of limitations.[1]

[1] The statute of limitations for filing a Claim Bill with the legislature is four years as well. Section 11.065, Florida Statutes (1993).

Obviously, discriminatory acts that took place in 1923 are well outside the statutory limitations period.

However, the Florida Supreme Court has adopted an expansive view of equitable tolling. In Machules v. Department of Admin., 523 So.2d 1132 (Fla. 1988), the plaintiff appealed his dismissal from the State by filing a union grievance. The grievance hearing was set for a date after the twenty-day period for appealing to the State itself had expired. After the hearing, the State denied the union's request to toll the statute of limitations and permit the plaintiff to file a formal appeal.

The court disagreed with the lower court's conclusion that equitable tolling required active deception by a defendant. The Court recognized that generally, equitable tolling occurs "when the plaintiff has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum." Machules, 523 So.2d at 1134(emphasis supplied). The court cited favorably Judge Zehmer's dissent in the lower court's decision that

> The doctrine [of equitable tolling] serves to ameliorate harsh results that sometimes flow from a strict, literalistic construction and application of administrative time limits contained in statutes and rules.

Machules, 523 So.2d at 1134, quoting Machules v. Department of Administration, 502 So.2d 437, 446 (Fla. 1st DCA 1986)(Zehmer, J. dissenting).

Thus, the Florida Supreme Court has recognized that a statute of limitations may be tolled when "extraordinary circumstances"

swamps. The posse proceeded to burn the Carrier home and five other African American homes and a church. The posse shot and killed African Americans Lexie Gordon as she attempted to escape from her burning home. Later that day, the posse shot and killed Mingo Williams, an African American with no known connection to the Rosewood troubles, when he encountered the posse on the road some twenty miles outside Rosewood.

Florida Governor Cary Hardee learned of the violence in Rosewood as early as January 2 from Associated Press dispatches. On Friday, January 5, the Governor sent a telegram to Sheriff Walker to find out if the he should send Florida's National Guard to Rosewood. While the Governor was hunting Friday afternoon, Sheriff Walker responded that the situation was under control. Despite much evidence to the contrary, the Governor accepted the Sheriff's conclusion.

On Saturday, January 6, James Carrier left the swamp and returned to Rosewood. Although he was given temporary sanctuary by the white superintendent of the local mill, he was later turned over to the posse who killed him. The following day a crowd of whites burned the remaining twelve African American homes in Rosewood.

The African American residents who escaped never returned to Rosewood. Most of their property was subsequently acquired by white people who paid the delinquent taxes on their property. On January 29, 1923, the Governor ordered a special grand jury and a special prosecuting attorney to convene in Levy County to

investigate the Rosewood incident. After a day and a half of witness testimony, the grand jury reported that it had not obtained sufficient evidence to issue indictments.

II. Statutory Duties of the Sheriff and Governor in 1923

In 1923 a sheriff was an officer of the county, (as he is today). Chapter XXV, Section 2856, Florida Statutes[5], states that it "shall be the duty of the sheriffs, in their respective counties...[to] be conservators of the peace; and it shall be their duty, and they shall have the authority, with force and strong hand when necessary, to suppress all tumults, riots, and unlawful assemblies..." Section 2858 authorizes a sheriff who anticipates opposition to the discharge of his duties to raise the county's militia to assist him.[6]

Chapter 11, Section 104, Florida Statutes, (1927) authorized the Governor to "employ as many persons as he in his discretion may deem necessary to procure and secure protection to life, liberty and property of the inhabitants of the State of Florida...." Section 105 authorized him to raise the state's military force to

---

[5] The statutory references regarding the duties of the Sheriff and the Governor were taken from The Compiled General Laws of Florida of 1927, incorporating reissued general statutes of 1920, and laws enacted in 1919, 1921, 1923, 1925, and 1927.

[6] When acting in their official capacity pursuant to state law, sheriffs are considered state actors for purposes of Section 1983 actions. Salerno v. O'Rourke, 555 F.Supp. 750, 755 (D.N.J. 1983). However, the Eleventh Circuit has held that Florida sheriffs, as county officers, are not protected by Eleventh Amendment immunity. Hufford v. Rodgers, 912 F.2d 1338, 1341 (11th Cir. 1990), cert. denied 499 U.S. 921, 111 S.Ct. 1312, 113 L.Ed.2d 246 (1991) (emphasis supplied).

preserve the public peace when life, liberty, and property were threatened.

III. Relief Pursuant to Claim Bill

HB 591 asserts that the "State of Florida had the obligation, pursuant to, inter alia, the United States Constitution and the Florida Constitution to act upon the knowledge [that it had] to prevent the massacre and destruction of property which occurred in Rosewood." (Emphasis added). Claim bills are enacted to satisfy moral obligations of the State, its agencies or political subdivisions." Dickinson v. Board of Public Construction of Dade County, 217 So.2d 553, 560 (Fla. 1968). There is no other limitation on an equitable claim bill.

However, Claimants and Respondents appropriately look to other sources of law for analogues to guide the Special Master and ultimately the Legislature in determining whether or not the state has such an equitable or moral obligation in any specific case. In this case, the most appropriate analogue is the Equal Protection Clause of the United States Constitution and the Florida Constitution. Accordingly, Claimants articulate in the next section of this memorandum how this claim is analyzed under equal protection jurisprudence.

IV. The Equal Protection Duty

In Mody v. City of Hoboken, 758 F.Supp. 1027 (D.N.J. 1991), a man of Indian decent was beaten to death by local teen-agers.

Plaintiff alleged that the city and police officials discriminated against the decedent by adopting a policy of inaction against persons accused of attacks against Indians. Plaintiff claimed that the consistent refusal by the police to file criminal charges against persons who participated in violence against Indians effectively encouraged more violence by sending a message that such acts would go unpunished. Mody, 758 F.Supp. at 1031.

The Mody court found first that plaintiff sufficiently demonstrated discriminatory intent. Plaintiff presented evidence that the community at large sensed the city police department's "lack of interest" in crimes committed against Indians. Plaintiff demonstrated also that police generally did not respond promptly to reported incidents in a heavily populated Indian neighborhood, and conducted sub-standard investigations in particular cases involving violence against Indians. The court held that plaintiff proffered sufficient evidence that decedent's death was proximately caused by the police department's policy of discrimination against Indians to withstand a summary judgment. Id. at 1033.

Federal decisions recognizing Section 1983 equal protection claims against police in the context of female victims of domestic violence also provide support for an equal protection action by the Rosewood victims. In Hynson v. City of Chester Legal Dept., 864 F.2d 1026 (3rd Cir. 1988), the plaintiff alleged that the police department violated plaintiff's decedent's equal protection rights when it failed to arrest a former boyfriend who threatened and later killed decedent. Plaintiff maintained that the police

department's inaction was representative of its policy of failing to respond to complaints of females against male acquaintances.

The Hynson court held that the plaintiff would survive a summary judgment motion if she provided sufficient evidence that (i) the police department embraced a policy of providing less protection to domestic violence victims; (ii) the motivating factor behind the policy was discrimination against women; and (iii) the plaintiff was injured by the policy. Hynson, 864 F.2d at 1031.[7] See also, Freeman v. Ferguson, 911 F.2d 52, 55 (8th Cir. 1990)(recognized domestic violence victim alleging failure to protect may have viable equal protection claim as well); Watson v. Kansas City, 857 F.2d 690, 694 (10th Cir. 1988)(Section 1983 equal protection claim available to female victim of domestic violence).

An earlier series of former Fifth and Eleventh Circuit Section 1983 cases suggest that in some circumstances equal protection claims may be proved without demonstration of discriminatory intent. In Hawkins v. Town of Shaw, Mississippi, 437 F.2d 1286 (5th Cir. 1971), approved by en banc court 461 F.2d 1171 (1972), plaintiffs filed a Section 1983 equal protection action that alleged a sharp disparity between municipal services provided to white neighborhoods, and those provided to black neighborhoods. Plaintiffs presented compelling statistical evidence that

---

[7] The Hynson court went on to state that even if the plaintiff satisfied this standard, she must demonstrate also that a reasonable police officer would know that the department's domestic violence policy was discriminatory against women. Otherwise, the police officer may claim "qualified immunity" to the equal protection action. Hynson, 864 F.2d at 1032.

demonstrated that 98% of all homes fronting unpaved streets and not served by sanitary sewer systems were owned by blacks. However, plaintiffs presented no evidence that the disparity was due to bad faith on the part of the town officials.

The Shaw court found that it was unnecessary for a plaintiff alleging an equal protection violation based on racial discrimination to prove intent. Shaw, 437 F.2d at 1291-1292. The court held that "the arbitrary quality of thoughtlessness can be as disastrous and unfair to private rights and the public interest as the perversity of a willful scheme." Id. at 1292, quoting Norwalk CORE v. Norwalk Redevelopment Agency, 395 F.2d 920, 931 (2d Cir. 1968).

The United States Supreme Court, in Washington v. Davis, 426 U.S. 229, 245, n. 12, 96 S.Ct. 2040, 2050, 48 L.Ed.2d 597, (1976) clarified the holding of Shaw and other cases that suggested that proof of discriminatory intent is unnecessary in equal protection claims. The Court emphasized that although disproportionate impact is an important factor in establishing an equal protection violation, standing alone it cannot form the basis of an equal protection action. Id. at 242.

However, later Eleventh Circuit decisions interpreting Shaw demonstrate the continued effectiveness of the Shaw analysis. In Dowdell v. City of Apopka, Florida, 698 F.2d 1181 (11th Cir. 1983), the plaintiff residents of an African American community filed a suit patterned after the Shaw case. Plaintiffs successfully proved that the defendant City and its officials discriminated against

African Americans in their provision of municipal services. On appeal, the defendants argued that despite the evidence of a disparity in services provided to the African American community, this evidence was not conclusive of a discriminatory intent.

In affirming, the Dowdell court recognized that pursuant to Washington v. Davis, evidence of both disparate impact and discriminatory intent are necessary to sustain an equal protection claim. Dowdell, 698 F.2d at 1184. However, the court noted that appellants had confused the "discriminatory intent," necessary for an equal protection action, with a "discriminatory motive," which is not a necessary component of an equal protection claim. Id. at 1185. The court defined "discriminatory intent" as "the cumulative evidence of action and inaction which objectively manifests discriminatory intent." Id. In the facts before it, the court found sufficient evidence that the extensive disparities in municipal services were tainted by racial "purposiveness" sufficient to establish a discriminatory intent. Id. See also, Ammons v. Dade City, Fla., 783 F.2d 982, 988 (11th Cir. 1986)(magnitude of disparity, foreseeability that disparity will lead to deprivation, history of disparity, and knowledge of the disparity sufficient to demonstrate discriminatory intent).

There can be no dispute that had a mob of African-Americans surrounded a predominantly white town in January, 1923 all available state and local forces would have been summoned to protect those white citizens. The only reason the same protection was not extended to the African-American citizens of Rosewood was

their race. When Sheriff Walker took no action against the white posse after the first African American death--the lynching of Sam Carter--the posse was on notice that law enforcement would turn its back upon subsequent violence against other African American Rosewood residents.

The Sheriff's inaction regarding the murder stands in sharp contrast to his reaction--immediately forming a search party to apprehend the allegedly black suspect--to the assault on Fannie Walker, a white victim. Sheriff Walker's failure to arrest any suspects involved in the six subsequent murders of African Americans that occurred within the week established a Levy County policy that unlike violence against whites, crimes against African Americans would go unpunished. The Governor's failure to provide troops to protect the property and lives of the African-American citizens of Rosewood likewise constitutes an equal protection violation. The failure to prosecute the perpetrators of this atrocity was tantamount to state ratification of the acts of the mob's action.

RESPECTFULLY SUBMITTED,

HOLLAND & KNIGHT

Stephen R. Hanlon
FBN: ~~209430~~
P. O. Drawer 810
Tallahassee, Florida 32302
(904) 224-7000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Claimants' Memorandum of Law Re Their Constitutional Claims has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle, S.E., Suite 102, Tallahassee, Florida 32399-1050, this 24 day of February, 1994.

Stephen F. Hanlon

TAL-40106

IN THE HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CLAIMANTS' MEMORANDUM OF LAW RE THEIR CONSTITUTIONAL CLAIMS

I. Summary of Facts[1]:

On January 1, 1923, Fannie Taylor, a white resident of Sumner, Florida, reported that she had been assaulted by an African American man.[2] Levy County Sheriff Robert Walker formed and deputized a posse[3] to search for the felon, tentatively identified

---

[1] The source of these facts is A Documented History of the Incident Which Occurred at Rosewood, Florida in January 1923, submitted to the Florida Board of Regents December 22, 1993, ("the Report") as well as Review of the Rosewood Project, by Florida State University (Richard L. Greaves and Patrick Riordan), dated February 2, 1994 ("the Review").

[2] Carrier family members and Rosewood survivors report that it was a white mane who had visited Fannie Taylor on several previous occasions who visited Fannie Taylor that New Year's morning.

[3] Deputized members of the search party who participated in the violence against Rosewood citizens and property are appropriately considered "officers" of the state and the Sheriff had a clear duty to control their actions. See United States v. Price, 383 U.S. 787, 794, 86 S.Ct. 1152, 1156, 16 L.Ed.2d 267 (1966)("private persons, jointly engaged with state officials in

as Jesse Hunter. The deputized posse soon grew to four hundred to five hundred men, most of whom were not deputized. According to Sheriff Walker, the posse "want[ed] blood, and they [are] going to have blood."

The posse's search led it to nearby Rosewood, Florida, a predominantly African American community. On January 1, 1923, the posse identified Rosewood resident Sam Carter as the person who had assisted Hunter in fleeing the area. Although Carter cooperated with the posse, he was subsequently lynched. This lynching was reported by the Associated Press on January 2, 1923.

The posse continued its search for the next two days. On January 4, 1923, the posse found a group of African Americans barricaded in the home of Sarah Carrier. Two members of the group attempted to enter the house and were shot and killed. The rest of the group began firing into the house, killing Sarah Carrier.[4] Recognizing that the situation was out of control, Sheriff Walker requested assistance from the Alachua County sheriff.

The battle at the home of Sarah Carrier continued into the early hours of January 5. When the posse's ammunition ran low, the occupants of the house and other African American Rosewood residents who feared for their lives escaped into the surrounding

---

the prohibited action, are acting "under color" of law for purposes of the statute."); O'Neill v. Krzeminski, 839 F.2d 9 (2d Cir. 1988)(law enforcement officer had duty to intercede when other officers were violating persons' constitutional rights).

[4] Contemporary accounts state that Sylvester Carrier was also killed in the house. However, Carrier family members and Rosewood survivors report that Sylvester Carrier survived the gun battle and escaped from the Rosewood area.

swamps. The posse proceeded to burn the Carrier home and five other African American homes and a church. The posse shot and killed African Americans Lexie Gordon as she attempted to escape from her burning home. Later that day, the posse shot and killed Mingo Williams, an African American with no known connection to the Rosewood troubles, when he encountered the posse on the road some twenty miles outside Rosewood.

Florida Governor Cary Hardee learned of the violence in Rosewood as early as January 2 from Associated Press dispatches. On Friday, January 5, the Governor sent a telegram to Sheriff Walker to find out if the he should send Florida's National Guard to Rosewood. While the Governor was hunting Friday afternoon, Sheriff Walker responded that the situation was under control. Despite much evidence to the contrary, the Governor accepted the Sheriff's conclusion.

On Saturday, January 6, James Carrier left the swamp and returned to Rosewood. Although he was given temporary sanctuary by the white superintendent of the local mill, he was later turned over to the posse who killed him. The following day a crowd of whites burned the remaining twelve African American homes in Rosewood.

The African American residents who escaped never returned to Rosewood. Most of their property was subsequently acquired by white people who paid the delinquent taxes on their property. On January 29, 1923, the Governor ordered a special grand jury and a special prosecuting attorney to convene in Levy County to

investigate the Rosewood incident. After a day and a half of witness testimony, the grand jury reported that it had not obtained sufficient evidence to issue indictments.

II. Statutory Duties of the Sheriff and Governor in 1923

In 1923 a sheriff was an officer of the county, (as he is today). Chapter XXV, Section 2856, Florida Statutes[5], states that it "shall be the duty of the sheriffs, in their respective counties...[to] be conservators of the peace; and it shall be their duty, and they shall have the authority, with force and strong hand when necessary, to suppress all tumults, riots, and unlawful assemblies..." Section 2858 authorizes a sheriff who anticipates opposition to the discharge of his duties to raise the county's militia to assist him.[6]

Chapter 11, Section 104, Florida Statutes, (1927) authorized the Governor to "employ as many persons as he in his discretion may deem necessary to procure and secure protection to life, liberty and property of the inhabitants of the State of Florida...." Section 105 authorized him to raise the state's military force to

---

[5] The statutory references regarding the duties of the Sheriff and the Governor were taken from The Compiled General Laws of Florida of 1927, incorporating reissued general statutes of 1920, and laws enacted in 1919, 1921, 1923, 1925, and 1927.

[6] When acting in their official capacity pursuant to state law, sheriffs are considered state actors for purposes of Section 1983 actions. Salerno v. O'Rourke, 555 F.Supp. 750, 755 (D.N.J. 1983). However, the Eleventh Circuit has held that Florida sheriffs, as county officers, are not protected by Eleventh Amendment immunity. Hufford v. Rodgers, 912 F.2d 1338, 1341 (11th Cir. 1990), cert. denied 499 U.S. 921, 111 S.Ct. 1312, 113 L.Ed.2d 246 (1991) (emphasis supplied).

preserve the public peace when life, liberty, and property were threatened.

III. Relief Pursuant to Claim Bill

HB 591 asserts that the "State of Florida had the obligation, pursuant to, inter alia, the United States Constitution and the Florida Constitution to act upon the knowledge [that it had] to prevent the massacre and destruction of property which occurred in Rosewood." (Emphasis added). Claim bills are enacted to satisfy moral obligations of the State, its agencies or political subdivisions." Dickinson v. Board of Public Construction of Dade County, 217 So.2d 553, 560 (Fla. 1968). There is no other limitation on an equitable claim bill.

However, Claimants and Respondents appropriately look to other sources of law for analogues to guide the Special Master and ultimately the Legislature in determining whether or not the state has such an equitable or moral obligation in any specific case. In this case, the most appropriate analogue is the Equal Protection Clause of the United States Constitution and the Florida Constitution. Accordingly, Claimants articulate in the next section of this memorandum how this claim is analyzed under equal protection jurisprudence.

IV. The Equal Protection Duty

In Mody v. City of Hoboken, 758 F.Supp. 1027 (D.N.J. 1991), a man of Indian decent was beaten to death by local teen-agers.

Plaintiff alleged that the city and police officials discriminated against the decedent by adopting a policy of inaction against persons accused of attacks against Indians. Plaintiff claimed that the consistent refusal by the police to file criminal charges against persons who participated in violence against Indians effectively encouraged more violence by sending a message that such acts would go unpunished. Mody, 758 F.Supp. at 1031.

The Mody court found first that plaintiff sufficiently demonstrated discriminatory intent. Plaintiff presented evidence that the community at large sensed the city police department's "lack of interest" in crimes committed against Indians. Plaintiff demonstrated also that police generally did not respond promptly to reported incidents in a heavily populated Indian neighborhood, and conducted sub-standard investigations in particular cases involving violence against Indians. The court held that plaintiff proffered sufficient evidence that decedent's death was proximately caused by the police department's policy of discrimination against Indians to withstand a summary judgment. Id. at 1033.

Federal decisions recognizing Section 1983 equal protection claims against police in the context of female victims of domestic violence also provide support for an equal protection action by the Rosewood victims. In Hynson v. City of Chester Legal Dept., 864 F.2d 1026 (3rd Cir. 1988), the plaintiff alleged that the police department violated plaintiff's decedent's equal protection rights when it failed to arrest a former boyfriend who threatened and later killed decedent. Plaintiff maintained that the police

department's inaction was representative of its policy of failing to respond to complaints of females against male acquaintances.

The Hynson court held that the plaintiff would survive a summary judgment motion if she provided sufficient evidence that (i) the police department embraced a policy of providing less protection to domestic violence victims; (ii) the motivating factor behind the policy was discrimination against women; and (iii) the plaintiff was injured by the policy. Hynson, 864 F.2d at 1031.[7] See also, Freeman v. Ferguson, 911 F.2d 52, 55 (8th Cir. 1990)(recognized domestic violence victim alleging failure to protect may have viable equal protection claim as well); Watson v. Kansas City, 857 F.2d 690, 694 (10th Cir. 1988)(Section 1983 equal protection claim available to female victim of domestic violence).

An earlier series of former Fifth and Eleventh Circuit Section 1983 cases suggest that in some circumstances equal protection claims may be proved without demonstration of discriminatory intent. In Hawkins v. Town of Shaw, Mississippi, 437 F.2d 1286 (5th Cir. 1971), approved by en banc court 461 F.2d 1171 (1972), plaintiffs filed a Section 1983 equal protection action that alleged a sharp disparity between municipal services provided to white neighborhoods, and those provided to black neighborhoods. Plaintiffs presented compelling statistical evidence that

---

[7] The Hynson court went on to state that even if the plaintiff satisfied this standard, she must demonstrate also that a reasonable police officer would know that the department's domestic violence policy was discriminatory against women. Otherwise, the police officer may claim "qualified immunity" to the equal protection action. Hynson, 864 F.2d at 1032.

demonstrated that 98% of all homes fronting unpaved streets and not served by sanitary sewer systems were owned by blacks. However, plaintiffs presented no evidence that the disparity was due to bad faith on the part of the town officials.

The Shaw court found that it was unnecessary for a plaintiff alleging an equal protection violation based on racial discrimination to prove intent. Shaw, 437 F.2d at 1291-1292. The court held that "the arbitrary quality of thoughtlessness can be as disastrous and unfair to private rights and the public interest as the perversity of a willful scheme." Id. at 1292, quoting Norwalk CORE v. Norwalk Redevelopment Agency, 395 F.2d 920, 931 (2d Cir. 1968).

The United States Supreme Court, in Washington v. Davis, 426 U.S. 229, 245, n. 12, 96 S.Ct. 2040, 2050, 48 L.Ed.2d 597, (1976) clarified the holding of Shaw and other cases that suggested that proof of discriminatory intent is unnecessary in equal protection claims. The Court emphasized that although disproportionate impact is an important factor in establishing an equal protection violation, standing alone it cannot form the basis of an equal protection action. Id. at 242.

However, later Eleventh Circuit decisions interpreting Shaw demonstrate the continued effectiveness of the Shaw analysis. In Dowdell v. City of Apopka, Florida, 698 F.2d 1181 (11th Cir. 1983), the plaintiff residents of an African American community filed a suit patterned after the Shaw case. Plaintiffs successfully proved that the defendant City and its officials discriminated against

African Americans in their provision of municipal services. On appeal, the defendants argued that despite the evidence of a disparity in services provided to the African American community, this evidence was not conclusive of a discriminatory intent.

In affirming, the Dowdell court recognized that pursuant to Washington v. Davis, evidence of both disparate impact and discriminatory intent are necessary to sustain an equal protection claim. Dowdell, 698 F.2d at 1184. However, the court noted that appellants had confused the "discriminatory intent," necessary for an equal protection action, with a "discriminatory motive," which is not a necessary component of an equal protection claim. Id. at 1185. The court defined "discriminatory intent" as "the cumulative evidence of action and inaction which objectively manifests discriminatory intent." Id. In the facts before it, the court found sufficient evidence that the extensive disparities in municipal services were tainted by racial "purposiveness" sufficient to establish a discriminatory intent. Id. See also, Ammons v. Dade City, Fla., 783 F.2d 982, 988 (11th Cir. 1986)(magnitude of disparity, foreseeability that disparity will lead to deprivation, history of disparity, and knowledge of the disparity sufficient to demonstrate discriminatory intent).

There can be no dispute that had a mob of African-Americans surrounded a predominantly white town in January, 1923 all available state and local forces would have been summoned to protect those white citizens. The only reason the same protection was not extended to the African-American citizens of Rosewood was

their race. When Sheriff Walker took no action against the white posse after the first African American death--the lynching of Sam Carter--the posse was on notice that law enforcement would turn its back upon subsequent violence against other African American Rosewood residents.

The Sheriff's inaction regarding the murder stands in sharp contrast to his reaction--immediately forming a search party to apprehend the allegedly black suspect--to the assault on Fannie Walker, a white victim. Sheriff Walker's failure to arrest any suspects involved in the six subsequent murders of African Americans that occurred within the week established a Levy County policy that unlike violence against whites, crimes against African Americans would go unpunished. The Governor's failure to provide troops to protect the property and lives of the African-American citizens of Rosewood likewise constitutes an equal protection violation. The failure to prosecute the perpetrators of this atrocity was tantamount to state ratification of the acts of the mob's action.

RESPECTFULLY SUBMITTED,

HOLLAND & KNIGHT

Stephen R. Hanlon
FBN: 209430
P. O. Drawer 810
Tallahassee, Florida 32302
(904) 224-7000

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Claimants' Memorandum of Law Re Their Constitutional Claims has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle, S.E., Suite 102, Tallahassee, Florida 32399-1050, this 24 day of February, 1994.

Stephen F. Hanlon

TAL-40106

IN THE HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

CLAIMANTS' MEMORANDUM OF LAW RE THEIR CONSTITUTIONAL CLAIMS

I. Summary of Facts[1]:

On January 1, 1923, Fannie Taylor, a white resident of Sumner, Florida, raported that she had been assaulted by an African American man.[2] Levy County Sheriff Robert Walker formed and deputized a posse[3] to search for the felon, tentatively identified

[1] The source of these facts is A Documented History of the Incident Which Occurred at Rosewood, Florida in January 1923, submitted to the Florida Board of Regents December 22, 1993, ("the Report") as well as Review of the Rosewood Project, by Florida State University (Richard L. Greaves and Patrick Riordan), dated February 2, 1994 ("the Review").

[2] Carrier family members and Rosewood survivors report that it was a white mare who had visited Fannie Taylor on several previous occasions who visited Fannie Taylor that New Year's morning.

[3] Deputized members of the search party who participated in the violence against Rosewood citizens and property are appropriately considered "officers" of the state and the Sheriff had a clear duty to control their actions. See United States v. Price, 383 U.S. 787, 794, 86 S.Ct. 1152, 1156, 16 L.Ed.2d 267 (1966)("private persons, jointly engaged with state officials in

as Jesse Hunter. The deputized posse soon grew to four hundred to five hundred men, most of whom were not deputized. According to Sheriff Walker, the posse "want[ed] blood, and they [are] going to have blood."

The posse's search led it to nearby Rosewood, Florida, a predominantly African American community. On January 1, 1923, the posse identified Rosewood resident Sam Carter as the person who had assisted Hunter in fleeing the area. Although Carter cooperated with the posse, he was subsequently lynched. This lynching was reported by the Associated Press on January 2, 1923.

The posse continued its search for the next two days. On January 4, 1923, the posse found a group of African Americans barricaded in the home of Sarah Carrier. Two members of the group attempted to enter the house and were shot and killed. The rest of the group began firing into the house, killing Sarah Carrier.[4] Recognizing that the situation was out of control, Sheriff Walker requested assistance from the Alachua County sheriff.

The battle at the home of Sarah Carrier continued into the early hours of January 5. When the posse's ammunition ran low, the occupants of the house and other African American Rosewood residents who feared for their lives escaped into the surrounding

---

the prohibited action, are acting "under color" of law for purposes of the statute."); O'Neill v. Krzeminski, 839 F.2d 9 (2d Cir. 1988)(law enforcement officer had duty to intercede when other officers were violating persons' constitutional rights).

[4] Contemporary accounts state that Sylvester Carrier was also killed in the house. However, Carrier family members and Rosewood survivors report that Sylvester Carrier survived the gun battle and escaped from the Rosewood area.

prevent a plaintiff from timely filing a claim. The circumstances surrounding the Rosewood incident may be fairly characterized as "extraordinary." The failure of State and local officials to protect African American persons and property during the week of violence instilled a life-long fear of retaliation in the survivors of Rosewood. After the massacre, they were witnesses to crimes which were never prosecuted by the State. They quite reasonably feared - and continue to reasonably fear - retaliation from those who murdered their relatives in the event they came forward to assert claims against the same State that failed to protect them in 1923. This entirely rational fear prevented the survivors from timely asserting a claim against law enforcement officials.

The Rosewood survivors' fear has been exacerbated by well known problems in both our judicial and legislative systems.

> "The current system - characterized by an abundance of minorities in positions of valuability and a death of minorities in positions of responsibility - disadvantages the individual and society as a whole. Both fairness to the individual and economic self interest of the state mandate the need for fundamental reforms to eradicate the stain of racism from the garments of justice in Florida. Report and Recommendations of the Florida Supreme Court Racial and Ethnic Bias Study Commission, p. viii, (December 11, 1991) (Emphasis added).

These same concerns are equally applicable to the Florida Legislature, which has only in the last few years been reapportioned so as to allow the full participation of African-Americans in the political processes of that body.

RESPECTFULLY SUBMITTED,

HOLLAND & KNIGHT

Stephen F. Hanlon
FBN: 209430
P. O. Drawer 810
Tallahassee, Florida 32302

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Claimants' Memorandum of Law Re Tolling the Section 1983 Statute of Limitations has been hand delivered to James A. Peters, Assistant Attorney General, Koger Center, Alexander Building, 2020 Capitol Circle, S.E., Suite 102, Tallahassee, Florida 32399-1050, this 24 day of February, 1994.

Stephen F. Hanlon

TAL-40108

CF

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

STATE OF FLORIDA'S CORRECTED PREHEARING MEMORANDUM

I.

INTRODUCTION

House Bill 591 is an Act seeking seven million dollars compensation for survivors and relatives of survivors of the violence which occurred in Rosewood, Florida, seventy-one years ago. It claims as its basis an obligation of the State of Florida, pursuant to the United States Constitution and the Florida Constitution, and alleges, "as a direct and approximate result of the gross negligence of the State of Florida in failing to act to prevent the Rosewood massacre and destruction of property each of the victims of the Rosewood massacre has suffered...."

State of Florida, pursuant to the request of the Special Master, respectfully submits prehearing memorandum of issues required for a fair determination of the wrongs attributed to the State of Florida by this claims bill. The State does not, by this memorandum or by its opposition to the seven million dollar claim, condone the acts of violence which occurred in

2/24/94
F

Rosewood, Florida, in 1923. Nor does the State minimize the personal and family tragedies of individuals--whether identified as claimants to this bill or excluded from that status--who suffered as a result of that violence. Rather, Florida's purpose is to enumerate issues and compelling legal and equitable reasons why the Legislature should make no determination of liability against the State. Simply stated, here there is no State complicity. The Legislature is, of course, free to waive these defenses if it concludes the State of Florida's public policy, honor, or justice so requires.

Fundamental to any determination of the merits of the claim of liability--under legal, equitable, or moral theories--is the indisputable fact that government--whether federal, state, county, city--did not in 1923 afford to citizens the panoply of public safety services which exist today. Laws of Florida in 1923 disclose a minimal state government to attend to the public safety needs of the remote population of Rosewood, Florida, in 1923 as the tragic events evolved in Rosewood between January 1, and January 7, 1923.

Today's live television and radio news coverage, by which distant government officials are immediately apprised of significant events, did not then exist in Florida or elsewhere. State officials distant from events were required to rely on reports from local governments (whose officials were presumed to be acting in good faith in the absence of complaints to the contrary) for official reports and, to a lesser extent, on newspapers to ascertain relevant facts. Contemporary perceptions

in 1994 of accountability, responsibility, and notice do not accurately overlay the law enforcement and information resources which existed 71 years ago.

The "Documented History of the Incident Which Occurred at Rosewood, Florida in January 1923" ("the Report"), is an attempt to reconstruct the Rosewood events. Because of the passage of time, the Report is based on newspaper articles, unsworn narratives of few remaining eyewitnesses, and too many second and third generation hearsay narratives of claimants.

The Report explores what it regards as some of the myths of Rosewood yet provides objective evidence of the death and destruction. It also evidences the conflicting narratives that were presented to the Report's investigative team. The Report is otherwise subject to the criticism of investigative reporter Gary Moore, a reporter who wrote of the Rosewood violence for the St. Petersburg Times in 1983, and who has continued research into the Rosewood controversy.. Moore's criticism is stated in the "Review of the Rosewood Project". Mr. Moore's own research reaches occasionally different conclusions. Both the Report and Mr. Moore's criticism leave certain fact conflicts unresolved. Resolution of those conflicts is essential to an objective evaluation of liability or fault of the State.

Hence, the "Record" as it is thus far--the "Report," the "Appendices of the Documented History", and the "Review of the Rosewood project"--embodies an effort to determine for historical purposes what occurred in Rosewood. However, for the reasons stated below, this record presents a seriously flawed

evidentiary basis to attribute fault to "the State" or to justify compensation drawn from the State's treasury. This lack of a concise evidentiary record and a host of defenses which arise therefrom must be weighed as the Legislature determines a fair resolution of HB 591.

II.

THRESHOLD DEFENSES

Separate and apart from the hearsay and evidentiary issues which permeate the Report are legal and equitable defenses to allegations of blame and liability against the State. These defenses must be confronted and resolved before any "evidence"--news reports, sworn and unsworn narratives, official records--are applied to the merits of the claim. Some of these defenses require no or little evidentiary inquiry. Others require presentation of proof--sworn testimony and legally competent documentation--before the threshold defenses can be responsibly determined. These threshold defenses are enumerated below.

A. The claims, arising from events in January 1923 are barred by Section 11.065(1), Florida Statutes. This law provides that "no claims against the State shall be presented to the Legislature more than four (4) years after the cause for relief accrued. Any claim presented after this time of limitation should be void and unenforceable."[1]

This limitation has existed as a matter of State law since, at least, 1951. It has heretofore precluded the presentation of dated claims for sound public policy reasons

---

[1]But see AGO 55- 82.

which should be apparent to all. State resources are too scarce and human memory too frail for the Legislature to allow or encourage stale claims against the State treasury.

B. The claims are barred by the equitable defense of laches. The "gross violations of law and human decency" and violations (of unspecified provisions) of the state and federal constitution alleged in this claims bill are lodged against unnamed officials. Most, if not all, are deceased. The demise of those officials, and of their contemporary agents or even their families who might speak on their behalf, fatally prejudices the State's ability to muster testimony and documents to rebut claimants' allegations of government complicity in the violence.

In Lansdale v. Smith, 106 U.S. 391 (1882), the United States Supreme Court cited its earlier precedent and held "it has been a recognized doctrine of courts in equity, from the very beginning of their jurisdiction, to withhold relief from those who have delayed for an unreasonable length of time in asserting their claims. Laches of the complainant in asserting his claim is a bar in equity." Where the complainant and those who he represents have "slept too long upon their rights" the peace of society and the security of property demand that the presumption of right, arising from a great lapse of time without assertion of an adverse claim, should not be disturbed. Lansdale v. Smith, 106 U.S. at 391 (1882).

Florida courts have similarly held. In Cone Brothers Construction v. Moore, 193 So. 288 (Fla. 1940), the Florida Supreme Court determined:

> Laches is primarily a question of fact to be determined from the circumstances surroundings and conditions in each case. (Citations omitted) As a defense it is always available where the facts in the particular case would justify the Chancellor in arriving at the conclusion that the complainant has so slept on his rights as to work an injustice upon the party against whom relief is being sought.

The Florida Supreme Court in Thrasher v. Ocala Mfg. Ice and Packing Company, 15 So.2d 32 (Fla. 1943), applied the bar of laches with the reasoning that this bar will apply "where there is an unexplained delay in prosecuting the claim until death has closed the lips of the interested parties."

In Cone v. Benjamin, 27 So.2d 90 (Fla. 1946), the Supreme Court reaffirmed the vitality of the bar of laches. "...To render the defense of laches effective, the delay must be such as practically to preclude the court from arriving at a safe conclusion as to the truth of the matters in controversy, and thus make the doing of equity either doubtful or impossible or such a change in conditions must have occurred which would render it inequitable to enforce the rights asserted."

Here Claimants attribute "gross negligence" and other unspecified constitutional and moral wrongs to unspecified State officials for alleged failures to protect residents in the remote Rosewood area. Officials are not named in the claims bill, but those readily identified as holders of county[2] and state office in 1923 have not survived to see these allegations presented in this public forum. These are officials whose "lips have been

---

[2]The Sheriff is a county officer. Article VIII Section 1(d) Florida Constitution.

closed" by death. It is unfair to now assert claims assaulting the character of these deceased officials. These accused have no opportunity to confront their accusers and present their versions of the facts or to outline the limits on governmental resources in 1923.

C. Claimants did not initiate legal remedies available to them under the Federal 1871 Ku Klux Klan Act. According to House Report #96-548, the Ku Klux Klan Act--now codified at 42 U.S.C. §1983--was enacted "to provide a measure of federal control over state and territorial officials who were reluctant to enforce state laws against persons who violated the rights of newly freed slaves and union sympathizers. The act created a right of action in federal court against local government officials who deprived citizens of their constitutional rights by failing to enforce the law or by unfair and unequal treatment."

This act provided claimants a neutral federal forum in which to air these complaints. Claimants' failures to avail themselves of the remedy should now bar their stale claim.[3]

D. For public policy reasons, this selective compensation should be denied. Claimants are but a small group of an unfortunately larger group of similarly situated persons

---

[3]Evidence of "a measure of federal control" in Florida in the 1900s is typified by the activities of United States Attorney Fred Cubberly who initiated or caused to be initiated a number of federal cases to combat violations of the 13th Amendment by white employers. For example, See Clyatt v. United States, 197 U.S. 207 (1905); and U.S. v. Boyd; U.S. v. Porter; U.S. v. Fields; U.S. v. Thomas; U.S. v. Graham; U.S. v Lewis; U.S. v. Harlan; U.S. v. Elvington. (These Court documents will be filed upon their receipt from the Federal Court Archives.)

who have suffered death, personal injury, or loss of property as a result of racial/ethnic tension and violence in Florida's history. It is neither fair nor feasible to single out and compensate some victims of crime to the exclusion of other victims.

The Report evidences race related violence in Ocoee, Florida; Perry, Florida; and 47 lynchings between 1918 and 1927.

Selective claims relief for Rosewood victims presents precedent that would invite, encourage or require other piecemeal claims by other minority groups--black, native American, Jewish, Japanese, Vietnamese--who may feel similarly aggrieved by other racial violence in Florida's history.

III.

REQUISITE ELEMENTS OF THE LEGAL CLAIMS

As a matter of law the alleged constitutional violations must pass muster under case law construing the United States and Florida Constitutions and gross negligence claims.

HB 591's reference to the "obligation" of "the State of Florida" pursuant to "the United States Constitution and the Florida Constitution" lacks other reference. The State's search of case law of the United States and of the Florida Constitutions discloses no text or passage or history of jurisprudence to support the claim.

A. Federal case law is clear. Proof of racially discriminatory intent or purpose by the government or its agents is required to show a violation of the Fourteenth Amendment. Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597

(1976); Wright v. Rockefeller, 376 U.S. 52, 84 S.Ct. 603, 11 L.Ed 2d 512 (1964); Atkins v. Texas, 325 U.S. 398, 65 S.Ct. 1276, 89 L.Ed. 1692 (1945); Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 50 L.Ed.2d 450, 97 S.Ct. 555 (1977); City of Mobile v. Bolden, 446 U.S. 55, 64 L.Ed.2d 47, 100 S.Ct. 1490 (1980). "This burden of proof is simply one aspect of the basic principle that only if there is a purposeful discrimination can there be a violation of the equal protection clause of the fourteenth amendment." Bolden, 446 U.S. at 67. If there is no proof of intent to discriminate by the State, there is no violation.

B. In other contexts the United States Supreme Court has required conduct that "shocks the conscience" before finding an actionable wrong under the United States Constitution. See, e.g., Estelle v. Gamble, 429 U.S. 97, 50 L.Ed.2d 251, 97 S.Ct. 285 (1976), which distinguished medical malpractice from a constitutional violation and held that only those acts or omissions which were sufficiently harmful to evidence "deliberate indifference" could afford the basis for a constitutional violation enforceable under the civil rights act.

C. Generalized "duty to protect" claims presented under the ambit of the United States Constitution are not recognized. In DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189, 103 L.Ed.2d 249, 109 S.Ct. 998 (1989), the Court held that nothing in the language of the Fourteenth Amendment requires a State to protect life, liberty, and property of citizens against invasion by private actors. This is because

the Fourteenth Amendment was phrased as a limitation on the State's power to act, not as a guarantee of minimal levels of safety and security. The purpose of the fifth and fourteenth amendments are "to protect the people from the State, not to ensure that the State protected them from each other".

DeShaney is otherwise notable for its broad pronouncement that "as a general matter...we conclude that a State's failure to protect an individual against private violence simply does not constitute a violation of the due process clause." 489 U.S. at 196. See also, Youngberg v. Romeo, 457 U.S. 307, 317 102 S.Ct. 2452, 2459, 73 L.Ed.2d 28 (1982) ("As a general matter a state is under no constitutional duty to provide substantive services for those within its border"), and Harris v. McRae, 448 U.S. 297, 100 S.Ct. 2671, 65 L.Ed.2d 784 ("although the liberty protected by due process affords protection against unwarranted government interference ... it does not confer an entitlement to such governmental aid as may be necessary to realize all the advantages of freedom".)

In a situation analogous to the allegations in HB 591, suits for damages were filed and consolidated in Monarch Insurance Company of Ohio v. District of Columbia, 353 F.Supp. 1249 (D.C. Col. 1973), affirmed, 497 F.2d 684 (D.C. Cir. 1974), cert. denied, 419 U.S. 1021 (1974). These suits arose from civil disturbances which followed the assassination of Dr. Martin Luther King in 1968. The Complaint, in counts alleging violations of the Civil Rights Act, 42 U.S.C. §1983, the Fifth and Fourteenth Amendments, and common-law duty to protect,

alleged that the government was negligent in its preparation and implementation of plans to suppress riot or civil disturbances and that the government's delay in sending police and troops and its failure to assign forces was actionable.

Citing earlier precedent of Turner v. United States, 248 U.S. 354 (1919), which arose from alleged failures of the government to protect the Creek Indian Nation from mob violence, the Supreme Court held that an individual citizen has no substantive right to recover damages resulting from failure of a government or its officers to keep the peace. Monarch, 353 F.Supp. at 1260. The plaintiffs' claim was rejected under even the notion of a "social contract" between the State and its citizens to preserve social order and the property of citizens against mob violence.

D. "Gross negligence" was defined by the Florida Supreme Court in Clements v. Deeb, 88 So. 505 (Fla. 1956), to mean "that course of conduct which a reasonable and prudent person would know would probably and most likely result in injury to person or property."

E. HB 591 presents no cognizable claim under the Florida Constitution. Article I, Section 2, enumerates basic rights of Florida citizens but has never been construed to authorize a claim like that alleged in HB 591. Article I, Section 7, however, prescribes the military power shall be subordinate to the civil, a provision in existence in 1923 which would have some significance in the alleged reluctance of the Governor to muster the State's military power. No case law

construing the Florida Constitution sustains or suggests liability against the State in a context like the Rosewood incident.

Claimants' allegations of legal wrong must be evaluated under these standards.

IV.

INSUFFICIENCY OF PROOF OF LIABILITY

Materials now comprising "the record" of this claim are the documents identified at page 3 above. With minor exceptions--the sworn statements of Lee Ruth Davis, Arnett Turner Goins, and Minnie Lee Langley--this record is wholly comprised of unsworn and predominantly hearsay assertions by persons who were not present in Rosewood in 1923, or were infants, or who otherwise are at least potentially biased because of their claimant status.

The myriad newspaper accounts of the incident are, as recognized in the Report, frequently self contradictory. See also comments of Gary Moore in Appendix at pages 403 to 406, and footnotes 26, 27, 28, and 29. "Contemporaneous newspaper reports about Rosewood events were self-evidently unreliable *** In Florida and nationally, 1920's journalism seemed to form a soup of melodrama". In fact, there existed no code of ethics for professional journalists until 1926.

Seventy year old newspaper accounts, lacking even reporters' names, and personal interviews--sworn or unsworn--must be afforded little weight for purposes of liability determination in the absence of consistent corroboration from other documented independent sources.

Absent from the Report's bibliography are interviews of government officials, or even their coworkers or relatives, against whom these allegations are lodged. Included among that number of now unavailable witnesses are Governor Carey Hardee; his assistant, Professor L.B. Edwards; Levy County Sheriff Robert Walker; Alachua County Sheriff P.G. Ramsey; and Seventh Judicial Circuit State Attorney George DeCottes. There are no statements from relatives of Frances Taylor.

Similarly absent are references to official records of the 1923 office of the Governor; the 1923 offices of the Alachua and Levy County Sheriff's office; the State militia; the State Attorney DeCottes; and all references to communications between these and other state and county government officials who would have reason to be involved in the official assessment of this situation and the need to provide back up to the Levy and Alachua County Sheriffs.

This void in the record and the Report's dependency on hearsay and rumor is due to the unjustified lapse of 70 years in presentation of this claim.

Hearsay evidence must, with few exceptions, be rejected as competent proof of liability for events that occurred a generation ago. Unsworn interviews of claimants must be deemed similarly unpersuasive.

Even Claimants' few sworn statements in the record are suspect when evaluated under traditional standards of fairness and justice. State Counsel was not present. There was no cross examination. Many of the questions were "leading" to the

conclusion the inquirer, Claimants' counsel, was seeking. There are many "off the record" discussions and even "on the record interruptions" by other persons in the room, including particularly the "cinema producer", Michael McCarty, who, according to Gary Moore, purchased cinema rights from some of the claimants.[4]

V.

SIGNIFICANT FACT ISSUES

Many material fact issues not addressed in the Report are the subjects of comment, criticism, rebuttal, and surrebuttal by journalists and historians in the Appendix and in the Review of the Rosewood Project. Other material and potentially dispositive unresolved fact issues derive from the nature and purpose of this proceeding--a determination of liability and fault against the State. What may suffice for an acceptable account of history should not suffice as a record to prove liability.

Respondent urges the Special Master and the Legislature to give appropriate deference to this latter higher standard of evidence and proof.

Additional fact issues which must be resolved generally fall into the categories of liability determination and damages determination. Some bifurcation of these determinations is possible as indicated in Respondent's letter dated February 15, 1994, to the Special Master. Fair resolution of both categories

---

[4] See Report of Gary Moore, Appendix, Page 419, 420.

of issues requires presentation of witnesses under oath and corroborative documented evidence.

A. As to the liability determination, material unresolved fact issues include:

(1) As to each claimant, what is the justification for the seventy year delay in presenting this claim? Claimants' assertions should be made into legal capacity (as evidenced for example by prior encounters with the court system), and attempts to timely bring these matters to the attention of government authorities at the county, state, federal, or other level. The State's discovery requests served on claimants on February 13, 1994 and February 15, 1994, yet to be answered, make specific inquiry on these matters.

(2) What efforts were made by the Documented History investigative team to obtain sworn statements and interviews, or other narratives, from the accused officials and individuals with personal knowledge (the office of Governor Carey Hardee; Levy County Sheriff Robert Walker; Alachua County Sheriff P.G. Ramsey; on site reporters; Levy County grand jury and State Attorney DeCottes) or from such persons' relatives, spokesmen, and agents?

(3) What efforts were made to locate and accumulate relevant documents from or on behalf of the persons and state and county offices identified in number (2) above?

(4) What justification exists for claimants' failures to specify the State officials against whom their claims are lodged?

(5) Under what circumstances did Governor Hardee, or other Governor in this era, direct the military power to oversee the civil power, to protect citizens?

(6) What National Guard resources were reasonably available to Governor Hardee to contain the civil disobedience in Rosewood?

(7) Did Governor Hardee reasonably rely on the reports from the Levy and Alachua Sheriffs that the violence was under control?

(8) Are the May 4, 1992, sworn statement of claimant Lee Ruth Davis that soldiers protected her at the Rosewood train station and that "Gainesville really looked out for us, the government had everything for us" and Lillie Washington's September 24, 1993, admission that "the United States Protector" sat on her family's back porch and would not leave until "the last car has come out from down there" not credible evidence that the County officials had back up from other authorities?

(9) What was the role of Governor Hardee, or persons acting in his instance, in providing the train to evacuate residents from Rosewood?

(10) What was the extent of State Attorney DeCottes' efforts to locate victim witnesses in Gainesville as reported in the media on February 15, 1923 or February 16, 1923?

(11) Is there proof that C.P. "Polly" Wilkerson was not peacefully acting as a lawfully deputized sheriff at the time of his death?

(12) Did Alachua County Sheriff Ramsey and his deputies make reasonable inquiry in Levy County on January 4, 1923, which led them (erroneously) to believe that the situation was under control?

(13) On legal, equitable or moral grounds, what distinguishes the violence and civil disobedience in Rosewood, Florida, in January, 1923 from the 40 earlier lynchings in Florida; from the race related violence in Ocoee, Florida in 1920; from the race related violence in Perry, Florida in 1922; from the 47 lynchings attributed to the period 1918 to 1927 in Florida; and from the forced movement of Florida's native American population? What would justify claims compensation for documented victims of crime in Rosewood and their relatives but not for the other victims?

B. Specific matters for proof as to damages claims, for <u>each</u> claimant, assuming arguendo there is any basis for a finding of liability.

The State's discovery requests served on February 13, 1994 and February 15, 1994, yet to be answered, make specific inquiry on these matters.

This enumeration of unresolved material issues is not all inclusive but is generally indicative of items of proof that should be made if compromise of the claims process is to be avoided.

CONCLUSION

The Report concluded:

> We believe that Sheriff Walker failed to control local events and to request proper

> assistance from Governor Hardee when events moved beyond his control. While Hardee condemned the violence and ordered a special prosecutor to conduct a grand jury investigation, he did so (more than a month had passed) only after black residents were forced to leave Rosewood and their property was destroyed.
>
> The failure of the elected white officials to take forceful actions to protect the safety and property of local black residents was part of a pattern in the State and throughout the region. In Ocoee in November, 1920, and Perry in December, 1922, local and state officials failed to intervene to protect black citizens and in each incident several innocent blacks were killed and their property destroyed. The same was true in other southern states where rape and black resistance was not tolerated by white residents and were seen as a legitimate excuse to abandon the law in favor of brute force. Pleas from citizens and their spokesman fell on deaf ears and Florida's white leadership responded to the civil and racial unrest only when it threatened to jeopardize the State's economic advancement.

These conclusions, while damning of an attitude attributable to an entire era, is not the type of conclusion which would sustain a claim under the legal and equity standards presented above. There was no duty of the type alleged. There is no proof of racially discriminatory intent. There is no evidence or conclusion of deliberate indifference. There is no conduct which "a reasonable and prudent person would know would probably, and most likely, result in injury." Clements, supra. There is no proof nor conclusion that the identified officials, Governor Hardee, County Sheriff Walker, County Sheriff Ramsey, and State Attorney DeCottes, acted in other than good faith, or that among them there was reason to disbelieve reports from the others. In fact, the record suggests the contrary.

The death and violence at Rosewood in 1923 is a sorry page in Florida's history. Regrettably, the seven documented deaths that occurred there are but a fraction of other race related deaths which occurred not only in Florida but throughout the United States. Nothing factual distinguishes the violence at Rosewood from the other documented violence.

If those claims are to be considered for compensation on grounds of human decency, in isolation of claims compensation for other victims of crime, several generations after the acts in question--and a decade after national television coverage--all traditional principles of law, equity, and fairness to the general public require the analysis and examination outlined above.

Compromise of these principles for HB 591 will establish precedent to the detriment of the State treasury and may encourage myriad other claims against "the State" arising from "a pattern" under circumstances which are likely fresher and better documented than those in HB 591.

Compensation sought under HB 591 should be denied, but with an expression of regret from the State of Florida to those who were in Rosewood in January, 1923, and to those who have suffered from that tragedy.

Respectfully submitted,

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Counsel for the Respondent
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **STATE OF FLORIDA'S PREHEARING MEMORANDUM** has been forwarded to Stephen Hanlon, Esquire, and Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, Florida 32302-0810 this 24 day of February, 1994.

JAMES A. PETERS

<jimp>RosewoodDraft

Received

Filed w/court

Docketed by

Copy to:
Risk

Agency-Legal

Client

Hixson 2/24/94
Kerns 2/24/94
Dameron 2/24/94
McShane 2/24/94

CF

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

STATE OF FLORIDA'S PREHEARING MEMORANDUM

I.

INTRODUCTION

House Bill 591 is an Act seeking seven million dollars compensation for survivors and relatives of survivors of the violence which occurred in Rosewood, Florida, seventy-one years ago. It claims as its basis an obligation of the State of Florida, pursuant to the United States Constitution and the Florida Constitution, and alleges, "as a direct and approximate result of the gross negligence of the State of Florida in failing to act to prevent [illegible] destruction of property e[illegible] massacre has suffered...

S[illegible] uest of the Special Mas[illegible] morandum of issues requi[illegible]s attributed to the State [illegible]

Stat[illegible]est of the Special Master[illegible] submits its

Post-it™ brand fax transmittal memo 7671 | # of pages ▸ 20

To Steve Hanlon	From Jim Peters
Co.	Co. Asst. Atty. Gen.
Dept.	Phone # 488-1573
Fax # 224-8832	Fax # 488-4872
Fax # 224-2094	Fax # 488-4872
Fax # 7-2564	Fax #
Fax # 681-2928	488-1573 Fax # 488-4872

2/23/94
F

prehearing memorandum of issues required for resolution of HB 591. The State does not, by this memorandum or by its opposition to the seven million dollar claim, condone the acts of violence which occurred in Rosewood, Florida, in 1923. Nor does the State minimize the personal and family tragedies of individuals--whether identified as claimants to this bill or excluded from that status--who suffered as a result of that violence. Rather, Florida's purpose is to enumerate issues and compelling legal and equitable reasons why the Legislature should make no determination of liability against the State. Simply stated, here there is no State complicity. The Legislature is of course free to waive these defenses if it concludes the State of Florida's public policy, honor, or justice so requires.

Fundamental to any determination of the merits of the claim of liability--under legal, equitable, or moral theories--is the indisputable fact that government--whether federal, state, county, city--did not in 1923 afford to citizens the panoply of public safety services which exist today. Laws of Florida in 1923 disclose a minimal state government to attend to the public safety needs of the remote population of Rosewood, Florida in 1923 as the tragic events evolved in Rosewood between January 1 and January 7, 1923.

Today's live television and radio news coverage, by which distant government officials are immediately apprised of significant events, did not then exist in Florida or elsewhere. State officials distant from events were required to rely on reports from local governments (whose officials were presumed to

be acting in good faith in the absence of complaints to the contrary) for official reports and, to a lesser extent, on newspapers to ascertain relevant facts. Contemporary perceptions in 1994 of accountability, responsibility, and notice do not accurately overlay the law enforcement and information resources which existed 71 years ago.

The "Documented History of the Incident Which Occurred at Rosewood, Florida in January 1923" ("the Report"), is an attempt to reconstruct the Rosewood events. Because of the passage of time, the Report is based on newspaper articles, unsworn narratives of few remaining eyewitnesses, and too many second and third generation hearsay narratives of claimants.

The Report explores what it regards as some of the myths of Rosewood yet provides objective evidence of the death and destruction. It also evidences the conflicting narratives that were presented to the Report's investigative team. The Report is otherwise subject to the criticism of investigative reporter Gary Moore, a reporter who wrote of the Rosewood violence for the St. Petersburg Times in 1983, and who has continued research into the Rosewood controversy. Moore's criticism is stated in the "Review of the Rosewood Project". Mr. Moore's own research reaches occasionally different conclusions. Both the Report and Mr. Moore's criticism leave certain fact conflicts unresolved. Resolution of those conflicts is essential to an objective evaluation of liability or fault of the State.

Hence, the "Record" as it is thus far--the "Report," the "Appendices of the Documented History", and the "Review of

the Rosewood project"--embodies an effort to determine for historical purposes what occurred in Rosewood. However, for the reasons stated below, this record presents a seriously flawed evidentiary basis to attribute fault to "the State" or to justify compensation drawn from the State's treasury. This lack of a concise evidentiary record and a host of defenses which arise therefrom must be weighed as the Legislature determines a fair resolution of HB 591.

II.

THRESHOLD DEFENSES

Separate and apart from the hearsay and evidentiary issues which permeate the Report are legal and equitable defenses to allegations of blame and liability against the State. These defenses must be confronted and resolved before any "evidence"--news reports, sworn and unsworn narratives, official records--are applied to the merits of the claim. Some of these defenses require no or little evidentiary inquiry. Others require presentation of proof--sworn testimony and legally competent documentation--before the threshold defenses can be responsibly determined. These threshold defenses are enumerated below.

A. The claims, arising from events in January 1923 are barred by Section 11.065(1), Florida Statutes. This law provides that "no claims against the State shall be presented to the Legislature more than four (4) years after the cause for relief accrued. Any claim presented after this time of limitation should be void and unenforceable."[1]

[1]But see AGO 55- 82.

This limitation has existed as a matter of State law since, at least, 1951. It has heretofore precluded the presentation of dated claims for sound public policy reasons which should be apparent to all. State resources are too scarce and human memory too frail for the Legislature to allow or encourage stale claims against the State treasury.

B. The claims are barred by the equitable defense of laches. The "gross violations of law and human decency" and violations (of unspecified provisions) of the state and federal constitution alleged in this claims bill are lodged against unnamed officials. Most, if not all, are deceased. The demise of those officials, and of their contemporary agents or even their families who might speak on their behalf, fatally prejudices the State's ability to muster testimony and documents to rebut claimants' allegations of government complicity in the violence.

In Lansdale v. Smith, 106 U.S. 391 (1882) the United States Supreme Court cited its earlier precedent and held "it has been a recognized doctrine of courts in equity, from the very beginning of their jurisdiction, to withhold relief from those who have delayed for an unreasonable length of time in asserting their claims. Laches of the complainant in asserting his claim is a bar in equity." Where the complainant and those who he represents have "slept too long upon their rights" the peace of society and the security of property demand that the presumption of right, arising from a great lapse of time without assertion of an adverse claim, should not be disturbed. Lansdale v. Smith, 106 U.S. at 391 (1882).

Florida courts have similarly held. In Cone Brothers Construction v. Moore, 193 So. 288 (Fla. 1940), the Florida Supreme Court determined:

> Laches is primarily a question of fact to be determined from the circumstances surroundings and conditions in each case. (Citations omitted) As a defense it is always available where the facts in the particular case would justify the Chancellor in arriving at the conclusion that the complainant has so slept on his rights as to work an injustice upon the party against whom relief is being sought.

The Florida Supreme Court in Thrasher v. Ocala Mfg. Ice and Packing Company, 15 So.2d 32 (Fla. 1943), applied the bar of laches with the reasoning that this bar will apply "where there is an unexplained delay in prosecuting the claim until death has closed the lips of the interested parties."

In Cone v. Benjamin, 27 So.2d 90 (Fla. 1946), the Supreme Court reaffirmed the vitality of the bar of laches. "...To render the defense of laches effective, the delay must be such as practically to preclude the court from arriving at a safe conclusion as to the truth of the matters in controversy, and thus make the doing of equity either doubtful or impossible or such a change in conditions must have occurred which would render it inequitable to enforce the rights asserted."

Here Claimants attribute "gross negligence" and other unspecified constitutional and moral wrongs to unspecified state officials for alleged failures to protect residents in the remote Rosewood area. Officials are not named in the claims bill, but

those readily identified as holders of county[2] and state office in 1923 have not survived to see these allegations presented in this public forum. These are officials whose "lips have been closed" by death. It is unfair to now assert claims assaulting the character of these deceased officials. These accused have no opportunity to confront their accusers and present their versions of the facts or to outline the limits on governmental resources in 1923.

C. Claimants did not initiate legal remedies available to them under the Federal 1871 Ku Klux Klan Act. According to House Report #96-548, the Ku Klux Klan Act--now codified at 42 U.S.C. §1983--was enacted "to provide a measure of federal control over state and territorial officials who were reluctant to enforce state laws against persons who violated the rights of newly freed slaves and union sympathizers. The act created a right of action in federal court against local government officials who deprived citizens of their constitutional rights by failing to enforce the law or by unfair and unequal treatment."

This act provided claimants a neutral federal forum in which to air these complaints. Claimants' failures to avail themselves of the remedy should now bar their stale claim.[3]

---

[2]The Sheriff is a county officer. Article VIII Section 1(d) Florida Constitution.

[3]Evidence of "a measure of federal control" in Florida in the 1900s is typified by the activities of United States Attorney Fred Cubberly who initiated or caused to be initiated a number of federal cases to combat violations of the 13th Amendment by white employers. For example, See: Clyatt v. United States, 197 U.S. 207 (1905); and U.S. v. Boyd; U.S. v. Porter; U.S. v. Fields;

D. For public policy reasons, this selective compensation should be denied. Claimants are but a small group of an unfortunately larger group of similarly situated persons who have suffered death, personal injury, or loss of property as a result of racial/ethnic tension and violence in Florida's history. It is neither fair nor feasible to single out and compensate some victims of crime to the exclusion of other victims.

The Report evidences race related violence in Ocoee, Florida; Perry, Florida; and 47 lynchings between 1918 and 1927.

Selective claims relief for Rosewood victims presents precedent that would invite, encourage or require other piecemeal claims by other minority groups--black, native American, Jewish, Japanese, Vietnamese--who may feel similarly aggrieved by other racial violence in Florida's history.

III.

REQUISITE ELEMENTS OF THE LEGAL CLAIMS

As a matter of law the alleged constitutional violations must pass muster under case law construing the United States and Florida Constitutions and gross negligence claims.

HB 591's reference to the "obligation" of "the State of Florida" pursuant to "the United States Constitution and the Florida Constitution" lacks other reference. The State's search of case law of the United States and of the Florida Constitutions

---

U.S. v. Thomas; U.S. v. Graham; U.S. v Lewis; U.S. v. Harlan; U.S. v. Elvington. (These Court documents will be filed upon their receipt from the Federal Court Archives.)

discloses no text or passage or history of jurisprudence to support the claim.

A. Federal case law is clear. Proof of racially discriminatory intent or purpose by the government or its agents is required to show a violation of the 14th Amendment. Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976); Wright v. Rockefeller, 376 U.S. 52, 84 S.Ct. 603, 11 L.Ed 2d 512 (1964); Atkins v. Texas, 325 U.S. 398, 65 S.Ct. 1276, 89 L.Ed. 1692 (1945); Village of Arlington Heights v. Metropolitan Housing Development Corp., 429 U.S. 252, 50 L.Ed.2d 450, 97 S.Ct. 555 (1977); City of Mobile v. Bolden, 446 U.S. 55, 64 L.Ed.2d 47, 100 S.Ct. 1490 (1980). "This burden of proof is simply one aspect of the basic principle that only if there is a purposeful discrimination can there be a violation of the equal protection clause of the fourteenth amendment." Bolden, 446 U.S. at 67. If there is no proof of intent to discriminate by the State, there is no violation.

B. In other contexts the United States Supreme Court has required conduct that "shocks the conscience" before finding an actionable wrong under the United States Constitution. See, e.g., Estelle v. Gamble, 429 U.S. 97, 50 L.Ed.2d 251, 97 S.Ct. 285 (1976), which distinguished medical malpractice from a constitutional violation and held that only those acts or omissions which were sufficiently harmful to evidence "deliberate indifference" could afford the basis for a constitutional violation enforceable under the civil rights act.

C. Generalized "duty to protect" claims presented under the ambit of the United States Constitution are not recognized. In DeShaney v. Winnebago County Department of Social Services, 489 U.S. 189, 103 L.Ed.2d 249, 109 S.Ct. 998 (1989), the Court held that nothing in the language of the Fourteenth Amendment requires a state to protect life, liberty, and property of citizens against invasion by private actors. This is because the Fourteenth Amendment was phrased as a limitation on the state's power to act, not as a guarantee of minimal levels of safety and security. The purpose of the fifth and fourteenth amendments are "to protect the people from the state, not to ensure that the State protected them from each other".

DeShaney is otherwise notable for its broad pronouncement that "as a general matter...we conclude that a state's failure to protect an individual against private violence simply does not constitute a violation of the due process clause." 489 U.S. at 196. See also, Youngberg v. Romeo, 457 U.S. 307, 317 102 S.Ct. 2452, 2459, 73 L.Ed.2d 28 (1982) ("As a general matter a state is under no constitutional duty to provide substantive services for those within its border"), and Harris v. McRae, 448 U.S. 297, 100 S.Ct. 2671, 65 L.Ed.2d 784 ("although the liberty protected by due process affords protection against unwarranted government interference ... it does not confer an entitlement to such governmental aid as may be necessary to realize all the advantages of freedom".)

In a situation analogous to the allegations in HB 591, suits for damages were filed, and consolidated in Monarch

Insurance Company of Ohio v. District of Columbia, 353 F.Supp. 1249 (D.C. Col. 1973), affirmed, 497 F.2d 684 (D.C. Cir. 1974), cert. denied, 419 U.S. 1021 (1974). These suits arose from civil disturbances which followed the assassination of Dr. Martin Luther King in 1968. The Complaint, in counts alleging violations of the Civil Rights Act, 42 U.S.C. §1983, the Fifth and Fourteenth Amendments, and common-law duty to protect alleged that the government was negligent in its preparation and implementation of plans to suppress riot or civil disturbances and that the government's delay in sending police and troops and its failure to assign forces was actionable.

Citing earlier precedent of Turner v. United States, 248 U.S. 354 (1919), which arose from alleged failures of the government to protect the Creek Indian Nation from mob violence, the Supreme Court held that an individual citizen has no substantive right to recover damages resulting from failure of a government or its officers to keep the peace. Monarch, 353 F.Supp. at 1260. The plaintiffs' claim was rejected under, even, the notion of a "social contract" between the State and its citizens to preserve social order and the property of citizens against mob violence.

D. "Gross negligence" was defined by the Florida Supreme Court in Clements v. Deeb, 88 So. 505 (Fla. 1956), to mean "that course of conduct which a reasonable and prudent person would know would probably and most likely result in injury to person or property."

E. HB 591 presents no cognizable claim under the Florida Constitution. Article I, Section 2, enumerates basic rights of Florida citizens but has never been construed to authorize a claim like that alleged in HB 591. Article I, Section 7, however, prescribes the military power shall be subordinate to the civil, a provision in existence in 1923 which would have some significance in the alleged reluctance of the Governor to muster the State's military power. No case law construing the Florida Constitution sustains or suggests liability against the State in a context like the Rosewood incident.

Claimants' allegations of legal wrong must be evaluated under these standards.

IV.

INSUFFICIENCY OF PROOF OF LIABILITY

Materials now comprising "the record" of this claim are the documents identified at page 3 above. With minor exceptions--the sworn statements of Lee Ruth Davis, Arnett Turner Goins, and Minnie Lee Langley--this record is wholly comprised of unsworn and predominantly hearsay assertions by persons who were not present in Rosewood in 1923, or were infants, or who otherwise are at least potentially biased because of their claimant status.

The myriad newspaper accounts of the incident are, as recognized in the Report, frequently self contradictory. See also comments of Gary Moore in Appendix at pages 403 to 406, and footnotes 26, 27, 28, and 29. "Contemporaneous newspaper reports

about Rosewood events were self-evidently unreliable *** In Florida and nationally, 1920's journalism seemed to form a soup of melodrama". In fact, there existed no code of ethics for professional journalists until 1926.

Seventy year old newspaper accounts, lacking even reporters' names, and personal interviews--sworn or unsworn--must be afforded little weight for purposes of liability determination in the absence of consistent corroboration from other documented independent sources.

Absent from the Report's bibliography are interviews of government officials, or even their coworkers or relatives, against whom these allegations are lodged. Included among that number of now unavailable witnesses are Governor Carey Hardee; his assistant, Professor L.B. Edwards; Levy County Sheriff Robert Walker; Alachua County Sheriff P.G. Ramsey; and Seventh Judicial Circuit State Attorney George DeCottes. There are no statements from relatives of Frances Taylor.

Similarly absent are references to official records of the 1923 office of the Governor; the 1923 offices of the Alachua and Levy County Sheriff's office; the state militia; the State Attorney DeCottes; and all references to communications between these and other state and county government officials who would have reason to be involved in the official assessment of this situation and the need to provide back up to the Levy and Alachua County Sheriffs.

This void in the record and the Report's dependency on hearsay and rumor is due to the unjustified lapse of 70 years in presentation of this claim.

Hearsay evidence must, with few exceptions, be rejected as competent proof of liability for events that occurred a generation ago. Unsworn interviews of claimants must be deemed similarly unpersuasive.

Even Claimants' few sworn statements in the record are suspect when evaluated under traditional standards of fairness and justice. State Counsel was not present. There was no cross examination. Many of the questions were "leading" to the conclusion the inquirer, Claimants' counsel, was seeking. There are many "off the record" discussions and even "on the record interruptions" by other persons in the room, including particularly the "cinema producer", Michael McCarty, who, according to Gary Moore, purchased cinema rights from some of the claimants.[4]

V.

SIGNIFICANT FACT ISSUES

Many material fact issues not addressed in the Report are the subjects of comment, criticism, rebuttal, and surrebuttal by journalists and historians in the Appendix and in the Review of the Rosewood Project. Other material and potentially dispositive unresolved fact issues derive from the nature and purpose of this proceeding--a determination of liability and fault against the State. What may suffice for an acceptable account of history should not suffice as a record to prove liability.

---

[4] See Report of Gary Moore, Appendix, Page 419, 420.

Respondent urges the Special Master and the Legislature to give appropriate deference to this latter higher standard of evidence and proof.

Additional fact issues which must be resolved generally fall into the categories of liability determination and damages determination. Some bifurcation of these determinations is possible as indicated in Respondent's letter dated February 15, 1994, to the Special Master. Fair resolution of both categories of issues requires presentation of witnesses under oath and corroborative documented evidence.

A. As to the liability determination, material unresolved fact issues include:

(1) As to each claimant, what is the justification for the seventy year delay in presenting this claim? Claimants' assertions should be made into legal capacity (as evidenced for example by prior encounters with the court system), and attempts to timely bring these matters to the attention of government authorities at the county, state, federal, or other level. The State's discovery requests served on claimants on February 13, 1994 and February 15, 1994, yet to be answered, make specific inquiry on these matters.

(2) What efforts were made by the Documented History investigative team to obtain sworn statements and interviews, or other narratives, from the accused officials and individuals with personal knowledge (the office of Governor Carey Hardee; Levy County Sheriff Robert Walker; Alachua County Sheriff P.G. Ramsey; on site reporters; Levy County grand jury and State Attorney DeCottes) or from such persons' relatives, spokesmen, and agents?

(3) What efforts were made to locate and accumulate relevant documents from or on behalf of the persons and state and county offices identified in number (2) above?

(4) What justification exists for claimants' failures to specify the state officials against whom their claims are lodged?

(5) Under what circumstances did Governor Hardee, or other Governor in this era, direct the military power to oversee the civil power, to protect citizens?

(6) What National Guard resources were reasonably available to Governor Hardee to contain the civil disobedience in Rosewood?

(7) Did Governor Hardee reasonably rely on the reports from the Levy and Alachua Sheriffs that the violence was under control?

(8) Are the May 4, 1992 sworn statement of claimant Lee Ruth Davis that soldiers protected her at the Rosewood train station and that "Gainesville really looked out for us, the government had everything for us" and Lillie Washington's September 24, 1993, admission that "the United States Protector" sat on her family's back porch and would not leave until "the last car has come out from down there" not credible evidence that the County officials had back up from other authorities?

(9) What was the role of Governor Hardee, or persons acting in his instance, in providing the train to evacuate refugee's from Rosewood?

(10) What was the extent of State Attorney DeCottes' efforts to locate victim witnesses in Gainesville as reported in the media on February 15, 1923 or February 16, 1923?

(11) Is there proof that C.P. "Polly" Wilkerson was not peacefully acting as a lawfully deputized sheriff at the time of his death?

(12) Did Alachua County Sheriff Ramsey and his deputies make reasonable inquiry in Levy County on January 4, 1923, which led them (erroneously) to believe that the situation was under control?

(13) On legal, equitable or moral grounds, what distinguishes the violence and civil disobedience in Rosewood, Florida, in January, 1923 from the 40 earlier lynchings in Florida; from the race related violence in Ocoee, Florida in 1920; from the race related violence in Perry, Florida in 1922; from the 47 lynchings attributed to the period 1918 to 1927 in Florida; and from the forced movement of Florida's native American population? What would justify claims compensation for documented victims of crime in Rosewood and their relatives but not for the other victims?

B. Specific matters for proof as to damages claims, for <u>each</u> claimant, assuming arguendo there is any basis for a finding of liability.

The State's discovery requests served on February 13, 1994 and February 15, 1994, yet to be answered, make specific inquiry on these matters.

This enumeration of unresolved material issues is not all inclusive but is generally indicative of items of proof that should be made if compromise of the claims process is to be avoided.

CONCLUSION

The Report concluded:

> We believe that Sheriff Walker failed to control local events and to request proper assistance from Governor Hardee when events moved beyond his control. While Hardee condemned the violence and ordered a special prosecutor to conduct a grand jury investigation, he did so (more than a month had passed) only after black residents were forced to leave Rosewood and their property was destroyed.
>
> The failure of the elected white officials to take forceful actions to protect the safety and property of local black residents was part of a pattern in the State and throughout the region. In Ocoee in November, 1920, and Perry in December, 1922, local and state officials failed to intervene to protect black citizens and in each incident several innocent blacks were killed and their property destroyed. The same was true in other southern states where rape and black resistance was not tolerated by white residents and were seen as a legitimate excuse to abandon the law in favor of brute force. Pleas from citizens and their spokesman fell on deaf ears and Florida's white leadership responded to the civil and racial unrest only when it threatened to jeopardize the State's economic advancement.

These conclusions, while damning of an attitude attributable to an entire era, is not the type of conclusion which would sustain a claim under the legal and equity standards presented above. There was no duty of the type alleged. There is no proof of racially discriminatory intent. There is no evidence or conclusion of deliberate indifference. There is no

conduct which "a reasonable and prudent person would know would probably, and most likely, result in injury." Clements, supra. There is no proof nor conclusion that the identified officials, Governor Hardee, County Sheriff Walker, County Sheriff Ramsey, and State Attorney DeCottes, acted in other than good faith, or that among them there was reason to disbelieve reports of other. In fact, the record suggests the contrary.

The death and violence at Rosewood in 1923 is a sorry page in Florida's history. Regrettably the seven documented deaths that occurred there are but a fraction of other race related deaths which occurred not only in Florida but throughout the United States. Nothing factual distinguishes the violence at Rosewood from the other documented violence.

If those claims are to be considered for compensation on grounds of human decency, in isolation of claims compensation for other victims of crime, several generations after the acts in question--and a decade after national television coverage--all traditional principles of law, equity, and fairness to the general public require the analysis and examination outlined above.

Compromise of these principles for HB 591 will establish precedent to the detriment of the State treasury and may encourage myriad other claims against "the State" arising from "a pattern" under circumstances which are likely fresher and better documented than those in HB 591.

Compensation sought under HB 591 should be denied. But, with an expression of regret from the State of Florida to

those who were in Rosewood in January, 1923 and to those who have suffered from that tragedy.

Respectfully submitted,

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Counsel for the Respondent
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **STATE OF FLORIDA'S PREHEARING MEMORANDUM** has been forwarded to Stephen Hanlon, Esquire, and Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, Florida 32302-0810 this 23 day of February, 1994.

JAMES A. PETERS

<jimp>RosewoodDraft

FLORIDA HOUSE OF REPRESENTATIVES

Tallahassee

March 21, 1994

SPECIAL MASTER'S FINAL REPORT

The Honorable Bo Johnson
Speaker of the House of Representatives
Suite 420, The Capitol
Tallahassee, Florida 32399-1300

RE: HB 591 by Representatives De Grandy and Lawson
Claim of Arnett Goins, Minnie Lee Langley, et al. v. State of Florida

FINDINGS OF FACT: THIS IS AN EQUITABLE CLAIM SEEKING $7.2 MILLION FOR DAMAGES RESULTING FROM THE 1923 DESTRUCTION OF ROSEWOOD, FLORIDA.

This report is based upon the record presented to House and Senate special masters in the course of legislative hearings conducted pursuant to Rule 6.63, Rules of the Florida House of Representatives. The hearings began on March 4, 1994 and continued on a weekly basis, concluding on March 18, 1994.

The claimants in this matter are former residents, and descendants of former residents of Rosewood, Florida, who contend that certain acts or omissions of law enforcement and other officials of Levy County and the State of Florida, resulted in the destruction of their community, the deaths of their relatives, and the loss of their property, and inflicted on them both physical and emotional harm for which they should be compensated by the State of Florida. The claimants are represented by the law firm of Holland and Knight.

The State takes the position that the claims presented in this matter are without legal basis, that the evidence now available does not support a finding that acts or omissions of law enforcement officials caused the damages to the claimants, and that the claims should be barred by the statute of limitations. The State further contends that bringing these claims at this time prohibits the reasonable defense of the allegations since the officials charged are now deceased and cannot be called to testify as to these events. The State of Florida is represented by the Office of the Attorney General.

Because the events relating to this claim occurred more than 71 years ago, the record presented in the legislative hearings is comprised of media accounts of the events, incomplete public records, stories related by former residents and repeated to descendants, and the distant recollections of elderly witnesses not readily subject to corroboration and cross-examination. As will be discussed below, if these proceedings were conducted in a judicial forum, the principles of law dictated by the rules of evidentiary hearsay and the statute of limitations would preclude consideration of these claims. In an equitable claim bill proceeding, however, these principles do not, as a matter of law, restrict the legislature's consideration of these claims. Accordingly, this report is intended to provide the legislature with a description of the events that occurred in and around Rosewood, Florida in 1923, from the available remaining sources of evidence as presented at the legislative hearings, with the understanding that at this time conclusive findings of fact as to all relevant issues do not appear possible.

The events which occurred at Rosewood in 1923 were widely reported at that time not only by the Florida press, but also by the national media. In February of 1923, a month after the violence subsided, a special grand jury was convened in Levy County to investigate these matters. The grand jury returned no indictments, and except for newspaper accounts, no records of the grand jury proceedings remain. It does not appear that any other official investigation of Rosewood was undertaken. Over the years following these events, brief references to the events of Rosewood were made in a few historical studies of racial violence; however, no researched report of these matters was published until July 25, 1982, when a comprehensive article by an investigative journalist, Gary Moore, appeared in The

Floridian magazine, a Sunday supplement to the St. Petersburg Times. Mr. Moore's article prompted a December 13, 1983 CBS 60 Minutes report; however, no other official investigation was conducted at that time.

In 1993 this matter was brought before the Florida Legislature when HB 813 by Representatives DeGrandy and Lawson, and SB 1452 by Senator Jones were filed seeking compensation for persons injured by the violence at Rosewood. In response to the issues raised by HB 813, the Speaker determined that a thorough study of the events surrounding the destruction of Rosewood should be conducted in an objective scholarly manner, and accordingly, after the 1993 Session, an academic research team, which included distinguished professors from Florida State University, Florida A&M University, and the University of Florida was commissioned to research the Rosewood incident and report its findings to the Legislature. The academic research team was chaired by Dr. Maxine Jones of the Florida State Department of History.

The academic research team conducted research during the legislative interim, and on December 22, 1993 issued its report entitled A Documented History of the Incident Which Occurred at Rosewood, Florida in January 1923. Exceptions to the accuracy, findings, methodology, and thoroughness of the report were expressed by investigative journalist, Gary Moore, and in response to Mr. Moore's concerns, an extensive review of the academic study team's report was conducted under the authority of Dr. Richard Greaves, Chairman of the Florida State University Department of History. With minor reservations, the Review of the Rosewood Project endorsed the findings and methodology of the report of the academic study team. In response to the review, Mr. Moore submitted his detailed analysis of the review to the Legislature. All of the academic research studies, reports, reviews, and appendices, as well as Mr. Moore's responses, were received and have been made part of the record in the legislative proceedings.

Upon review of the record presented, and consideration of the sworn testimony, the following description of the events which occurred in Rosewood in 1923 emerges. In January of 1923 Rosewood was a small, mostly African-American community of approximately 120 residents located on the Seaboard Air Line

Railroad in western Levy County, nine miles east of Cedar Key. Today the site of Rosewood is marked on State Road 24. At one time the community had a timber mill, a post office, several stores, a depot and hotel; however, by 1923 the cedar wood had been harvested, and the sawmill operations moved to Sumner, a somewhat larger community, three miles west of Rosewood. The black residents remaining at Rosewood earned a living by working at the Cummer sawmill in Sumner, trapping and hunting, and vegetable farming. In addition, several of the black women of Rosewood worked in domestic capacities for the white residents of Sumner. The main store of Rosewood was owned and operated by a white man named John Wright.

In 1923 the black community of Rosewood consisted of approximately twenty families, many of whom were closely related through marriages. Some of the black families owned their homes as well as other property in the area. The community had a one-room school, at least two churches, and a masonic lodge. The railroad depot remained, but it does not appear that there was a regularly scheduled stop at Rosewood at that time. There was no history of racial tension at Rosewood, and the record indicates that prior to 1923 the black and white communities had a generally amiable relationship.

On Monday, January 1, 1923, in Sumner, Florida, Mrs. Frances Taylor, a twenty-two year old white housewife, alleged that a black man had entered her home and assaulted her. Mrs. Taylor, who was visibly bruised, told her neighbors that while her husband James Taylor was at work at the sawmill, an unidentified black man had assaulted and robbed her. The specific nature of the assault is not apparent from the record; however, the white community believed there had been a sexual assault, although it does not appear that Mrs. Taylor was ever examined by a physician. After repeating her allegations, Mrs. Taylor then collapsed and was taken to a neighbor's home.

A contradictory account of this event circulated in the black community. According to Mrs. Sarah Carrier, a black woman from Rosewood who did laundry for Mrs. Taylor, and Mrs. Carrier's granddaughter, Philomena Goins, who accompanied Mrs. Carrier to the Taylor home on the morning of January 1, 1923, a white man had visited Mrs. Taylor that day, and left shortly before Mrs. Taylor made her allegations. The black

community believed that Mrs. Taylor had a romantic relationship with this unidentified white man, that they had quarrelled, and that this white man was actually responsible for Mrs. Taylor's injuries.

In response to Mrs. Taylor's allegations, a group of white men, mainly residents of Sumner or workers at the Cummer sawmill, came together to search for the perpetrator. At about this time word reached Sumner from Levy County Sheriff Robert Elias Walker that a black convict named Jesse Hunter had escaped from a work crew doing road construction near Otter Creek. Jesse Hunter became the focus of the search. Later that day, Sheriff Walker sent for bloodhounds, and the trail of the fugitive was followed from behind the Taylor house in Sumner, leading the party of men toward Rosewood.

The group first came across Aaron Carrier, a black man from Rosewood who apparently was coerced into implicating Sam Carter, a forty-five year old black man who did some blacksmith work. Sheriff Walker intervened during the interrogation of Aaron Carrier and apparently sent him to the jail in Bronson for safekeeping. The dogs followed the trail to Sam Carter's house, and the search party became convinced that Sam Carter had placed the fugitive in his wagon and assisted the fugitive in an escape. The men seized Sam Carter and strung him up over a tree limb in an effort to make Carter reveal the place where he had taken the fugitive.

The role of the law enforcement officers in the search is unclear. The record indicates that Sheriff Walker was informed and probably sent for the bloodhounds from Ft. White. There is also testimony that the deputy sheriff assigned to western Levy County, Clarence Williams, who also served as a quarterboss at the Cummer sawmill, was involved in searching for the fugitive; however, it does not appear that either the sheriff or the deputy were actually members of the search party that seized Sam Carter.

Of particular interest in this regard is the testimony of Ernest Parham, who at that time was a nineteen year old resident of Sumner, working at the general store. Mr. Parham testified that after the news of Mrs. Taylor's assault on January 1, 1923 spread, tension was very high in Sumner. At the general store

where he worked, they sold so much ammunition that the store's owner decided to hide his supplies and tell customers that they were sold out. Later that evening, Mr. Parham closed the store and noticed that deputy sheriff Williams, who had walked to Rosewood, had left his car parked outside. Mr. Parham drove the Williams' car by a back road from Sumner to Rosewood and located the deputy near Rosewood. At that time noise from a crowd could be heard from down the road. Mr. Parham left the deputy and walked down to where the crowd was gathered, and observed that a group of white men, many of whom he knew, had strung Sam Carter up on a tree limb in an attempt to force him to reveal information about the fugitive. Mr. Parham intervened in the situation, and the crowd of men let Carter down. Carter then took them to a place down the road where he said he let the fugitive off; however, when the dogs failed to pick up the scent, one of the men in the crowd shot and killed Sam Carter. The crowd then dispersed, and Mr. Parham returned to Sumner.

The body of Sam Carter was left on the road that night and apparently law enforcement officials did not discover the body until the following morning of Tuesday, January 2, 1923. Later that same day a coroner's jury inquest verdict signed by L.L. Johns as Justice of the Peace determined:

> "We the Jury after the examination of the said Sam Carter who being found lying Dead, find that the said Sam Carter came to his Death by being shot by Unknown Party so say we all."

✓ It does not appear that any further criminal investigation was conducted into the circumstances of the death of Sam Carter.

The search for Mrs. Taylor's assailant continued. On Thursday, January 4, 1923, word reached Sumner that the man they sought was being protected by Sylvester Carrier in Rosewood. A group of white men went to the Carrier home that evening. Minnie Lee Langley and Arnett Goins, claimants in this case, were children present at the Carrier home the night of January 4, 1923, and testified to the events of that evening. The children had been told that trouble was expected and they were gathered together with other relatives at the Carrier home for their protection.

They were taken to an upstairs bedroom. A group of white men approached the house and called for Sarah Carrier to come out. She did not respond. The white men then came to the porch. The white men shot and killed a dog tied in front of the house. According to the testimony, one of the white men, C.P. "Poly" Wilkerson, a former quarterboss from Sumner, kicked in the door, and was immediately shot and killed by Sylvester Carrier. A second white man Henry Andrews tried to enter the house and was also shot and killed by Sylvester Carrier. The remaining white men retreated, and gunfire was exchanged. During the ensuing gunfire Sarah Carrier was shot and killed. The white men apparently ran out of ammunition, and during the respite the children were taken out of the house by older relatives, and escaped into the woods of Gulf Hammock.

It does not appear that any law enforcement officials were among the group at the Carrier home on the night of January 4, 1923. Ernest Parham testified that deputy Williams was at the hotel in Sumner that evening. Mr. Parham specifically remembered that deputy Williams was discussing the ongoing events and stated that "All hell's breaking out in Rosewood." There is nothing in the record to indicate the whereabouts of Sheriff Walker on that night.

In the morning of January 5, 1923 the bodies of Poly Wilkerson, Henry Andrews, Sarah Carrier, and another black man, reported to be Sylvester Carrier were found at the house. There is some dispute as to whether Sylvester Carrier was actually killed at Rosewood. His family believes that he escaped and members received Christmas greetings from him for many years after the shootings at Rosewood.

After the killing of Poly Wilkerson and Henry Andrews, the violence escalated. Groups of white men from the surrounding areas, and some reportedly from other states, came to Rosewood. During the following days every black residence was burned. The black community fled to the woods. Two more deaths of residents of Rosewood were reported. Lexie Gordon, a woman of mixed color, was sick with typhoid fever and unable to leave Rosewood. When her home was set on fire she went out the back door and was shot and killed. James Carrier, the grandfather of Minnie Lee Langley, was reported to have been forced to dig his own grave and was then shot and killed.

Another black man, Mingo Williams, was reportedly shot while chopping down a tree twenty miles away by a group of the white men going to Rosewood.

Many of the white residents of the area came to the assistance of the black community. John Wright, the white owner of the general store in Rosewood, hid some of the children at his house, and arranged for a railroad car to pick up the women and children who had escaped into Gulf Hammock. Margaret Cannon testified that her father, Morris Cannon, a deputy sheriff in Levy County at the time, went into the woods and found the black woman and children and brought them to the train. They were taken to Gainesville. The black residents of Rosewood did not return.

Several years later the Cummer sawmill in Sumner burned. The company opened a new mill in Lacoochee, Florida, in Pasco County, and many of the Rosewood families moved to that area. Others dispersed to Jacksonville and Miami, and a few others moved out of state. Some of the property of the Rosewood residents apparently was lost to taxes, but there are a few records that indicate some property was later sold.

At this time it is difficult to determine the role of law enforcement officers, and other local and state officials, regarding their conduct during the Rosewood violence. Media accounts state that the Governor, Cary Hardee, was aware of the events, but had gone hunting on the afternoon of January 4, 1923. It also appears that Sheriff Walker had informed the Governor that there was no need to call in National Guard troops. Although the record indicates that the National Guard had been mobilized in preceding years to keep the peace during civil disturbances, the Guard was not called to Rosewood. It further appears that the Sheriff of Alachua County organized a posse to come to Levy County to assist in keeping order, but the role of the Alachua Sheriff in these events is not clear from the record. Sheriff Walker resigned July 8, 1924 after the Rosewood incident, and was replaced by L.L. Johns, the former Justice of the Peace, who signed the coroner's verdict regarding the death of Sam Carter.

On January 29, 1923 the Governor ordered that a special grand jury investigate the violence at Rosewood. The grand jury was

presided over by Judge A.V. Long of the Eighth Judicial Circuit. George DeCottes, the state attorney for the Seventh Circuit in Deland was appointed as prosecutor. On February 12, 1923 the grand jury convened in Bronson. There are no records of the grand jury. The newspaper accounts state that thirteen witnesses testified on February 13, 1923, and more witnesses were scheduled for the following day. Examination of witnesses ended on February 14, 1923, and on February 16, 1923 the grand jury stated that they were unable to find any evidence upon which to base indictments.

No charges were ever brought by the State of Florida against any person for the assault on Frances Taylor, for the killing of Sam Carter, for the deaths occurring at the Carrier home on the night of January 4, 1923, for the deaths of Lexie Gordon, James Carrier, or Mingo Williams, or for any acts of arson and theft which occurred at Rosewood, Florida.

CONCLUSIONS OF LAW: The initial question of law is the applicability of section 11.065(1), Florida Statutes, which provides:

> No claims against the state shall be presented to the Legislature more than 4 years after the cause for relief accrued. Any claim presented after this time of limitation shall be void and unenforceable.

It is a long-established rule of law that the act of one legislature cannot bind a future legislature. Kirklands v. Town of Bradley, 104 Fla. 390, 139 So. 144 (1932); Tamiami Trail Tours v. Lee, 142 Fla. 68, 194 So. 305 (1940). This principle has been specifically applied to the statute of limitations for legislative claim bills. Attorney General's Opinion 55-82. As stated by the Attorney General, the statute of limitations is an expression of legislative policy, and not a prohibition against the consideration of claims against the state. Accordingly, as a matter of law, should the legislature determine that an equitable basis exists for the consideration of these claims, then there is no legal restriction on the power of the legislature to enact a claim bill under these circumstances.

In this matter, the primary claimants are now elderly former residents of Rosewood who as children were displaced from their homes due to the destruction of their community. They have a very limited education. Their testimony reflects a profound fear of reprisal and a distrust of state officials. In light of their personal experiences and the racial attitudes at the time, their testimony is substantiated. There is a question as to whether the fears of the claimants of coming forward are justified especially after the 1983 national broadcast of the Rosewood events. The State contends that at least since 1983 there was no justifiable impediment to the bringing of these claims to the legislature. Moreover, the State contends that under the principles of laches, Cone Brothers Construction v. Moore, 193 So. 288 (Fla. 1940), the claimants have delayed too long, that the matters asserted are not subject to a safe conclusion as to the truth thereof, and the State at this time is unable to defend against these allegations.

In balancing the equities of whether to proceed to consider the claims of these claimants, against the obvious difficulties of the State to completely respond to these claims after so many years have passed, it is important to distinguish these proceedings from proceedings at law. As a matter of law, the record does not demonstrate that the claimants could overcome the State's objections if these proceedings were judicial in nature. Claim bill proceedings, however, address the "moral obligations of the state" and are matters purely within the prerogative of the legislature. Gamble v. Wells, 450 So.2d 850 (Fla. 1984); Dickinson v. Board of Public Instruction, 217 So.2d 553, 560 (Fla. 1968). Under these circumstances, neither the provisions of section 11.065(1), Florida Statutes, nor the principles of laches should be construed to preclude the legislature's consideration of these claims to determine whether there is a moral obligation on the part of the State of Florida which should be addressed.

Claimants seek compensation for damages resulting from property loss and for emotional trauma. As to property loss, Florida law in 1923, as well as today, recognizes that compensation is required when state action effects a taking of property which was set forth in Article XVI, section 29 of the Florida Constitution of 1885 and is now incorporated in Article X, section 6 of the Florida Constitution as revised in 1968. While the State of Florida did not affirmatively take title to

property in Rosewood, the displacement of the Rosewood population was done with the knowledge and assistance of law enforcement officers. In a case involving the claims of Japanese-Americans who were displaced from their homes and property during World War II, the court held that the claimants were entitled to compensation for their property loss. Hohri v. United States, 768 F.2d 227 (D.C. Cir. 1986). The court stated:

> Given the alleged damage to the appellant's real and personal property directly caused by the evacuation program, there is no question that appellants have stated a claim cognizable under the Takings Clause.

Id. at 242. The court went on to hold that this claim was compensable regardless of whether the government took title to the property. See also United States v. General Motors Corp., 323 U.S. 373 (1945).

Although there are obvious distinctions between the federal evacuation program of Japanese-Americans and the displacement of the residents of Rosewood, in both instances the evacuees were forced to leave their homes and were unable to attend to their property. The residents of Rosewood did not return due to fear, and it appears that many simply abandoned their property because the area was not secured for their safety.

In this respect the State cites the case of Monarch Insurance Company of Ohio v. District of Columbia, 353 F. Supp. 1249 (D.C. D.C. 1973), affirmed, 497 F.2d 684 (D.C. Cir. 1974), cert. denied, 419 U.S. 1021 (1974), where the court dismissed constitutional and statutory claims brought against the United States, the District of Columbia and local law enforcement officials for property damages resulting from riots which occurred after the assassination of Dr. Martin Luther King. The court in Monarch held that the decisions regarding the deployment of law enforcement in riot control situations was a discretionary function that did not subject the government to liability under the federal Tort Claims Act. Similarly, Florida law provides that discretionary governmental functions are not subject to liability. Commercial Carrier Corp. v. Indian River County, 371 So.2d 1010 (Fla. 1979). As recognized by the

Monarch court, however, if the claim arises from a taking of property, then there is a cognizable cause of action. 353 F. Supp. at 1252.

Moreover, the United States Supreme Court in the case of National Board of Young Men's Christian Assn's v. United States, 395 U.S. 1511 (1969) held that persons whose property was damaged as a result of rioting after occupation of the buildings by federal troops had no Fifth Amendment claim for compensation. However, as Justice Harlan stated:

> ...it is for Congress, not this Court, to decide the extent to which those injured in the riot should be compensated, regardless of the extent to which the police or military attempted to protect the particular property which each individual owns.

395 U.S. at 96. Similarly, while it may be argued that there would not exist a judicially cognizable claim under the takings provisions of the federal and state constitutions, it is nonetheless clear that the legislature has the authority to determine the extent of compensation in this matter.

In relevant circumstances, Congress enacted the Civil Liberties Act to compensate Japanese-Americans for property damages resulting from the federal evacuation policy during World War II. 50 App. U.S.C. s. 1989a(a). The federal law enacted in 1988 recognized that "a grave injustice was done both to citizens and permanent resident aliens of Japanese ancestry by their forced relocation and internment during World War II," and attempted to make amends by issuing a formal apology and $20,000 to each Japanese intern. Jacobs v. Barr, 959 F.2d 313, 314 (D.C. Cir. 1992). The federal law sets forth eligibility standards and provides for time limitations in which eligible individuals must present their claims to the Attorney General.

Under these circumstances, it is appropriate to compensate the claimants in this matter for the property losses sustained by the destruction of Rosewood. While there is not a showing of participation on the part of governmental agents in the destruction of the property, there is no question that governmental officers were aware of the violent situation that existed during the entire week of January 1, 1923, that

government officers assisted in the evacuation of the Rosewood residents, that after the destruction the government did not secure the area, that the residents of Rosewood sustained property damage, and that the justice system did not redress the injuries sustained. This is particularly evident when the legislative hearings 71 years later are uncovering evidence identifying the perpetrators of the criminal acts that occurred in Rosewood. In light of these circumstances, and the authorities cited above, the Rosewood families sustaining property damage should be compensated.

As to the emotional and mental anguish damages sought by the claimants, there is no clear remedy. In 1923 the State had not waived sovereign immunity; accordingly, a state cause of action based upon principles of tort law does not arise. See Article III section 22 of the 1885 Constitution which is presently set forth in Article X section 13 of the Florida Constitution. Under section 870.04, Florida Statutes, which also was in force at the time, a sheriff has the duty to order rioters to disperse, but it does not appear that the statute gives rise to a civil cause of action. Cleveland v. City of Miami, 263 So.2d 573 (Fla. 1972).

The federal civil rights acts, section 42 U.S.C. s. 1983 et seq., were in existence, and require a showing that the acts which resulted in personal injury to the claimants were under color of law and done with the intent to deprive the claimants of their constitutional rights. Washington v. Davis, 426 U.S. 229 (1976). As indicated above, there is evidence that governmental officials knew of the potentially violent situation at Rosewood, but there is no indication of direct participation of governmental officers in the events leading up to the destruction of Rosewood. The most persuasive evidence of governmental responsibility is the failure of any showing that the criminal acts committed at Rosewood were reasonably investigated and redressed by the State of Florida. The record reflects that the death of Sam Carter, who was killed in front of many residents of Sumner, clearly was not properly investigated, and even today there is at least one witness available to testify to the circumstances of that crime. Any records of the investigation conducted by the special grand jury were lost, but it is difficult to understand the grand jury's determination that there was insufficient evidence to

proceed on any of the criminal acts when 71 years later witnesses describing the events and identifying the perpetrators are appearing at legislative hearings.

While this evidence may not be sufficient to sustain a cause of action at law, it does compel the conclusion that a moral obligation exists on the part of the State of Florida to remedy this matter. This conclusion appears to be in keeping with the equitable claim bills redressing "moral obligations" that the legislature has previously enacted. Gamble v. Wells, supra. In Gamble the legislature awarded $150,000 to a child who was physically and emotionally damaged due to the failure of the State to provide adequate foster care. In upholding the constitutionality of Chapter 80-448, Laws of Florida, the Florida Supreme Court in Gamble stated:

> This voluntary recognition of its moral obligation by the legislature in this instance was based on its view of justice and fair treatment of one who had suffered at the hands of the state but was legally remediless to seek damages.

450 So.2d at 853.

This principle is equally applicable here. In the Rosewood claim, although the claimants are now elderly, the damage they sustained was as children, and while ascertaining an amount of damage for emotional harm is subjective, the Gamble case provides guidance as to prior legislative enactments in this regard. Accordingly, it appears that those Rosewood claimants who as children were subjected to the violence and forced to leave their homes should each be awarded compensation in the amount of $150,000.

In the final analysis, the legal authorities cited above support the conclusion that this is an equitable matter that is addressed to the sound discretion of the Florida Legislature. The federal and state cases demonstrate that the legislature's responsibility is to determine whether there is a moral obligation on the part of the State of Florida to compensate the claimants. Although the evidence presented may not be sufficient to establish an action at law, it nonetheless is clear that government officials were responsible for some of the damages sustained by the claimants,

if not by the failure to provide reasonable law enforcement prior to the destruction of Rosewood, then surely in the failure to reasonably investigate this matter, to bring the perpetrators to justice and to thereafter secure the area for the safe return of the displaced residents. Under these circumstances, the claimants have met the test for an equitable claim bill by showing that a moral obligation exists to redress their injuries.

COLLATERAL SOURCES: Claimant Minnie Lee Langley received $1,000 for the motion picture rights to her story.

ATTORNEYS FEES: The law firm of Holland & Knight is representing the claimants on a pro bono basis.

RECOMMENDATION: For the above reasons, I recommend that HB 591 be amended as follows:

1. The bill should direct the Florida Department of Law Enforcement, or other appropriate law enforcement officials, to conduct a complete investigation of this matter including interviewing the available witnesses to determine if any criminal proceedings may still be pursued.

2. A fund should be established to compensate the Rosewood families who can demonstrate a property loss as a result of the displacement of the Rosewood residents.

3. The elderly claimants who sustained emotional trauma as a result of the destruction of Rosewood and the evacuation of the residents should each be compensated in the amount of $150,000.

4. A state university scholarship fund should be established for the families and the descendants of the Rosewood residents.

As AMENDED, I recommend HB 591 be reported FAVORABLY.

Respectfully submitted,

Richard Hixson
Special Master

UNITED STATES OF AMERICA,

NORTHERN DISTRICT OF FLORIDA,

THE PRESIDENT OF THE UNITED STATES OF AMERICA

To the Keeper of the Jail of Escambia County, in the State of Florida, Greeting:

Whereas *at a session held by the Circuit Court of the United States for the Fifth Judicial Circuit and Northern District of Florida, at the City of Pensacola, on the* twenty eighth *day of* October, *A. D. 190*3, *an* indictment *was duly found and presented* in *said Court against* John Boyd, *for a Violation of Section* 5526 *of the Revised Statutes of the United States in that he did* arrest, hold etc. and return one J. Bradley Smith to a condition of peonage,

And afterwards, to-wit: on the eighth *day of* May, *A. D. 190*5 *the said* John Boyd, *was duly* arraigned *on the charge aforesaid in said* indictment *preferred, and a* plea of *guilty was duly entered against the said defendant whereupon the said Court remanded the said defendant to confinement until the said Court shall deem it advisable to pass judgment upon him.*

These are therefore to command you, *in the name and by the authority aforesaid, to receive the said* John Boyd *prisoner of the United States of America, in the Jail of the said Escambia County, there to remain until the further order of this Court.*

Witness *the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, and the Seal of this Court, at the City of Pensacola, in said Circuit and District, this* eighth day of May *in the year of our Lord one thousand nine hundred and* five.

J. W. Marsh,

Clerk.

I hereby certify that the foregoing is a true and correct copy of the original process of commitment as issued out of my office this day.

Witness my hand and seal of office the day and date last above written.

Clerk.

UNITED STATES OF AMERICA,

NORTHERN DISTRICT OF FLORIDA,

THE PRESIDENT OF THE UNITED STATES OF AMERICA

To the Keeper of the Jail of Escambia County, in the State of Florida, Greeting:

Whereas *at a session held by the Circuit Court of the United States for the Fifth Judicial Circuit and Northern District of Florida, at the City of Pensacola, on the* twenty eighth *day of* October, *A. D. 190*3, *an* indictment *was duly found and presented in said Court against* John Boyd, *for a Violation of Section* 5526 *of the Revised Statutes of the United States in that he did* arrest, hold etc. and return one J. Bradley Smith to a condition of peonage,

And afterwards, to-wit: on the eighth *day of* May, *A. D. 190*5 *the said* John Boyd, *was duly* arraigned *on the charge aforesaid in said* indictment *preferred, and a* plea of *guilty was duly entered against the said defendant whereupon the said Court remanded the said defendant to confinement until the said Court shall deem it advisable to pass judgment upon him.*

These are therefore to command you, *in the name and by the authority aforesaid, to receive the said* John Boyd *prisoner of the United States of America, in the Jail of the said Escambia County, there to remain until the further order of this Court.*

Witness *the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, and the Seal of this Court, at the City of Pensacola, in said Circuit and District, this* eighth day of May *in the year of our Lord one thousand nine hundred and* five.

J. W. Marsh,

Clerk.

I hereby certify that the foregoing is a true and correct copy of the original process of commitment as issued out of my office this day.

Witness my hand and seal of office the day and date last above written.

Clerk.

Depos. filed Oct 2nd 1903

302

Oct 3/13

Witnesses

J. Bradley Smith ✓

D.S. Cailer ✓

J.W. Hardee ✓

A.D. Lewis, ✓

W.A. Carter ✓

[illegible] ✓

75242

No 399.

IN THE UNITED STATES CIRCUIT

FOR THE NORTHERN DISTRICT OF

FLORIDA.

U N I T E D S T A T E S

V.

J O H N B O Y D .

"PEONAGE" (Violation Sec.5526)

A True Bill

W. H. May

Foreman of Grand Jury.

Filed October 25th 1903.

J. W. Marsh

Clerk.

Wm. B. Sheppard,

U. S. Attorney

UNITED STATES OF AMERICA

WESTERN DIVISION

NORTHERN DISTRICT OF FLORIDA

UNITED STATES CIRCUIT COURT

MARCH ADJOURNED TERM A.D. 1903.

The Grand Jurors of the United States chosen, selected and sworn to enquire in and for said Northern District of Florida, on their oaths present:- That heretofore to-wit on or about the tenth day of May in the year of our Lord one thousand nine hundred and three, the exact date being to the Grand Jurors unknown in the County of Jackson, State of Florida, in the Western Division of the Northern District of Florida, and within the jurisdiction of this Court one John Boyd did then and there unlawfully, knowingly and feloniously hold, arrest and return one J. Bradley Smith to a condition of peonage by then and there by force and by threats compelling him the said J. Bradley Smith to come back to the place of business of him the said John Boyd in said Jackson County aforesaid and within the jurisdiction of this Court against the will of him the said J.Bradley Smith to work out a certain debt then and there claimed to be due and owing from him the said J. Bradley Smith to him the said John Boyd, he the said J. Bradley Smith being then and there unwilling to return to work out said debt aforesaid and being then and there compelled to return and to work on account of said debt by force and threats of him the said John Boyd; contrary to the statute in such case made and provided and against the peace and dignity of the United States.

SECOND COUNT: And the Grand Jurors aforesaid upon their oaths aforesaid further present that the said John Boyd did on the day aforesaid and at the time and place aforesaid wilfully, unlawfully and feloniously hold, arrest, and return one J. Bradley Smith to a condition of peonage by then and there compelling by threats and by placing him the said J. Bradley Smith in fear of his life, him the said J. Bradley Smith to come back to the place of business and to the house of him the said John Boyd and to a certain turpentine farm then and there owned, operated or managed by him the said John Boyd ,

COPY

THE NATIONAL ARCHIVES
ATLANTA REGIONAL ARCHIVES

Records Group No. 21

Additional Info.

U.S.C.G. N. Dist. g Fla. Pensacola
U.S.C.G. John Boyd

Box 4 - B/47/20 -

94-200148CIV AG ATTORNEY James A. Peters
Goins, Arnett T.; Langley, LOWER CT LOCATN
VS Florida, State of MISCELLANEOUS
COURT NAME Fla. House of Representatives SETTLE AMOUNT
ORD DUE LONG CASE NO
SUBJECT
CASE NO HB 591 LOWER CT # OP COUNS private
LOWER CT # LOWER CT # RM CLM# CivRights/Other

DATE			PROCEEDINGS
			Posttraumatic Stress Disorder
	Recvd	31b.	Claimants' Memorandum of Law Re Excited Utterance Exception to the Hearsay Rule
03/18/94	Filed	32.	Notice of Supplemental Authority
	Filed	33.	Response to Claimants' Memorandum of Law Re: Excited Utterance
	Recvd	33a.	Supplement to Team's Answers to Interrogatories
03/20/94	Filed	34.	State of Florida's Notice of Supplemental Authority
	Filed	35.	State of Florida's Memorandum Re: Application of Hohri v. United States
03/21/94	Recvd	36.	Special Master's Final Report
03/22/94	Filed	37.	State of Florida's Response to Special Master's Final Report

94-200148CIV AG ATTORNEY James A. Peters
Goins, Arnett T.; Langley, LOWER CT LOCATN
VS Florida, State of MISCELLANEOUS
COURT NAME Fla. House of Representatives SETTLE AMOUNT
ORD DUE LONG CASE NO
SUBJECT
CASE NO HB 591 LOWER CT # OP COUNS private
LOWER CT # LOWER CT # RM CLM# CivRights/Other

DATE			PROCEEDINGS
02/25/94	Recvd	17.	Notice of Hearing
02/28/94	Filed	18.	State of Florida's Response to Claimants' Memorandum in Support of Admissibility of Expert Testimony of Hedonic Damages
03/01/94	Filed	19.	Notice of Filing and Supplemental Authority
03/03/94	Filed	20.	State of Florida's Supplemental Witness and Exhibit List
	Filed	21.	State of Florida's Motion to Continue Hearings
03/04/94	Recvd	22.	Notice of Hearing
03/07/94	Filed	23.	Interrogatories and Request for Production of Documents to the Documented History Team
	Filed	23a.	State of Florida's Designation of Statements and Interviews for Hearing Record
03/09/94	Filed	24.	State of Florida's Revised Supplemental Witness and Exhibit List
03/10/94	Filed	25.	State of Florida's Revised Supplemental Witness List
03/15/94	Filed	26.	Respondent's Memorandum of Law Re Tolling the Statute of Limitations
03/16/94	Recvd	27.	Answers to Interrogatories
	Filed	28.	State of Florida's Supplemental Exhibit List
	Filed	29.	State of Florida's Notice of Supplemental Authority
	Filed	30.	State of Florida's Memorandum Re Admissibility of the Rosewood Report as Proof of Liability
	Filed	31.	State of Florida's Response to Claimants' February 24, 1994, Memorandum of Law Re Constitutional Claims
	Recvd	31a.	Claimants' Memorandum of Law Re Damages for

94-200148CIV AG ATTORNEY James A. Peters
Goins, Arnett T.; Langley, LOWER CT LOCATN
VS Florida, State of MISCELLANEOUS
COURT NAME Fla. House of Representatives SETTLE AMOUNT
ORD DUE LONG CASE NO
SUBJECT
CASE NO HB 591 LOWER CT # OP COUNS private
LOWER CT # LOWER CT # RM CLM# CivRights/Other

DATE			PROCEEDINGS
02/11/94	Recvd	1.	Notice of Hearing
	Filed	2.	Notice of Appearance
02/13/94	Filed	3.	Respondent, State of Florida's, First Motion for Discovery
02/14/94	Filed	3a.	Respondent's Corrected First Interrogatories and Requests for Production of Documents
02/15/94	Filed	4.	State of Florida's Second Interrogatories and Requests for Production of Documents
	Filed	5.	Respondent, State of Florida's, Second Motion for Discovery
02/19/94	Filed	6.	Respondent, State of Florida's, Third Motion for Discovery
02/22/94	Recvd	7.	Memorandum in Support of the Admissibility of Expert Testimony on Hedonic Damages
	Recvd	8.	Claimants' Opposition to Respondents, State of Florida's, First and Second Motions for Discovery
	Recvd	9.	Memorandum in Support of the Admissibility of the Rosewood Report
02/23/94	Filed	10.	State of Florida's Witness and Exhibit List
	Filed	11.	State of Florida's Prehearing Memorandum
02/24/94	Filed	12.	State of Florida's Corrected Prehearing Memorandum
	Recvd	13.	Claimants' Memorandum of Law Regarding Their Constitutional Claims
	Recvd	14.	Claimants' Memorandum of Law Regarding Tolling the Section 1983 Statute of Limitations
	Recvd	15.	Claimants' Responses to Respondent's Third Motion for Discovery
	Recvd	16.	Claimants' List of Witnesses and Documents

CF

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

STATE OF FLORIDA'S MOTION TO CONTINUE HEARINGS

State of Florida respectfully requests the Special Master to continue the hearings, now scheduled to conclude on Friday, March 4, 1994, for at least seven days to enable undersigned counsel to travel to Levy County, Florida, to interview potential witnesses who have placed calls in response to media articles concerning this claims process. This brief extension in this proceeding is absolutely essential if counsel is to have the opportunity to inquire of these witnesses to determine if their testimony, whether based on personal observations or narratives told them under what may be reliable circumstances, would be helpful to a fair and complete resolution of the issues set forth in House Bill 591.

This continuance would otherwise enable counsel for claimants and undersigned counsel to attempt to resolve issues concerning the participation of Gary Moore.

3/3/94
F

State of Florida otherwise submits that witness testimony anticipated for the hearing scheduled for Friday, March 4, 1994, will occupy all or a substantial part of the day.

Respectfully submitted,

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Counsel for the Respondent
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **STATE OF FLORIDA'S MOTION TO CONTINUE HEARING** has been forwarded to Stephen Hanlon, Esquire, and Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, Florida 32302-0810 this 3 day of March, 1994. by fax & mail

JAMES A. PETERS

<jimp>Rosewood.MCont

eF

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

STATE OF FLORIDA'S SUPPLEMENTAL WITNESS AND EXHIBIT LIST

Respondent, State of Florida, here supplements its February 23, 1994, Witness List with the following:

WITNESSES

6. Margaret Cannon.

7. Douglas McKoy, Clerk of Court, Levy County.

8. Others to be identified after interview.

EXHIBITS

Respondent, State of Florida, supplements its February 23, 1994, Exhibit List to include the following:

7. Laws of Florida 1921, Chapter 8405.

8. Report of Budget Commission of the State of Florida to the Legislature - Biennium 1923-25, page 16, "Recapitulation of Budget Reports."

3/3/94
F

Respectfully submitted,

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Counsel for the Respondent
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **STATE OF FLORIDA'S SUPPLEMENTAL WITNESS AND EXHIBIT LIST** has been forwarded to Stephen Hanlon, Esquire, Post Office Drawer 810, Tallahassee, Florida 32302-0810 this 3 day of March, 1994. by fax & mail

JAMES A. PETERS

<jimp>Rosewood.SuppExh

CF

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

NOTICE OF FILING AND SUPPLEMENTAL AUTHORITY

Respondent, State of Florida, here submits records of the United States District Court for the Northern District of Florida evidencing federal presence in the Northern part of Florida in the early 1900's. The records enclosed concern federal prosecutions in U.S. v. Boyd, U.S. v. Elvington, U.S. v. Fields, U.S. v. Graham, U.S. v. Harlon, et al., U.S. v. Lewis, et al., U.S. v. Porter and Sykes, cases identified at page 7, footnote 3, of Respondent's Pretrial Memorandum.

Respondent will request that these documents be entered into evidence at hearing.

Respectfully submitted,

JAMES A. PETERS
Assistant Attorney General
Florida Bar No. 0230944

Counsel for the Respondent
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

3/1/94
F

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **NOTICE OF FILING AND SUPPLEMENTAL AUTHORITY** has been forwarded to Stephen Hanlon, Esquire, and Martha Barnett, Esquire, Post Office Drawer 810, Tallahassee, Florida 32302-0810 this 1 day of March, 1994.

JAMES A. PETERS

<jimp>Rosewood.NF

Br. 215

No. 391

United States Circuit Court.

THE UNITED STATES OF AMERICA

vs.

John Boyd,

TEMPORARY MITTIMUS.

Filed ..... 189....

..... Clerk.

Issued ..... 189....

Returnable ..... 189....

FILED AT 1 O'CLOCK P. M.
JUN 2 1905
F. W. MARSH, Clerk.

RETURN.

Received this Mittimus with the with named prisoner on the 8th day of May A. D. 190 and on the same day I committed the s prisoner to the custody of the within nam jail keeper, with whom I left at the sa time a certified copy of this Mittimus.

Dated May 8th 190

T. F. McWhorter
United States Marshal Northern District of Flo

By H. Wolf Jr. Deputy.

Org.

Marshal's Return.

Received the within Commitment together with the body of the within named prisoner at Tallahassee Florida, on the 25th day of May A. D., 1905 and executed the same by ~~delivering the body of the said prisoner to the keeper of the jail of County, Florida at~~ collecting the fine, on the 25 day of May A. D. 1905 ~~together with a certified copy of the within Commitment.~~

U. S. Marshal.

per

Deputy Marshal.

Entered this

Clerk.

No 113,

The United States

vs. Elvington

~~Herman J. Eastberg~~

Violation section 5326 R. S.

COMMITMENT.

Issued May 25-1905

Ret'd and filed

FILED AT 11 O'CLOCK A. M.
JUN 2 1905
F. W. MARSH, Clerk. Clerk.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF FLORIDA, IN THE FIFTH JUDICIAL CIRCUIT.

At an adjourned term of the Circuit Court of the United States for the Northern District of Florida, in the Fifth Circuit, begun and held at the City of Tallahaasee within and for the District aforesaid, on the nineteenth day of November, in the year of our Lord, one thousand, nine hundred and one,,

Northern District of Florida, S.S.

The Grand Jurors of the United States of America, empaneled and sworn within and for the District aforesaid, on their oaths present, that one, James O. Elvington, heretofore, to-wit: on the sixth day of February, in the year of our Lord, one thousand, nine hundred and one, in the County of Levy, State of Florida, within the District aforesaid and within the jurisdiction of this Court, did, then and there, unlawfully and knowingly arrest and return one, George Huggins, to a condition of Peonage, by forcibly and against the will of him the said George Huggins to work to and for the said James O. Elvington, to be held by him, the said James O. Elvington to work out a debt claimed to be due to him the said James O. Elvington, by him the said George Huggins, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

John Eagan
U. S. Attorney

No. 113, Cond

UNITED STATES CIRCUIT COURT,

NORTHERN DISTRICT OF FLORIDA.

THE UNITED STATES

VS.

JAMES O. ELVINGTON.

I N D I C T M E N T

Vio. Sec. 5526, R.S.U.S.

A TRUE BILL

Edward B. Eggers

F O R E M A N.

Witnesses:

Addie Huggins,
George Huggins,
R. L. Page,
A. G. Fletcher,
J. L. Medlin.

Filed November 2d 1901

W. W. Mark
Clerk

John Eagan, U. S. Attorney.

Issue Capias Alias attachment for witness

W I T N E S S E S .

Vidich Mihaly,
William Keller,
Louis Abrahams
Emanuel Jordamons
John Smith,
Albert Danish
Joe Davis
E. I. Reese
Dr. W. N. Craig,
Mrs. Mary Jane Paul,
Mrs. Elizabeth Gibson,
Mrs. Della Carnley
John Atwell,
George A. Hamilton
William Manse
Charles Menseke
Hardy Davis
Louisa Howell
H. M. Stokes,
J. B. Anderson
John Bufford
James F. Merrill
J. B. Barlow
Lizzie Brooks
Jesse C. Kemp
Julius Rhoads
Henry Atwell
Starling Johnson
James Johnson, J. P.
K. T. Wiggins
J. F. Swilley
Davis Clary
W. I. Reynoldo
Frank L. Mayes
Bud Givens
Telegraph Operator Laurel Hill
Gene Eookhart
rman Osmenski
rthur Buckle
Rudolf Lanninger
William U. Porter

C. Simms,

No. _____

D. Vidich Mihaly

THE UNITED STATES

-vs-

W. S. Harlan, Robert Gallagher,

Walter E. Grace, Oscar Sandor,

I N D I C T M E N T

Violation Secs. 5440 and 5526 R S U S

Conspiracy to Commit Peonage.

William B. Sheppard,

United States Attorney.

UNITED STATES OF AMERICA,

NORTHERN DISTRICT OF FLORIDA. S. S.

In the Circuit Court of the United States, within and for the District aforesaid.

At the March adjourned term of said Court, in the year of our Lord one thousand, nine hundred and six, begun and held at the City of Pensacola, within and for the District aforesaid, on the seventh day of November, in the year of our Lord, one thousand, nine hundred and six.

The Grand Jurors of the United States of America, empanelled and sworn within and for the District aforesaid, on their oaths present: that one W. S. Harlan, one Robert Gallagher, one Walter E. Grace, and one Oscar Sandor, heretofore, to-wit:- on the nineteenth day of July, in the year of our Lord, one thousand, nine hundred and six, in the County of Walton, State of Florida, within the District aforesaid and within the jurisdiction of this Court, did then and there falsely, unlawfully and wickedly conspire, combine, confederate and agree together and among themselves to commit an offense against the laws of the United States; that is to say; to hold, to arrest, to return one Trudich Mihaly, alias Trudich Mihaly, with intent then and there to hold, arrest and return the said Trudics Mihaly, alias Trudich Mihaly, to a condition of peonage, with intent then and there to compel him, the said Trudics Mihaly, alias Trudich Mihaly to work for the Jackson Lumber Company, a corporation, to be held by it, the said Jackson Lumber Company to work out a debt claimed to be due to the said Jackson Lumber Company by the said Trudics Mihaly, alias Trudich Mihaly.

And afterwards, to-wit:- on the day aforesaid, in pursuance of, and for the purpose of effecting the object of the said conspiracy, the said Robert Gallagher, the said Walter E. Grace and the said Oscar Sandor, did by threats and force, within the District aforesaid, and within the jurisdiction of said Court, to-wit:- in the County of Walton, State of Florida, arrest the said Trudics Mihaly, alias Trudich Mihaly, and restrain him of his liberty, against his will and consent, and compel him, the said Trudics Mihaly, alias Trudich Mihaly, to accompany them, the

said Robert Gallagher, the said Walter E. Grace, the said Oscar Sandor to the place of business of the said Jackson Lumber Company, and did then and there wound beat and ill treat the said Trudics Mihaly, alias Trudich Mihaly, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

2 And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present, that one W. S. Harlan, one Robert Gallagher, one Walter E. Grace, and one Oscar Sandor, heretofore, to-wit:- on the nineteenth day of July, in the year of our Lord, one thousand, nine hundred and six, within the District aforesaid, and within the jurisdiction of this Court, did then and there falsely, unlawfully and wickedly conspire, combine, confederate and agree together and among themselves to commit an offense against the laws of the United States, that is to say: to arrest one Trudics Mihaly, alias Trudich Mihaly, with intent then and there to arrest and return the said Trudics Mihaly, alias Trudich Mihaly to a condition of peonage, with intent then and there to compel him, the said Trudics Mihaly, alias Trudich Mihaly, to work for the Jackson Lumber Company, a corporation, to be held by it, the said Jackson Lumber to work out a debt claimed to be due by the said Trudics Mihaly, alias Trudich Mihaly, to the said Jackson Lumber Company, a corporation.

And afterwards, to-wit:- on the day aforesaid, in pursuance of, and for the purpose of effecting the object of the said conspiracy, the said Robert Gallagher, the said Walter E. Grace, and the said Oscar Sandor, did by threats and force, within the District aforesaid, and within the jurisdiction of this Court, to-wit:- in the County of Walton, State of Florida, arrest the said Trudics Mihaly, alias Trudich Mihaly, and restrain him of his liberty, against his will and consent, and compel him, the said Trudics Mihaly, alias Trudich Mihaly, to accompany them, the said Robert Gallagher, Walter E. Grace and Oscar Sandor to the place of business of the said Jackson Lumber Company, and did then and there beat and ill treat the said Trudics Mihaly, alias Trudich Mihaly, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

Montgomery Ala., Sept. 9th, 1909.

Honorable James H. Judkins,
United States Marshal,
Montgomery Ala.

Whereas W. S. Harlan, S. M. Huggins and C. C. Hilton, were in December 1906 by the United States Circuit Court in and for the Northern district of Florida, at Pensacola, tried and convicted and sentenced upon an indictment charging them with a conspiracy to arrest and return one Rudolph Lanninger to a condition of peonage, copy of which indictment is attached hereto marked exhibit A and made a part hereof; and

Whereas Robert Gallager and Walter E. Grace were in Devember 1906 by the United States Circuit Court in and for the Northern district of Florida at Pensacola, were tried, convicted and sentenced upon an indictment charging them with a conspiracy to arrest and return divers persons to a condition of peonage, copy of which indictment is attached hereto marked Exhibit B and made a part hereof, and

Whereas said parties were by the said United States Circuit Court allowed an appeal to the United States Circuit Court of Appeals at New Orleans, and granted a supersedeas upon the Appeal Bonds, copies of which are attached hereto, marked respectively, C, D. E., F. & G., and made a part hereof, and

Whereas the stay of the mabdate of the United States Circuit Court of Appeals was granted and ordered by the said United States Circuit Court of Appeals and by the President of the United States pending disposition of the application for pardon for said parties, and we as their bondsmen, as well as said defendants, anticipating that the said application for pardon would not be disposed of by the President until after his Western Trip, and after his Summer Vacation and because thereof said Defendants were enlarged; and whereas we, as their bondsmen have as hastily as possible notified them to assemble

for the purpose of submitting themselves to the jurisdiction of the United States Marshal; and whereas, all of said persons have at our request assembled in this, the City of Montgomery State of Alabama and within this the Northern Division of the Middle District of Alabama and within your jurisdiction, and are now in said City; and whereas, the said City of Montgomery is on the usual regular and most direct route from the City of Pensacola Fla., to the United States Penitentary at Atlanta Ga;

Now Therefore, we W. H. Britton, J. E. Hughes, and R. H. Trammell as the bondsmen for said defendants, hereby and herewith tender to you the said W. S. Harlan, S. E. Huggins, C. C. Hilton, Robert Gallagher and Walter E. Grace and as their bondsmen we respectfully request and demand that you accept our said offer of said defendants and that you receive each and all of them into your custody to hold them awaiting notification by you to and instructions from the United States Marshal of in and for the United States Circuit Court of the Northern District of Florida. We further hereby offer and tender to you and agree to pay all expenses which you may incur in holding said bodies to await notification and instructions aforesaid from the said United States Marshal at Pensacola.

Very Respectfully,

W. H. Britton

J. E. Hughes

R. H. Trammell

BONDSMEN.

COPY

21

U.S. C.C., N. Dist. Fla. Pensacola

U.S. vs. U.S. Harbor

Box 45 B/47/20/4

No. 247

United States Circuit Court.

THE UNITED STATES OF AMERICA

vs.

R. W. Lewis et al.

TEMPORARY MITTIMUS.

Filed ..... 189....

..... Clerk.

Issued ..... 189....

Returnable ..... 189....

FILED AT O'CLOCK A. M.
JAN 25 1906
F. W. MARSH, Clerk.

RETURN.

Received this Mittimus with the wi

named prisoner on the 13 da

January A. D. 190

and ~~on the same day~~ I held ~~committed~~ the

prisoner ~~to the~~ in my custody ~~of the within na~~

~~jail keeper~~, with whom I left at the s

time ~~a certified copy of this Mittimus~~ upon the order of the court.

Dated January 16 190

J. T. F. McKinnon

United States Marshal Northern District of Fl

By 16 Wolf

Deputy

Graham to work out a debt due by the said James McCants to the said Thomas Graham and J.B.Graham; and afterwards, to-wit:- on the seventeenth day of May in the year of our Lord one thousand nine hundred and seven, in pursuance of and for the purpose of effecting the object of the said conspiracy the said Thomas Graham and J.B.Graham did by threats and force within the District aforesaid and within the jurisdiction of this Court, to-wit:- in the County of Escambia, State of Florida, hold the said James McCants and restrain him of his liberty against his will and consent and compel him the said James McCants to remain at the place of business of the said Thomas Graham and J.B.Graham for the purpose of working out an alleged debt contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

THIRD COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present that one Thomas Graham and one J.B.Graham, heretofore, to-wit:- on the seventeenth day of May in the year of our Lord one thousand nine hundred and seven in the County of Escambia, State of Florida, within the District aforesaid and within the jurisdiction of this Court, did then and there falsely, unlawfully and wickedly conspire, combine, confederate and agree together and among themselves to commit an offense against the laws of the United States, that is to say, to arrest, to return one James McCants who had been or was theretofore in the employ of the said Thomas Graham and J.B.Graham, with intent then and there to compel him the said James McCants to work for the said Thomas Graham and J.B.Graham to work out a debt due to the said Thomas Graham and J.B.Graham by the said James McCants; and afterwards, to-wit:- on the seventeenth day of May in the year of our Lord one thousand nine hundred and seven for the purpose of effecting the object of said conspiracy the said Thomas Graham and J.B.Graham did by threats and force within the District aforesaid, to-wit:-in the County of Escambia, State of Florida and within the jurisdiction of this Court, return the said James McCants, and compelled him, the said James McCants to accompany them, the said

Thomas Graham and J.B.Graham contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Emmett Wilson,

United States Attorney.

J.S.McGaughy,

Foreman of Grand Jury.

Endorsed:- No.675. In the Circuit Court of the United States for the Northern District of Florida. United States -VS- Thomas Graham & J.B.Graham.Escambia County. A true Bill. Conspiracy to commit Peonage. 5440. J.S.McGaughy,Foreman. Filed Nov.14,1907,F.W.Marsh, Clerk.

.....

3. And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present, that one W. S. Harlan, one Robert Gallagher, one Walter E. Grace, and one Oscar Sandor, heretofore, to-wit:- on the nineteenth day of July, in the year of our Lord, one thousand, nine hindred and six, within the District aforesaid, and within hhe jurisdiction of this Court, did then and there falsely, unlawfully and wickedly conspire, combine, confederate and agree together and among themselves to commit an offense against the laws of the United States, that is to say; to return one Trudics Mihaly, alias Trudich Mihaly, with intent then and there to return the said Trudics Mihaly, alias Trudich Mihaly to a condition of peonage, with intent then and there to compel him, the said Trudics Mihaly, alias Trudich Mihaly, to work for the Jackson Lumber Company, a corporation, to be held by it, the said Jackson Lumber Company to work out a debt claimed to be due by the said Trudics Mihaly, alias Trudich Mihaly, to the said Jackson Lumber Company , a corporation.

And afterwards, to-wit:- on the day aforesaid, in pursuance of, and for the purpose of effecting the object of the said conspiracy, the said Robert Gallagher, the said Walter E. Grace and the said Oscar Sandor, did by threats and force, within the District aforesaid, and within the jurisdiction of said Court, to-wit:- in the County of Walton, State of Florida, return the said Trudics Mihaly, alias Trudich Mihaly to the place of business of the said Jackson Lumber Company, a corporation, with the intent then and there that he the said Trudics Mihaly, alias Trudich Mihaly should be held to work out an alleged debt then and there alleged to be due by him, the said Trudics Mihaly, alias Trudich Mihaly to the said Jackson Lumber Company, a corporation, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

Foreman of the Grand Jury

United States Attorney.

UNITED STATES OF AMERICA,

NORTHERN DISTRICT OF FLORIDA,

THE PRESIDENT OF THE UNITED STATES OF AMERICA

To the Keeper of the Jail of Escambia County, in the State of Florida, Greeting:

Whereas *at a session held by the Circuit Court of the United States for the Fifth Judicial Circuit and Northern District of Florida, at the City of Pensacola, on the* ninth *day of* November, *A. D. 1906, an* indictment *was duly found and presented by Grend Jury of said Court against* Robert W. Lewis and Joseph Thomas, *for a Violation of Section* 5440 *of the Revised Statutes of the United States in that he did* unlawfully conspire to-gether to knowingly and wilfully return one George Walker to a condition of peonage,

And afterwards, to-wit: on the thirteenth *day of* January, *A. D. 1906 the said* Robert W. Lewis and Joseph Thomas, each *was duly* arraigned and tried *on the charge aforesaid in said* indictment *preferred, and a* verdict of *guilty was duly entered against the said defendant whereupon the said Court remanded the said defendant to confinement until the said Court shall deem it advisable to pass judgment upon him.*

These are therefore to command you, *in the name and by the authority aforesaid, to receive the said* Joseph Thomas, and Robert W. Lewis *prisoner of the United States of America, in the Jail of the said Escambia County, there to remain until the further order of this Court.*

Witness *the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, and the Seal of this Court, at the City of Pensacola, in said Circuit and District, this* thirteenth day of January, *in the year of our Lord one thousand nine hundred and* six.

J. C. Marsh.

Clerk.

I hereby certify that the foregoing is a true and correct copy of the original process of commitment as issued out of my office this day.

Witness my hand and seal of office the day and date last above written.

Clerk.

No. 247

UNITED STATES CIRCUIT COURT.

THE UNITED STATES

VS.

ROBERT W. LEWIS
BENJAMIN J. DOUGLASS,
AND JOSEPH THOMAS.

I N D I C T M E N T.
FOR VIOLATION SECTION 5440,
REVISED STATUTES U. S.
Conspiracy

A TRUE BILL.

Paul Grace FOREMAN.

WITNESSES:
GEORGE WALKER
LULU WALKER
WILLIAM COLEMAN
~~PHILIP WHITEHEAD~~
~~HOLDS V. WATT~~

Filed November 9th 1901.
W. H. Mauck
Clerk.

JOHN EAGAN, U. S. ATTORNEY.

UNITED STATES OF AMERICA :
WESTERN DIVISION : S. S.
NORTHERN DISTRICT OF FLORIDA. :

UNITED STATES CIRCUIT COURT, MARCH ADJOURNED TERM, 1901.

The Grand Jurors of the United States chosen, selected, and sworn, in and for the Northern District of Florida, and Western Division, upon their oaths present:

That, heretofore, to-wit; on the twenty-seventh day of June, in the year of our Lord onethousand nine hundred and one, ROBERT W. LEWIS, BENJAMIN J? DOUGLASS and JOSEPH THOMAS, late of the Western Division of the Northern District of Florida, did then and there unlawfully and feloniously conspire, confederate and agree together to knowingly and willfully return to a condition of PEONAGE one George Walker by forceably and against the willof him the said George Walker returning him, the said George Walker, to work to and for R. W. LEWIS, R. N. LEWIS and S. E. LEWIS, co-partners doing business under firm name and style of LEWIS NAVAL STORES COMPANY, to be held by them the said LEWIS NAVAL STORES COMPANY to work out a debt claimed to be due them the said LEWIS NAVAL STORES COMPANY by the said George Walker, and afterwards, to-wit; on the day aforesaid in pursuance of and for the purpose of effecting the object of said conspiracy the aforesaid BENJAMIN J. DOUGLASS, and JOSEPH THOMAS did by threats and force compel the said George Walker against his consent and will to accompany them to the place of business of said LEWIS NAVAL STORES COMPANY, and the said ROBERT W. LEWIS did assault, beat and wound him the said George Walker, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United.

2. And the said Grand Jurors aforesaid, upon their oath aforesaid do further find and present, that one ROBERT W. LEWIS, BENJAMIN J. DOUGLASS and JOSEPH THOMAS, heretofore, to-wit; on the twenty-seventh day of June in the year of our Lord one thousand nine hundred and one, in and within the District aforesaid, and within the jurisdiction of this court, then and there , did unlawfully

and feloniously conspire, confederate and agree together to knowingly and willfully cause to be returned and aided in returning to a condition of PEONAGE one George Walker, by forceably and against the will of him the said George Walker returning him, the said George Walker, to work to and for R. W. LEWIS, R. N. LEWIS and S. E. LEWIS, co-partners doing business under firm name and style of LEWIS NAVAL STORES COMPANY, to be held by them the said LEWIS NAVAL STORES COMPANY to work out a debt claimed to be due them the said LEWIS NAVAL STORES COMPANYby the said George Walker, and afterwards, to-wit; on the day aforesaid in pursuance of and for the purpose of effecting the object of said conspiracy the aforesaid BENJAMIN J. DOUGLASS, and JOSEPH THOMAS did by threats and force compel the said George Walker against his consent and will to accompany them to the place of business of said LEWIS NAVAL STORES COMPANY, and the said ROBERT W. LEWIS did assault, beat and wound him the said George Walker, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

John Eagan
United States Attorney.

COPY

21

U.S.C.C., N. Dist. Fla., Jacksonville
U.S. vs Robert Lewis
Box 22 B/47/20/3

No 600 Letter Atty Genl 5-20-09

In the U.S Circuit Court, Western Division, Northern District of Florida

U. S.

vs

Ed. Porter and ——— Sykes

Peonage

a True Bill

L M Davies

Foreman of Grand Jury

Ow B Sheppard

U.S. Atty

Filed November 14 1906

J W Marsh

THE UNITED STATES OF AMERICA,
Northern District of Florida,) SS:
Western Division.

In the Circuit Court of the United States, within and for the Divsion and District aforesaid:

At the March adjourned Term of said Court, in the year of our Lord one thousand nine hundred and six, begun and held at the city of Pensacola, within and for the Divsion and District aforesaid, on the 7th day of November, in the year of our Lord one thousand nine hundred and six, the Grand Jurors of the United States of America, empaneled and sworn within and for the District aforesaid, on their oaths do present that one Ed Porter, one,..... Sykes(the Christian name of the said Sykes being to the Grand Jurors unknown), one Oscar Watkins, and one Thomas Watkins, heretofore, to-wit, on the 3rd day of January, in the year of our Lord one thousand nine hundred and six, in the County of Washington, State of Florida, within the District aforesaid, and within the jurisdiction of this Court, did then and there unlawfully and knowingly arrest one Ed Hartley, one Will Crosby, one Will Hartley, and one Will Huntley, with the intent then and there to arrest and hold the said Ed Hartley, the said Will Crosby, the said Will Hartley, and the said Will Huntley to a condition of peonage, with the intent then and there to compel them, the said Ed Hartley, the said Will Crosby, the said Will Hartley. and the said Will Huntley to work for one Ed Porter and one Robert Porter, alias "Bob Porter", in Washington county, Florida, to be held by them, the said Ed Porter and the said Robert Porter, alias "Bob" Porter, to work out an alleged debt claimed to be due to them, the said Ed Porter and the said Robert Porter, alias "Bob" Porter, by the said Ed Hartley, the said Will Crosby, the said Will Hartley, and the said Will Huntley, and did then and there restrain them, the said Ed Hartley, the said Will Crosby, the said Will Hartley and the said Will Huntley of their liberty against

their will and consent, and did compel them, the said Ed Hartley, the said Will Crosby, the said Will Hartley, and the said Will Huntley to accompany them, the said Ed Porter and the said ~~Ed Porter and the said~~ ..... Sykes (whose Christian name is to the Grand Jurors unknown) to the place of business in Washington county, Florida, of the said Ed Porter and the said Robert Porter, alias "Bob " Porter, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States.

2. And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present that one Ed Porter, one .....Sykes(the Christian name of the said Sykes to the Grand Jurors being unknown), one Tom Watkins, and one Oscar Watkins, heretofore, to-wit, on the 3rd day of January, in the year of our Lord one thousand nine hundred and six, in the county of Washington, and State of Florida, within the district aforesaid, and within the jurisdiction of this Court, did then and there unlawfully and knowingly hold one Ed Hartley, one Will Crosby, one Will Hartley, and one Will Huntley, to a condiction of peonage, with the intent then and there to compel them, the said Ed Hartley, the said Will Crosby, the said Will Hartley, and the said Will Huntley, to work for one Ed Porter and one Robert Porter, alias "Bob" Porter, to be held by them, the said Ed Porter and the said Robert Porter, alias "Bob" Porter, to work out an alleged debt claimed to be due to the said Ed Porter and the said Robert Porter, alias "Bob" Porter, by the said Ed Hartley the said Will Crosby, the said Will Hartley and the said Will Huntley, and did then and there restrain them, the said Ed Hrtley, the said Will Crosby, the said Will Hartley and the said Will Huntley of their liberty against their will and consent, ~~and did~~ contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States

3. And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present that one Ed Porter, one .....Sykes (the

Christian name of the said Sykes being to the Grand Jurors unknown), one Tom Watkins, and one Oscar Watkins, heretofore, to-wit, on the 24th day of January, in the year of our Lord one thousand nine hundred and six, in the county of Washington, State of Florida, within the district aforesaid, and within the jurisdiction of this Court, did then and there unlawfully and knowingly arrest and hold one Ed Hartley, one Will Crosby, one Will Hartley and one Will Huntley to a condition of peonage, with the intent then and there to compel them, the said Ed Hartley, the said Will Crosby, the said Will Hartley, and the said Will Huntley to work for one Ed Porter, and one Robert Porter, alias "Bob" Porter, to be held by them, the said Ed Porter and the said Robert Porter, alias "Bob" Porter, to work out a debt alleged and claimed to be due to the said Ed Porter and the said Robert Porter, alias "Bob" Porter, by the said Ed Hartley, the said Will Crosby, the said Will Hartley and the said Will Huntley, did then and there arrest and hold them, the said Ed Hartley, the said Will Crosby, the said Will Hartley and the said Will Huntley against their will and consent, and did compel them, the said Ed Hartley, the said Will Crosby, the said Will Hartley and the said Will Huntley, to work out an alleged debt claimed to be due to the said Ed Porter and the said Robert Porter, alias "Bob" Porter, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the United States.

L M Davis
Foreman of the Grand Jury.

William B Sheppard
United States Attorney.

COPY

Copy
THE NATIONAL ARCHIVES
ATLANTA, GEORGIA

Page(s) 21

U.S.C.C., N. Dist. Fla., Pensacola
U.S. vs. Ed Porter, et al
Box 32 B/47 F0/3

Marshal's Return.

Executed the within warrant of sentence by delivering the body of the within named prisoner to the Warden of the Federal prison at Atlanta, Ga. on the 23d. day of February, 1910, together with a certified copy of the within warrant of sentence.

J. F. McGowan Jr.
U. S. Marshal.

United States Circuit Court

No. 675

UNITED STATES

vs.

Briant Graham

WARRANT OF SENTENCE.

FILED AT O'CLOCK A. M.
MAR 7 1910
F. W. MARSH, Clerk.

UNITED STATES OF AMERICA,

CIRCUIT COURT OF THE UNITED STATES, FIFTH CIRCUIT, NORTHERN DISTRICT OF FLORIDA.

The President of the United States to the Marshal of the United States for the Northern District of Florida, Greeting:

Whereas, at a session held by our Circuit Court of the United States for the Fifth Circuit and Northern District of Florida, at the City of Pensacola, on the 14th. day of November, 1907, ~~A. D.~~, an indictment was duly found and presented by the Grand Jury in our said Court against Thomas A. Graham & J. B. Graham, for that they did unlawfully and wickedly conspire, combine, confederate and agree together to commit an offense against the laws of the United States, that is to say, to arrest and hold one James McCants to a condition of peonage, with intent then and there to compel him, the said James McCants, to work for the said Thomas A. and J. B. Graham, to be held by them, to work out an alleged debt, said to be due to the said Thomas A. and J. B. Graham, by the said James McCants, and did in pursuance of, and for the purpose of effecting the object of the said conspiracy, the said Thomas A. Graham, and the said J. B. Graham, did by threats and force, arrest the said James McCants, and restrain him of his liberty, against his will and consent, and force the said James McCants to accompany the said Thomas A. Graham and the said J. B. Graham, to the place of business of the said Thomas A. Graham, and the said J. B. Graham, contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the United States,

in violation of the provisions of the Acts of Congress of the United States, approved March 2nd, 18 67 Chapter 169, and May 17th 18 79, Chapter 8, and of Section 5540 of the Revised Statutes of the United States.

And afterwards, to-wit: on the 27th day of November, 1907 ~~A. D.~~, the said Thomas A. Graham et al, was duly tried by a Jury on the charges aforesaid in said indictment preferred, and a verdict of guilty was duly rendered by the said Jury against the said Thomas A. Graham, et al.,

And whereas, afterwards, to-wit: on the 30th day of November, 1907, ~~A. D.~~, our said Court, by reason of the Verdict aforesaid of the said Jury, did duly sentence the said Thomas A. Graham, to be imprisoned, ~~at hard labor,~~ in the Federal Penitentiary, at the City of Atlanta, in the State of Georgia, for and during the term and period of thirteen months, from the ----- day of -- --- ~~A. D.~~, and further to pay a fine of Five Hundred ($500.00)--- dollars ~~and the costs of the prosecution~~ and that he stand committed until the terms of this sentence be complied with, or until he be discharged by due course of law.

the said penitentiary being the place duly selected for the imprisonment of persons convicted of offences against the laws of the United States in the Courts thereof, in said Northern District of Florida.

Now, therefore, you the said Marshal are hereby commanded forthwith to convey to the said Federal Penitentiary at the City of Atlanta, in the State of Georgia, the body of the said Thomas A. Graham, and deliver him to the keeper thereof.

And you the said Keeper, in the name of the President of the United States of America, are hereby commanded to receive the body of the said Thomas A. Graham, the person aforesaid, into your custody, and him, the said Thomas A. Graham, safely keep in the said Federal Penitentiary at the City of Atlanta, in the State of Georgia ~~of the United States~~, for the full term and period of thirteen months, ~~from the 18th day of February, eighteen hundred and ten~~ nineteen, or until he be discharged in due course of law.

Herein fail not at your peril: And make due return of what you shall do in the premises and of this writ.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, and the seal of this Court this 18th day of February, A. D. ~~1907~~ 1910.

R. W. Marsh, Clerk.

Marshal's Return.

Executed the within warrant of sentence by delivering tthe body of the within named prisoner to the keeper of the Escambia county jail at Pensacola, Fla. on the 24th.day February 1910, together with a certified copy of the within warrant of sentence.

T. F. McGinnis
United States Marshal.

FILED AT O'CLOCK A. M.
MAR 4 1910
F. W. MARSH, Clerk.

United States Circuit Court

No. 617

UNITED STATES

vs.

L. B. Graham

WARRANT OF SENTENCE.

FILED AT O'CLOCK A. M.
MAR 4 191
F. W. MARSH, Clerk.

UNITED STATES OF AMERICA,

Northern District of Florida. S. S.

THE PRESIDENT OF THE UNITED STATES OF AMERICA:

To the Marshal of the Northern District of Florida, Greeting:

Whereas, at a session held by the Circuit Court of the United States in and for the Northern District of Florida, at the City of **Tallahassee** on the **twenty first** day of **November,** A. D. **1901** an **indictment** was duly **presented** by the **Grand Jury** of said Court, against **James O. Elvington** for a violation of Section **5526** of the Revised Statutes of the United States, in that he did unlawfully **arrest and return one George Huggins to a condition of Peonage.**

And, whereas, afterwards, to-wit:-on the **25th** day of **May,** A. D. **1905**, the said **James O. Elvington** was duly **arraigned** upon the said charge in said **indictment** preferred, and **pleaded guilty.**

Whereupon the Court pronounced the following sentence, to-wit:- That the said **James O. Elvington** pay a fine or penalty of **One thousand Dollars ($1,000.00)** Dollars unto the United States, and that he stand committed until the terms of said sentence be complied with, or until he be discharged by due course of law. **One half of said sentence to be remitted upon payment of the other half and that defendant be discharged on its payment.**

These therefore, are to command you to forthwith receive the body of the said **James O. Elvington** into your custody, and him safely keep until said fine be paid, or until he be discharged by due course of law.

And you the said Keeper of the Jail of ~~Escambia~~ **Leon** County, are hereby commanded to receive the body of the said defendant, and hold him subject to the order of the said Marshal, or until he be discharged by due course of law.

Witness, the Honorable Mellville W. Fuller, Chief Justice of the Supreme Court of the United States, and the Seal of said Court at the city of ~~Pensacola~~ **Tallahassee** in said District this **25th** day of **May,** A. D. ~~189~~ **1905**

J. W. Marsh, Clerk,

Vol Rec Dkt ... 07

No. 749

Circuit Court of the United States
for the Western Division of the
Northern District of Florida

THE UNITED STATES

vs.

Wm. N. Fields

INDICTMENT.

Secs. 1190 & 5526

A TRUE BILL.

O. H. Leverett

Foreman.

Filed November 19, A. D. 1908

J. C. Marsh

Clerk.

J. E. D. Yonge

Asst U. S. Attorney.

1—149

Chas. Robinson
Pete Murrell
Chas. Davis

UNITED STATES OF AMERICA,

Northern District of Florida.

In the Circuit Court of the United States within and for the Northern District of Florida, at the March Adjourned Term, in the year of our Lord one thousand nine hundred and eight.

The Grand Jurors of the United States selected, impaneled and sworn, within and for the District aforesaid, on their oaths present:

That one W. H. Fields during the month of June, in the year of our Lord one thousand nine hundred and seven, on a day to the Grand Jurors unknown, in the County of Calhoun, State of Florida, within the District aforesaid, and within the jurisdiction of this Court, did then and there unlawfully and knowingly arrest one Charles Davis with the intent then and there to arrest and hold the said Charles Davis to a condition of peonage, with the intent then and there to compel the said Charles Davis to be held by him, the said W. H. Fields, in the said County, to work out a debt due by the said Charles Davis to the said W. H. Fields, and did then and there restrain the said Charles Davis of his liberty, against his will and consent, and did compel him, the said Charles Davis, to accompany him to ~~a place~~ the place of business of the said W. H. Fields in the said County; contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the United States of America.

SECOND COUNT.:

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present: that one W. H. Fields heretofore, to-wit:- during the month of July, in the year of our Lord one thousand nine hundred and seven, on a day to the Grand Jurors unknown, in the County of Calhoun State of Florida, within the said District, and within the jurisdiction of this Court, did then and there unlawfully and knowingly hold one Charles Davis to a condition of peonage, with the intent then and there to compel him, the said Charles Davis, to work for him, the said W. H. Fields, and to be held by him, the said W. H. Fields, to work out a debt due by the said Charles Davis to the said W. H. Fields, and did then and there restrain him, the said Charles Davis, of his liberty, against his will and consent; contrary to the form of the Statute in such case made and provided, and against the peace and dignity of the United States of America.

O. H. Smith
Foreman of Grand Jury.

J. C. D. Young
asst United States Attorney.

UNITED STATES OF AMERICA,

CIRCUIT COURT OF THE UNITED STATES, FIFTH CIRCUIT, NORTHERN DISTRICT OF FLORIDA.

The President of the United States to the Marshal of the United States for the Northern District of Florida, Greeting:

Whereas, at a session held by our Circuit Court of the United States for the Fifth Circuit and Northern District of Florida, at the City of Pensacola, on the 14th, day of November, 1907. ~~A~~, an indictment was duly found and presented by the Grand Jury in our said Court against Thomas A. Graham & J. B. Graham,

for that they did unlawfully and wickedly conspire, combine, confederate and agree together to commit an offense against the laws of the United States, that is to say, to arrest and hold one James McCants to a condition of peonage, with intent then and there to compel him, the said James McCants, to work for the said Thomas A. Graham and J. B. Graham, to be held by them to work out ~~and~~ an alleged debt, said to be due to the said Thomas A. and J. B. Graham, by the said James McCants, and did in pursuance of, and for the purpose of effecting the object of the said conspiracy, the said Thomas A. Graham, and the said J. B. Graham, did by threats and force, arrest the said James McCants, and restrain him of his liberty, against his will and consent, and force the said James McCants to accompany the said Thomas A. Graham, and the said J. B. Graham, to the place of business of the said Thomas A. and J. B. Graham, contrary to the form of the Stateute in such case made and provided, and against the peace and dignity of the United States,

in violation of the provisions of the Acts of Congress of the United States, approved March 2nd, 1867 Chapter 169, and May 17th, 1879, Chapter 2, and of Section 5440 of the Revised Statutes of the United States.

And afterwards, to-wit: on the 27th day of November, 1907, ~~A~~, the said J. B. Graham et al., was duly tried by a Jury on the charges aforesaid in said indictment preferred, and a verdict of guilty was duly rendered by the said Jury against the said J. B. Graham et al.,

And whereas, afterwards, to-wit: on the 30th day of November, 1907, ~~A~~, our said Court, by reason of the Verdict aforesaid of the said Jury, did duly sentence the said J. B. Graham, to be imprisoned, ~~at hard labor,~~ in the ~~Penitentiary at~~ Jail of Escambia County, at Pensacola, in the State of Florida, for and during the term and period of six months, from the ------- day of ------- ~~A~~, and further to pay a fine of Five Hundred ($500.00), ----- dollars ~~and the costs of the prosecution~~ and that he stand committed until the terms of this sentence be complied with, or until he be discharged by due course of law,

the said penitentiary being the place duly selected for the imprisonment of persons convicted of offences against the laws of the United States in the Courts thereof, in said Northern District of Florida.

Now, therefore, you the said Marshal are hereby commanded forthwith to convey to the said ~~Penitentiary~~ Jail at Pensacola, in the State of Florida, the body of the said J. B. Graham, and deliver him to the keeper thereof.

And you the said Keeper, in the name of the President of the United States of America, are hereby commanded to receive the body of the said J. B. Graham, the person aforesaid, into your custody, and him, the said J. B. Graham, safely keep in the said ~~Penitentiary~~ Jail at Pensacola, in the State of Florida, ~~at hard labor~~, for the full term and period of six months, ~~from the 13th day of February, nineteen~~ eighteen hundred and ~~ten~~, or until he be discharged in due course of law.

Herein fail not at your peril: And make due return of what you shall do in the premises and of this writ.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, and the seal of this Court this 18th day of February, A. D. ~~189~~ 1910,

J. Ed Mash Clerk.

You, therefore, are hereby commanded that such execution and further *proceedings be had in said cause* ---------- *as according to right and justice, and the laws of the United States, ought to be had, the said* writ of error, *notwithstanding.*

Witness *the Honorable* MELVILLE W. FULLER, *Chief Justice of the United States, the* 17th *day of* February *in the year of our Lord one thousand nine hundred and* ten.

Charles H. Ledbetter

Clerk of the United States Circuit Court of Appeals for the Fifth Circuit.

United States Circuit Court of Appeals,
FOR THE FIFTH CIRCUIT

No. 1864.

November Term, 1909

J. B. Graham, et al.,

vs.

The United States.

MANDATE.

FILED AT O'CLOCK A. M.
FEB 15 1910
E. W. MARSH, Clerk.

United States of America, ss:

The President of the United States of America,

To the Honorable the Judges of the Circuit Court of the United States for the **Northern** *District of* **Florida.**

GREETING:

Whereas, *lately in the Circuit Court of the United States for the* Northern *District of* Florida *before you, or some of you, in a cause between* The United States, plaintiff, and Thomas A. Graham and J. B. Graham, defendants, the following judgment and sentence was made and entered to-wit:

The United States,
vs. No. 675.
Thomas A. Graham and J. B. Graham.

Indictment, Violation Section 5440. Rev. Statutes of U. S.

And now at this time came the United States by Emmett Wilson, United States Attorney for the Northern District of Florida, who prayed the judgment of the Court upon one Thomas A. Graham, and one J. B. Graham, who were heretofore convicted before this Court, to-wit: On the 27th day of November, A. D. 1907, of a violation of Section 5440 of the Revised Statutes of the United States, under indictment numbered 675; and the said defendants, and each of them, being in Court, and the Court being fully advised in the premises, ordered the said defendants to the bar of the Court, whereupon the following sentences were imposed, to-wit:

Sentence.

It is ordered and adjudged by the Court that the said defendant, Thomas A. Graham, be taken hence to the Federal Penitentiary at the City of Atlanta, in the State of Georgia, and there confined, at hard labor, for and during the term and period of thirteen months, and that he do durther pay to the United States of America a fine or penalty of five hundred dollars, and that he stand committed until the terms of this sentence be complied with, or until he be discharged by due course of law.

Sentence.

It is further ordered and adjudged by this Court, that the said defendant, J. B. Graham, be taken hence to the county jail of Escambia County, at Pensacola, State of Florida, and there confined for and during the term and period of six months, and that he further pay to the United States of America a fine or penalty of five hundred dollars, and that he stand committed until the terms of this sentence be complied with, or until he be discharged by due course of law."

as by the inspection of the transcript of record ----------

---------- of the said Circuit Court which was brought into the United States Circuit Court of Appeals for the Fifth Circuit by virtue of a writ of error sued out by J. B. Graham and Thomas G. Graham ,

agreeably to the act of Congress, ----------

---------- in such case made and provided, fully and at large appears.

And Whereas, in the present term of November in the year of our Lord one thousand nine hundred and nine , the said cause came on to be heard before the said United States Circuit Court of Appeals, on the said transcript of record and was argued by counsel:

On Consideration Whereof,

It is now here ordered and adjudged by this court that the judgment of the said Circuit Court in this cause be, and the same is hereby, affirmed.

Jan. 18, 1910.

In the Circuit Court of the United States,
in and for the Northern District of
Florida.

United States of America :
:
vs. :
:
J.B.Graham and Thomas A. :
Graham. :

I, Oscar F.Hundley, sitting as Judge of the United States Circuit Court in and for the Northern District of Florida, do hereby certify that during the progress of the cause pending in said court, wherein the United States of America was prosecuting, and J.B.Graham and Thomas A.Graham were defendants, the following proceedings were had:

On the _____ day of November, A.D.1907, during a special term of said court, the grand jurors returned into court an indictment against the defendants, J.B.Graham and Thomas A.Graham, in the words and figures following, to-wit:-

UNITED STATES OF AMERICA,
Northern District of Florida.

In the Circuit Court of the United States within and for the Northern District of Florida, at the March Adjourned Term in the year of our Lord one thousand nine hundred and seven, begun and held at Pensacola, in said District, on the eleventh day of November in the year of our Lord one thousand nine hundred and seven.

FIRST COUNT.

The Grand Jurors of the United States duly empaneled, sworn and charged to inquire within and for the District aforesaid, on their oaths present, that one Thomas Graham and one J.B.Graham, heretofore, to-wit:- on the seventeenth day of May in the year of our Lord one thousand nine hundred and seven, in the County of Escambia in the State of Florida, within the District aforesaid and within the juris-

diction of this said Court, did then and there falsely, unlawfully and wickedly conspire, combine, confederate and agree together and among themselves to commit an offense against the laws of the United States, that is to say, to arrest and hold one James McCants, with the intent then and there to arrest and hold the said James McCants to a condition of peonage, with the intent then and there to compel him, the said James McCants, to work for the said Thomas Graham and J.B. Graham, to be held by them, the said Thomas Graham and J.B.Graham, to work out an alleged debt due to the said Thomas Graham and the said J.B.Graham by the said James McCants; and afterwards, to-wit:- on the seventeenth day of May in the year of our Lord one thousand nine hundred and seven, in pursuance of and for the purpose of effecting the object of the said conspiracy, the said Thomas Graham and J.B. Graham did by threats and force, within the District aforesaid and within the jurisdiction of this said Court, to-wit:- in the County of Escambia, State of Florida, arrest the said James McCants and restrain him of his liberty against his will and consent, and compel him, the said James McCants, to accompany them, the said Thomas Graham and J.B. Graham to the place of business of the said Thomas Graham and J.B. Graham, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

SECOND COUNT.

And the grand jurors aforesaid, upon their oaths aforesaid do further present that one Thomas Graham and J.B.Graham heretofore, to-wit:- on the seventeenth day of May in the year of our Lord one thousand nine hundred and seven, within the district aforesaid and within the jurisdiction of this Court, did then and there falsely, unlawfully and wickedly conspire, combine, confederate and agree together and among themselves to commit an offense against the laws of the United States, that is to say, to hold one James McCants, with intent then and there to hold the said James McCants to a condition of peonage, with intent then and there to compel him, the said James McCants, the said James McCants, to work for the said Thomas Graham and J.B.Graham, to be held by them the said Thomas Graham and J.B.

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 14, 1994

Mr. Douglas M. McKoy
Clerk of the Court
Eighth Judicial Circuit
Post Office Drawer 610
Bronson, Florida 32621

Re: In the Matter for Relief of: Relief of Arnett T. Goins, Minnie L. Langley, et al. v. State of Florida
HB 591

Dear Mr. McKoy:

Thank you for speaking with me today concerning the Rosewood Claims Bill. As I relayed to you, several of the Claimants have alleged they have been unable to obtain copies of property records because of opposition from public officials and other unspecified threats. Their allegations will soon be the matter for a hearing before the Florida Legislature.

Enclosed for your consideration is a proposed affidavit intended to memorialize our conversation of this morning. Please review it for form and content. If it accurately sets forth your perspective of these allegations, I request that you execute it and return it to me. If it is not accurate, please make the necessary changes as you will likely be cross examined by Claimants' counsel.

Thank you for your courtesies.

Sincerely,

James A. Peters
Assistant Attorney General

JAP/psw

Enclosure

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS, MINNIE L. LANGLEY, et al.,

Claimants,

vs. HB 591

STATE OF FLORIDA,

Respondent.
_____/

A F F I D A V I T

STATE OF FLORIDA)
)
COUNTY OF LEVY)

DOUGLAS M MCKOY, being duly sworn, states:

My name is Douglas M. McKoy. I am the Clerk of the Court for Levy County, Florida, Eighth Judicial Circuit. I have been employed in that capacity for 18 years. I have a staff of _____ persons and routinely work in close physical proximity to each of them.

I have been advised of general allegations by persons seeking claims relief arising from the unfortunate deaths that occurred in the Rosewood vicinity in 1923. I am advised those persons are claiming they have been denied access to County property records by County employees or have otherwise been subject to threats. Of my personal knowledge, I attest these allegations are absolutely false if directed against staff of this office now or anytime since I became

Clerk. Further, I attest that I am unaware of any threats by any persons, whether employed in this office or elsewhere, against individuals seeking records of this office concerning Rosewood property records or other records which might be relevant to the 1923 incident.

Further affiant sayeth not.

_____
DOUGLAS M. MCKOY

Sworn to and subscribed before
me this _____ day of _____,
1994.

_____
NOTARY PUBLIC
State of Florida at Large

_____
(Print, type or stamp commissioned
name of Notary Public)

Personally Known _____ or Produced
Identification _____ (Check One)

Type of Identification Produced:

_____

My commission expires:

LAW OFFICES

HOLLAND & KNIGHT

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

OFFICES:

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

OF COUNSEL
MASTRY, MARGER, DAVIS, JOHNSON, BARTLETT & LYNN, P.A.
360 CENTRAL AVENUE
P.O. BOX 3542 (ZIP 33731)
ST. PETERSBURG, FL 33701
(813) 896-7171 FAX (813) 822-8048

SPECIAL COUNSEL
LITIGATION & BANKRUPTCY
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
1010 FRANKLIN AVENUE
GARDEN CITY, NY 11530
(516) 742-0610 FAX (516) 742-2670
300 EAST 42ND STREET
NEW YORK, NY 10017
(212) 338-0970

February 14, 1994

VIA HAND DELIVERY

Mr. Richard Hixson
Staff Director
Judiciary Committee
Room 412, House Office Building
Tallahassee, Florida 32399

Re: Rosewood

Dear Richard:

Enclosed please find the following documents:

1. Review of the Rosewood Project

2. Copy of the Japanese Reparations Act passed by the United States Congress

3. My adaptation of the Japanese Reparations Act to the Rosewood claim

I am providing a copy of the last two items to Jim Peters with this letter. Jim already has a copy of the first item.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon /kp

Stephen F. Hanlon

SFH/kp
Enclosures
cc: Mr. Jim Peters
(w/encl. 2 and 3)

ROSEWOOD MASSACRE

SECTION 1. PURPOSES. The purposes of this Act are to:

A. acknowledge the gross violation of law and human decency associated with the murder and destruction of property incurred by the African-American citizens of Rosewood during the month of January, 1923;

B. apologize on behalf of the people of Florida for the murder, maiming and loss of property incurred by the African-American citizens living in Rosewood;

C. provide funds for a memorial to inform the public about the massacre and eradication of such individuals so as to prevent the recurrence of any similar event;

D. provide compensation to survivors of the massacre and their direct descendants who suffered:

1. loss of life or the life of a relative;
2. physical injury;
3. emotional harm;
4. loss of personal and real property taken or destroyed in the massacre.
5. loss of community property, including community church property, community school property taken or destroyed in the massacre.

6. loss of community life and other hedonic damages.

E. discourage the occurrence of similar injustices and violations of civil liberties in the future; and

F. make more credible and sincere any declaration of concern by the State of Florida over violations of human rights committed by its citizens and agents of Florida.

SEC. 2 STATEMENT OF THE LEGISLATURE.

WITH REGARD TO SURVIVORS AND DESCENDANTS OF THE AFRICAN-AMERICAN CITIZENS OF ROSEWOOD--The Florida Legislature recognizes that as described in the "Historical Investigation of the Facts Relating to the Incident which occurred at Rosewood, Florida, in 1923, dated December 22, 1993, and submitted to the Florida Board of Regents", a grave injustice was committed on the citizens of Rosewood during the massacre and eradication of the African-American citizens population of that town during the month of January, 1923. The Legislature has determined that the cruel and heinous acts committed were motivated largely by racial prejudice and a failure of political leadership. The African-American citizens of Rosewood and their direct descendants suffered enormous damages, both material and intangible, and there were incalculable losses in the ability to prosper, all of which

resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the constitutional rights of these African-American individuals, the Legislature apologizes on behalf of the State and its leaders.

TITLE I-AFRICAN-AMERICAN CITIZENS OF ROSEWOOD AND THEIR DESCENDANTS

SEC. 101.SHORT TITLE

This title may be cited as the "Rosewood Compensation Act of 1993."

SEC.102.TRUST FUND

A. APPROPRIATION.-There is appropriated out of the funds of the General Revenue Fund in the State Treasury of the State of Florida, the Rosewood Compensation Fund, which shall be administered by the State Treasurer.

B. USES OF THE FUND.-Amounts in the Fund shall be available only for disbursement by the Attorney General under section 103.

C. TERMINATION.-The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated by subsection D. and any income earned on such amount, or for one (1) year after the date of the enactment of this Act.

D. AUTHORIZATION OF APPROPRIATIONS-

1. There are authorized to be appropriated to the Fund $_____.

2. $_____ shall be set aside for the commission of a memorial to commemorate the suffering of the African-American citizens of Rosewood and the heroism and bravery of those Caucasian citizens of Rosewood who risked their lives to save the lives of many of the Rosewood African-Americans by helping them escape from Rosewood and the surrounding areas.

SEC.103.COMPENSATION

A. LOCATION AND PAYMENT OF ELIGIBLE INDIVIDUALS.-

1. IN GENERAL,-The Attorney General shall, subject to the availability of funds appropriated to the Fund for such purpose, pay out of the Fund to each eligible individual the sum of _____ unless such individual refuses to accept the payment.

2. LOCATION OF ELIGIBLE INDIVIDUALS--The Attorney General shall identify and locate, without requiring any application for payment and using records already in the possession of the State of Florida, each eligible individual. The Attorney General should use funds and resources available to the Attorney General, including those described in subsection (c), to attempt to complete such identification and location within 3 months after the date of the enactment of this Act. The Attorney General shall designate an officer or employee to whom such notification and documentation may be sent, shall maintain a list of all individuals who submit such notification and documentation. In any case, the identification and location of all eligible individual shall be completed within 6 months after the appropriation of funds under the preceding sentence. Failure to be identified and located by the end of the 6-month period specified in the preceding sentence shall preclude an eligible individual from receiving payment under this section.

3. NOTICE FROM THE ATTORNEY GENERAL.-- The Attorney General shall, when funds are appropriated to the Fund for payment to an eligible individual under this section, notify that eligible individual in writing of his or her

eligibility for payment under this section. Such notice shall inform the eligible individual that--

(a) acceptance of payment under this section shall be in full satisfaction of all claims against the State of Florida arising out of acts described in Section 2, and

(b) each eligible individual who does not refuse, in the manner described in paragraph 103(A)(4), to accept payment under this section within 30 days after receiving such written notice shall be deemed to have accepted payment for purposes of paragraph 103(A)(3)(a).

4. EFFECT OF REFUSAL TO ACCEPT PAYMENT.--If an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment under this section, the amount of such payment shall remain in the Fund and no payment may be made under this section to such individual at any time after such refusal.

5. PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE STATE OF FLORIDA.--The acceptance of payment by an eligible individual under this Section shall be in full

satisfaction of all claims against the State of Florida arising out of acts described in section 1.

6. PAYMENTS IN THE CASE OF DECEASED PERSONS.--

In the case of an eligible individual who is deceased at the time of payment under this section, such payment shall be made only as follows:

(a)If the eligible individual is survived only by a spouse, such payment shall be made to such surviving spouse.

(b) If the eligible individual is survived by a spouse and children, the spouse shall receive one half of the total payment,and the children will share the other half of the payment in equal parts.

(c) If the eligible individual is only survived by his/her children, such payment shall be made in equal shares to all children of the eligible individual.

(d) If there is no surviving spouse or children described in clauses (i) or (ii) the amount of such payment shall remain in the

Fund, and may be used only for the purposes set forth in sections 102 and 103.

(B). DEFINITIONS-For the purposes of this paragraph:

1. SPOUSE- The "spouse" of an eligible individual means a wife or husband of an eligible individual who was married to that eligible individual for at least 1 year immediately before the death of the eligible individual who is alive at the time of payment.

2. CHILDREN- A "child" of an eligible individual includes a recognized natural child, a stepchild who lived with the eligible individual in a regular parent-child relationship, and/or an adopted child, who is alive at the time of payment.

8. RESOURCES FOR LOCATING ELIGIBLE INDIVIDUALS-In attempting to locate any eligible individual, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record, document, or information that may be made available to the Attorney General.

9. ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.-No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted

from, any payment under this section to any eligible individual.

SEC.104. INCLUSION IN STATE ADOPTED TEXTS. The facts surrounding the Rosewood Massacre and adopted herein, shall at all times hereafter be included in all official State adopted texts used to teach Florida history within the Florida public school system. The Department of Education is to comply with this Statute by the school term commencing in the fall of 1995.

SEC.105.DEFINITIONS

(1) The term "eligible individual" means any African-American who was a resident of Rosewood in January of 1923, any African-American who owned or leased property in Rosewood or its surrounding vicinity in January of 1923 or any other African-Americans who were present in Rosewood at the time of the Massacre.

TPA-111136

RECEIVED
FEB 14 1994
Department of Legal Affairs
Civil Section

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 14, 1994

Assistant Professor Maxine D. Jones
Florida State University
Tallahassee, Florida 32306

Professor Larry E. Rivers
Florida A&M University
Tallahassee, Florida 32307

Re: HB 591 (Rosewood Claims Bill)

Dear Professors Jones and Rivers:

I represent Respondent State of Florida in this claims bill process.

In that role, I have reviewed the Rosewood report and appendices submitted to the Florida Board of Regents December 22, 1993. I am impressed by the magnitude of the task of attempting to reconstruct events which occurred 71 years ago.

To assist in my task of understanding this report and the relevant events in 1923, I am in urgent need of your assistance in several regards:

1) No reference is made to statements or documents from Governor Hardee, or those speaking on his behalf, concerning this incident. Were such obtained? If not, why not?

2) No reference is made to statements or documents from Sheriff Walker, or those speaking on his behalf, concerning this incident. Were such obtained? If not, why not?

3) No reference is made to statements or documents from other unnamed state or county officials implicated by claimants' allegations. Were such obtained? If not, why not?

4) I do not have benefit of the materials listed in the Bibliography or manuscript collections, county records, newspapers, videos, books, and unpublished materials.

5) What inquiry was made of records at Camp Blanding concerning assignment of troops to the Rosewood area? What result?

6) What inquiry was made of the Florida National Guard concerning assignment of troops to the Rosewood area? What result?

7) What interviews were done of primary source media reporters with personal knowledge. If interviews were not done, why not?

I otherwise request the opportunity for me or my staff to review the resource materials which were generated on your inquiry.

Because this matter is proceeding to hearing on February 25, 1994, time is of the essence and your assistance is urgently needed.

Thank you for your prompt response to this inquiry.

Sincerely,

Jim Peters

James A. Peters
Assistant Attorney General
Fax # (904) 488-4872

JAP/psw

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Gr. Larry Rivera FAX NUMBER: 561-2290

FROM: Jim Peters TELEPHONE NO.: _____

DATE: 2-14-94 NO. OF PAGES (incl. cover) 3

FAX OPERATOR: Sue FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: Ltr

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Asst. Prof. Marine Jones FAX NUMBER: 644-6402

FROM: Jim Peters TELEPHONE NO.: _____

DATE: 2-14-94 NO. OF PAGES (incl. cover) 3

FAX OPERATOR: Sue FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: ltr

~~644-5888~~ 644-5888
Marine Jones - FSU
fax # 644-6402

Larry E. Rivers -
561-2290 fax
FAMU

599-3374
History Dept.

William Rogers
644-9540
(his office)
644-6402
(fax)

TIALITY STATEMENT

e is attorney-privileged and is confidential
se of the individual or entity named above. If you are not
you are hereby notified that any disclosure, dissemination, distribution
this communication is strictly prohibited. If you have received this transmission
in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
THE CAPITOL
TALLAHASSEE, FLORIDA 32399-1050

PANAFAX COVER SHEET

DATE: February 14, 1994

TO: Stephen Hanlon

TELEPHONE NO:

PANAFAX NO: 224-8832

FROM: Jim Peters

TELEPHONE NO: 81573

PANAFAX NO: (904) 488-4872

SUBJECT/MESSAGE: ltr + Resp.'s corrected 1st Ints + Reqs for Prod. of Docs

NUMBER OF PAGES (INCLUDING COVER PAGE): 13

PLEASE CONTACT: Kathy Griffon AT (904) 488-1573

IF YOU DO NOT RECEIVE ALL PAGES.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Douglas McBay FAX NUMBER: (904)486-5166

FROM: Jim Peters TELEPHONE NO.: _____

DATE: 2-14-94 NO. OF PAGES (incl. cover) 4

FAX OPERATOR: SUE FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

✓ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE:

His Affidavit

5/ Please fax it to me 904-486-5166

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

~~Ray~~
Gina

OFFICE OF THE ATTORNEY GENERAL
THE CAPITOL
TALLAHASSEE, FLORIDA 32399-1050

PANAFAX COVER SHEET

DATE: 2/11/94

TO: Ray Williams
Risk

TELEPHONE NO: 2-3122

PANAFAX NO:

FROM: Jim Peters

TELEPHONE NO: 8-1573

PANAFAX NO: (904) 488-4872

SUBJECT/MESSAGE: FYI

NUMBER OF PAGES (INCLUDING COVER PAGE): 8

PLEASE CONTACT: Kathy Griffin AT (904) 8-1573

IF YOU DO NOT RECEIVE ALL PAGES.

STATE UNIVERSITY SYSTEM OF FLORIDA
325 West Gaines Street, Tallahassee, Florida 32399-1950

RECEIVED
OFFICE OF THE SPEAKER
93 DEC 23 PM 12:

December 22, 1993

The Honorable Bolley "Bo" Johnson
Speaker of the Florida House
of Representatives
420 The Capitol
Tallahassee, Florida 32399-1300

Dear Mr. Speaker:

This letter accompanies the delivery to you of the Rosewood Report, entitled **A Documented History of the Incident Which Occurred at Rosewood, Florida, in January 1923.**

The report was submitted to the Board of Regents on December 22, 1993 and transmitted to the Speaker's office in accordance with the Research and Consulting Agreement of June 30, 1993.

With kind regards,

Sincerely,

Charles B. Reed
Chancellor

CBR/jdm

LAW OFFICES

HOLLAND & KNIGHT

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

OFFICES:

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

OF COUNSEL
MASTRY, MARGER, DAVIS, JOHNSON, BARTLETT & LYNN, P.A.
360 CENTRAL AVENUE
P.O. BOX 3542 (ZIP 33731)
ST. PETERSBURG, FL 33701
(813) 896-7171 FAX (813) 822-8048

SPECIAL COUNSEL
LITIGATION & BANKRUPTCY
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
1010 FRANKLIN AVENUE
GARDEN CITY, NY 11530
(516) 742-0610 FAX (516) 742-2670
300 EAST 42ND STREET
NEW YORK, NY 10017
(212) 338-0970

February 11, 1994

VIA HAND DELIVERY

Mr. Jim Peters
Office of the Attorney General
Department of Legal Affairs
The Capitol
PL-01
Tallahassee, Florida 32399-1050

Re: Rosewood

Dear Mr. Peters:

At the instruction of Mr. Stephen Hanlon, I am enclosing the following:

SWORN STATEMENTS OF

1. Arnett Turner Goins
2. Eva Jenkins
3. Lilla Mae Washington
4. Dorothy Goins Hosey
5. Willie Evans
6. Lee Ruth Davis
7. Minnie Lee Langley

Sincerely,

HOLLAND & KNIGHT

Kathy T. Phinazee

Kathy T. Phinazee
Legal Assistant to:
Stephen F. Hanlon

Enclosures

RECEIVED
FEB 14 1994
Department of Legal Affairs
Civil Section

LAW OFFICES

HOLLAND & KNIGHT

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

OFFICES:

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

OF COUNSEL
MABRY, MARDER, DAVIS, JOHNSON, BARTLETT & LYNN, P.A.
380 CENTRAL AVENUE
P.O. BOX 3542 (ZIP 33731)
ST. PETERSBURG, FL 33701
(813) 896-7171 FAX (813) 822-8040

SPECIAL COUNSEL
LITIGATION & BANKRUPTCY
SHAW, LICITRA, BARENTE, EBERNIO & SCHWARTZ, P.C.
1010 FRANKLIN AVENUE
GARDEN CITY, NY 11530
(516) 746-0410 FAX (516) 742-8870
300 EAST 42ND STREET
NEW YORK, NY 10017
(212) 338-0870

FAX COVER SHEET

TO: Jim Petus FROM: Stephen F. Hanlon

MESSAGE: _____

_____

URGENCY OF FAX: Super Rush (Immediate) X RUSH (w/in 1 hour) ___

EMPLOYEE NAME: Kathy Phinazee LOCATION: TAL EXT: 5611

Client Initial	Number	Matter	Area Code	FAX #	Time	Zone
	80001	64		488-4872		

Atty. #	No. of Pages (Inc. Cover)	Area Code	Telephone #	Date
	4			2/11/94

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE. THANK YOU.

SURVIVING ELIGIBLE INDIVIDUALS

ARNETT T. GOINS
BORN: ROSEWOOD, FL
APRIL 18, 1915
$270,000.00

MINNIE L. LANGLEY
BORN: ROSEWOOD, FL
JULY 4, 1914
$270,000.00

LONNIE CARROLL
BORN: ROSEWOOD, FL
DECEMBER 25, 1910
$270,000.00

WILLIE EVANS
BORN: SANFORD, FL
DECEMBER 25, 1906
$270,000.00

DOROTHY HOSEY
BORN: ROSEWOOD, FL
JANUARY 1, 1919
$270,000.00

MARGIE HALL
BORN: ROSEWOOD, FL
DECEMBER 23, 1908
$270,000.00

WILSON HALL
BORN: ROSEWOOD, FL
APRIL 18, 1917
$270,000.00

MARY HALL
BORN: ROSEWOOD, FL
MARCH , 1920
$270,000.00

LILLIE WASHINGTON
BORN: ROSEWOOD, FL
DECEMBER 25, 1910
$270,000.00

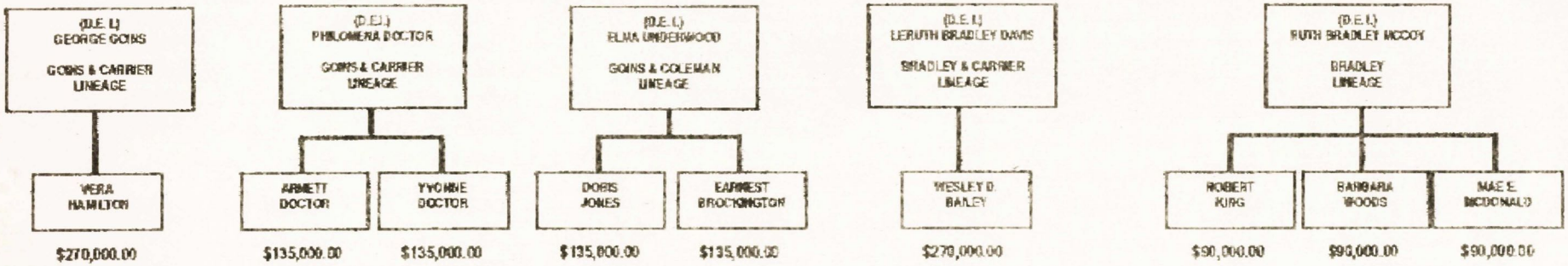
[redacted]
BORN: ROSEWOOD, FL
DECEMBER 20, 1913
$270,000.00

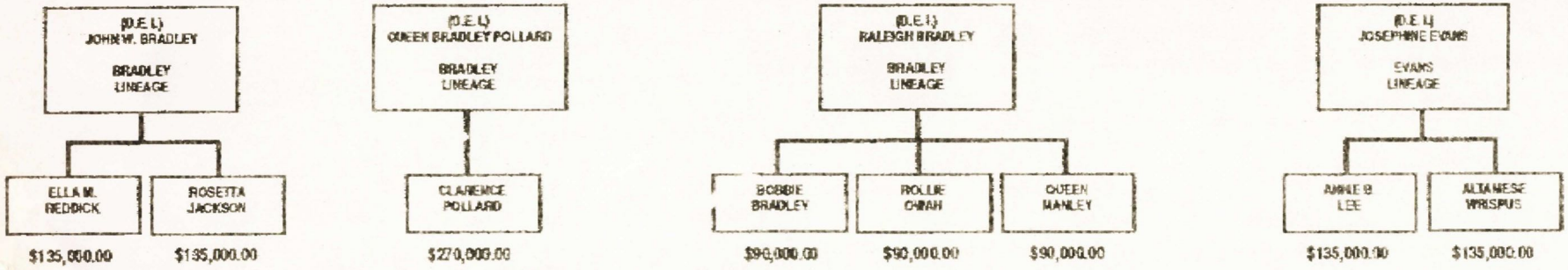
EVA JENKINS
BORN: ROSEWOOD, FL
OCTOBER 15, 1910
$270,000.00

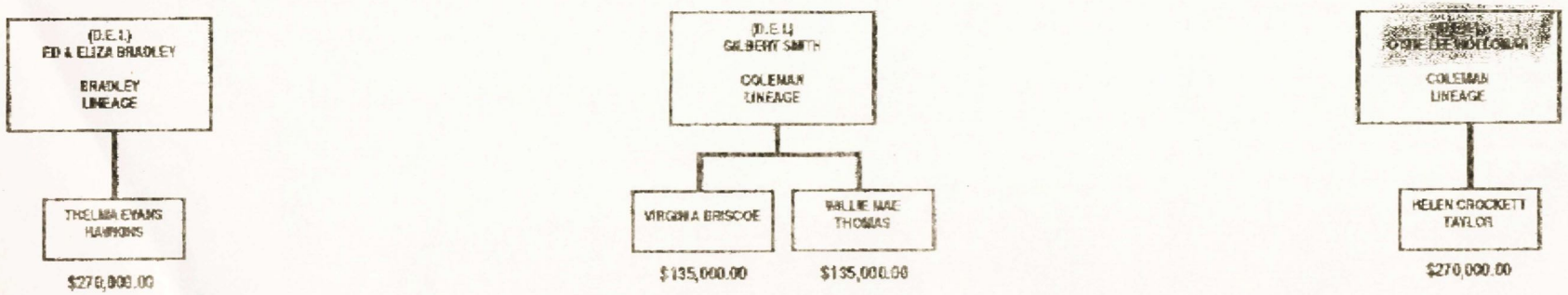
EXHIBIT "A"

02-11-1994 10:35 HOLLAND AND KNIGHT P.02/04

SURVIVORS OF DECEASED ELIGIBLE INDIVIDUALS #1

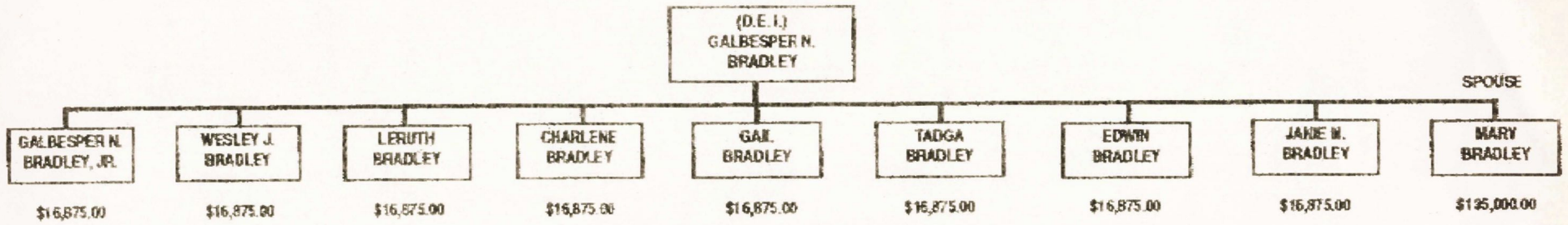


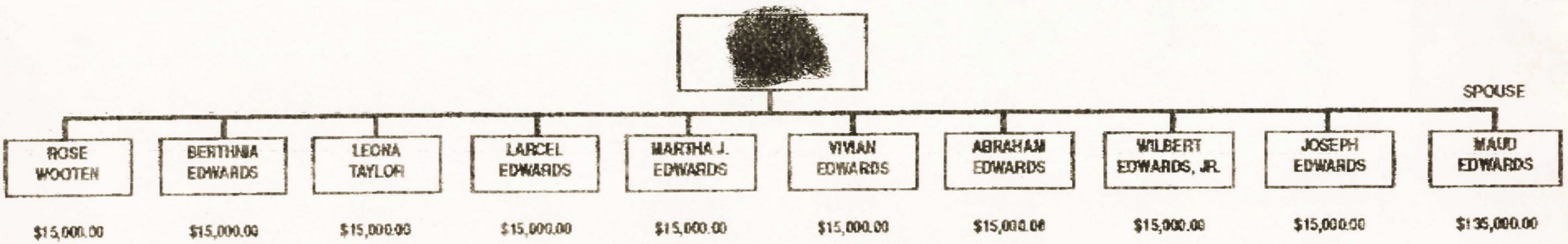


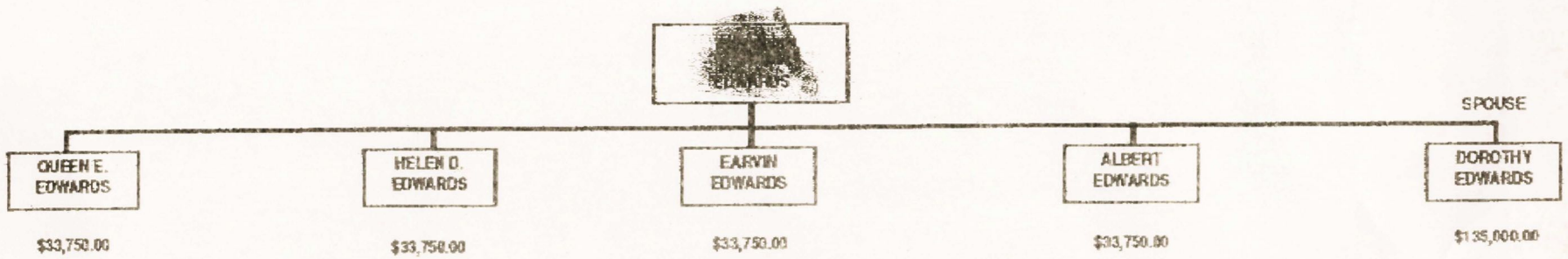


02-11-1994 10:35
HOLLAND AND KNIGHT
P.03/04

SURVIVORS OF DECEASED ELIGIBLE INDIVIDUALS #2







02-11-1994 10:35
HOLLAND AND KNIGHT
P.04/04

CF

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

March 2, 1994

Richard Hixson
Special Master
House Judiciary Committee
412 House Office Building
Tallahassee, FL 32399-1300

David Kerns
Special Master
35 Senate Office Building
Tallahassee, FL 32399

Re: In the Matter for Relief of: Arnett T. Goins,
HB 591 (Rosewood Claims Bill)

Dear Mr. Hixson and Mr. Kerns:

Enclosed for your consideration is a cover letter which was received this date from the Cedar Key Historical Society. The taped interview of Jason McElveen and other Levy resident concerning the Rosewood incident will follow by mail.

A copy of this tape was, this date, provided to Mr. Hanlon.

Portions of the McElveen interview are incorporated into the "Documented History," (see e.g. page 28-29 and footnote 29). Reference to the McElveen interview is also made at pages 13 through 19 of Gary Moore's February 22, 1994 letter to Richard Hixson, Special Master.

I have yet to ascertain if Mr. McElveen and the other interviewee are now alive or otherwise available for proper examination.

Sincerely,

James A. Peters

James A. Peters
Assistant Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

cc: Steve Hanlon

<jimp>Memo.Jim

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Louis Norvell FAX NUMBER: 7-2564

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/2/94 NO. OF PAGES (incl. cover) 49

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: He will pick up in front office reception area. Thanks!

All discovery, pretrial memo, + Resp

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hahlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: _____

DATE: 3/2/94 NO. OF PAGES (incl. cover) 2

FAX OPERATOR: _____ FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: Please call me.
3/1/94 Cedar Key ltr

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/2/94 NO. OF PAGES (incl. cover) 1

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: _____

Dr. McClarey is still "on hold" for criminal trial on Friday, March 4, 1994. Anticipating that he will be available for the Rosewood claims bill, I would like to identify a window in late afternoon/early evening for you to interview him by telephone. What is your preference? Please advise.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Larry Rivers FAX NUMBER: 561-2290

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/2/94 NO. OF PAGES (incl. cover) 3

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

✓ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

✓ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: 3/2/94 ltr

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

March 2, 1994

VIA FACSIMILE

Professor William Rogers
Florida State University
History Department
Tallahassee, FL 32306-2029

Assistant Professor Maxine D. Jones
Florida State University
History Department
Tallahassee, FL 32306-2029

Professor Larry E. Rivers
Florida A & M University
Tallahassee, FL 32307

Re: In the Matter for Relief of: Arnett T. Goins, et al., HB 591

Dear Professors Rogers, Jones, and Rivers:

I am sorry that you were not timely advised of the rescheduling of the hearing in this matter. The present schedule contemplates your presence, with team members who you feel are necessary for a fair and accurate presentation, on Friday, March 4, 1994.

Inquiry will be in at least the following general areas and topics of team activity:

1. Organization, delegation, and specific assignments. For example, who researched archives, official records, and media coverage? Who summarized news clippings? When and where was this search made? How was consensus reached when news articles were contradictory?

2. Who made inquiries of relevant state and county officials, records of their offices, their relatives, and descendants?

3. What inquiry was made of Frances Taylor's family?

4. What inquiry was made of official records of the State National Guard and militia?

5. What efforts were made to inquire of on-site reporters who wrote the news articles referenced in the bibliography?

6. Do records of the Levy Sheriff's Office exist to allow accurate differentiation between County Deputies, duly sworn posses acting with authorization and control of the Levy Sheriff, and "mobs" and "vigilantes"?

7. What methodology did the team use in making determination as to which of these groups were "mobs" and which were properly acting under color of the Sheriff's authority, either as Deputies or posses?

8. What inquiry was made into the January 8, 1923 news report that "several of the blacks who were in the Carrier household had...been spirited away for safekeeping?" Who were they and to where were they placed for safekeeping?

9. What contradictions were identified in the research materials? How were they resolved?

It would be helpful for Respondent, State of Florida's purpose if you bring the official research files with you to the hearing so that the record of the hearing can be supplemented as circumstances require. Thank you for your courtesies.

Sincerely,

James A. Peters
Assistant Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

cc: Steve Hanlon
Richard Hixson
David Kerns

<jimp>Ltr.Jim

Received

Filed w/court

Docketed by

Copy to:
Risk

Agency-Legal

Client

Steve Hanlon 3/10/94

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Maxine Jones FAX NUMBER: 644-6402

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/2/94 NO. OF PAGES (incl. cover) 3

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

✓ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

✓ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: 3/2/94 ltr

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: William Rogers FAX NUMBER: 644-6402

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/2/94 NO. OF PAGES (incl. cover) 3

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

✓ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

✓ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: 3/2/94 ltr

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

SPECIAL COUNSEL
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
GARDEN CITY, NY
NEW YORK, NY

March 2, 1994

Mr. James A. Peters
Office of the Attorney General
Department of Legal Affairs
Koger Center, Room 102
Alexander Building
Tallahassee, Florida 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591

Dear Jim:

I have reviewed the report bearing the footer "MIA-83379" and I see the references to an appendix that you are referring to in your March 1, 1994 fax to me. I have reviewed my files and I can't find any appendix using the denominations set forth in that document. As I told you, the document is almost two years old. It was a preliminary document prepared earlier in our work on the case. I think that the appendix references are to the 1923 newspaper articles, however, as well as Gary Moore's 1982 St. Petersburg Times article.

At this date, I am not certain how this summary and the attachments were disseminated and to whom.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp
TAL-39784

LAW OFFICES

HOLLAND & KNIGHT

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

OFFICES:

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

OF COUNSEL
MASTRY, MARGER, DAVIS, JOHNSON, BARTLETT & LYNN, P.A.
390 CENTRAL AVENUE
P.O. BOX 3648 (ZIP 33731)
ST. PETERSBURG, FL 33701
(813) 898-7171 FAX (813) 822-8048

SPECIAL COUNSEL
LITIGATION & BANKRUPTCY
SHAW, LICITRA, PARENTE, BERNIO & SCHWARTZ, P.C.
1010 FRANKLIN AVENUE
GARDEN CITY, NY 11530
(516) 746-0810 FAX (516) 746-8970
300 EAST 42ND STREET
NEW YORK, NY 10017
(212) 330-0970

FAX COVER SHEET

TO: Jim Peters FROM: Stephen F. Hanlon

MESSAGE: _____

_____

URGENCY OF FAX: Super Rush (Immediate) X RUSH (w/in 1 hour) ____

EMPLOYEE NAME: Kathy Phinazee LOCATION: TAL EXT: 5611

Client Initial	Number	Matter	Area Code	FAX #	Time	Zone
	80001	64	488	488-4872		

Atty. #	No. of Pages (Inc. Cover)	Area Code	Telephone #	Date
	2			3/2/94

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE. THANK YOU.

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

February 22, 1994

SPECIAL COUNSEL

SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.

GARDEN CITY, NY
NEW YORK, NY

VIA HAND DELIVERY

Mr. James A. Peters
Office of Attorney General
Department of Legal Affairs
The Capitol
PL-01
Tallahassee, Florida 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591

Dear Jim:

In line with our telephone conversation on Friday, my response to each numbered paragraph in your February 14, 1994 letter is as follows:

1. The witnesses whom I intend to call at the liability hearing are those witnesses whose sworn statement I have provided to you, including Wilson Hall, as well as the two expert witnesses I have disclosed to you, Dr. Carolyn Tucker and Stan Smith. I do not believe that I will call each of the witnesses whose sworn statement has been provided to you, but I want to reserve the right to do that. As soon as I get the list narrowed, I will let you know that. I will also call Arnett Doctor (son of Philomena Doctor) and Dr. Annette Shakir (daughter of Arnett T. Goins) (see lineage chart which I provided to you earlier).

2. I intend to introduce as exhibits at the liability hearing The Documented History of the Incident Which Occurred at Rosewood, Florida in January, 1923 submitted to the Florida Board of Regents on December 22, 1993, as well as the Review of the Rosewood Project conducted by Florida State University (Richard L. Greaves and Patrick Riordan), dated February 2, 1994. I also may use the lineage chart as an exhibit. I reserve the right to use any documents utilized by the authors of the state study. I expect there may be some more documents which I may want to use and I will let you know about that as soon as I can identify them.

3. I have already provided you with a copy of the Japanese Reparations Bill and the draft state bill which I prepared based upon the Japanese Reparations Bill.

4. I have no reports or summaries prepared by expert witnesses.

5. My response to your Request to Produce will be separately furnished to you.

6. I'm getting copies made of media clippings which I have and I will try to locate the 60 Minutes tape and a tape of the NBC affiliate in Tampa which did a show on Rosewood.

I believe this fully responds to your February 14, 1994 letter. If I have omitted something, please don't hesitate to call me.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

TAL-40067

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

SPECIAL COUNSEL
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
GARDEN CITY, NY
NEW YORK, NY

February 22, 1994

VIA HAND DELIVERY

Mr. James A. Peters
Office of the Attorney General
Department of Legal Affairs
The Capitol
PL-01
Tallahassee, Florida 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591

Dear Jim:

In line with our telephone conversation the other day, enclosed please find our opposition to your motions for discovery. However, as I indicated to you the other day, we will continue to provide you with documents, witnesses, and other material pertinent to the issues announced by the Hearing Officer to be decided in the February 25, 1994 bifurcated proceeding.

Although we oppose the formal discovery requested in your first and second motions for discovery, I want to confirm to you, as I did the other day on the telephone, that the claimants will argue that the current Legislature is not bound by the four-year claims period provided in Section 11.065, Florida Statutes. See 1955 Op. Atty. Gen. Fla. 055-82 (April 14, 1955). While we do not believe that claimants must establish all of the legal prerequisites for application of the equitable tolling doctrine, we believe that certain general principles found in that jurisprudence would justify a decision by the current Legislature not to enforce that limitations period in this case. Our presentation of the

RECEIVED
FEB 23 1994
Department of Legal Affairs
Civil Section

facts justifying such a decision will include the facts surrounding the grand jury proceedings in 1923, the absence of records in the Governor's office, the state report and the review of same, the Supreme Court's Race and Ethnic Bias studies and the reapportionment process in the Florida Legislature.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

Enclosure

TAL-40078

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

SPECIAL COUNSEL
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
GARDEN CITY, NY
NEW YORK, NY

February 22, 1994

VIA HAND DELIVERY

Mr. James A. Peters
Office of the Attorney General
Department of Legal Affairs
The Capitol
PL-01
Tallahassee, Florida 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591

Dear Jim:

In line with our telephone conversation the other day, enclosed please find our opposition to your motions for discovery. However, as I indicated to you the other day, we will continue to provide you with documents, witnesses, and other material pertinent to the issues announced by the Hearing Officer to be decided in the February 25, 1994 bifurcated proceeding.

Although we oppose the formal discovery requested in your first and second motions for discovery, I want to confirm to you, as I did the other day on the telephone, that the claimants will argue that the current Legislature is not bound by the four-year claims period provided in Section 11.065, Florida Statutes. See 1955 Op. Atty. Gen. Fla. 055-82 (April 14, 1955). While we do not believe that claimants must establish all of the legal prerequisites for application of the equitable tolling doctrine, we believe that certain general principles found in that jurisprudence would justify a decision by the current Legislature not to enforce that limitations period in this case. Our presentation of the

facts justifying such a decision will include the facts surrounding the grand jury proceedings in 1923, the absence of records in the Governor's office, the state report and the review of same, the Supreme Court's Race and Ethnic Bias studies and the reapportionment process in the Florida Legislature.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

Enclosure

TAL-40078

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

SPECIAL COUNSEL
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
GARDEN CITY, NY
NEW YORK, NY

February 22, 1994

Mr. Richard Hixson
Special Master
House Judiciary Committee
412 House Office Building
Tallahassee, Fla. 32399-1300

Mr. James A. Peters
Office of Attorney General
Dept. of Legal Affairs
The Capitol, PL-01
Tallahassee, Fla. 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591

Dear Counselors:

I have reviewed Mr. Peters' February 15, 1994 letter concerning the Respondent's perspective of the desirability of the bifurcation of this matter announced by Mr. Hixson. As I understand it, the hearing which is to begin on February 25, 1994 will involve an initial liability and damages determination, without presentation of any evidence with respect to individual claims.

I disagree with Mr. Peters' analysis of this matter. As an initial matter, the current Legislature is not bound by the four-year claims period provided in Section 11.065, Florida Statutes. See 1955 Op. Atty. Gen. Fla. 055-82 (April 14, 1955). While we do not believe that claimants must establish all of the legal prerequisites for application of the equitable tolling doctrine, we do believe that certain general principles found in that jurisprudence would justify a decision by the current Legislature not to enforce that limitations period in this case.

In any event, statute of limitations claims are frequently tried together with claims on the merits, especially when those claims involve factual issues which cannot be resolved by motions to dismiss or motions for summary judgment in advance of trial. Thus, there is nothing particularly unusual about having a hearing which involves both the merits of the claims and the statute of limitations defense. The claimants intend to present evidence tending to establish that certain principles found in equitable

tolling jurisprudence would justify a decision by the current Legislature not to enforce the limitations period in this case. That evidence will include the fact that these claimants were witnesses to crimes which were never prosecuted by the State of Florida. Thus, they quite reasonably feared (and continued to fear) for their lives and safety in the aftermath of the breakdown of law and order and the official secrecy surrounding the Rosewood massacre. Under such circumstances, an individualized showing with respect to each claimant is unnecessary. The justification for not asserting claims against the same State which failed to protect them in the first place applies equally to each claimant.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

cc: David Kerns
Senate Special Master

TAL-40069

tolling jurisprudence would justify a decision by the current Legislature not to enforce the limitations period in this case. That evidence will include the fact that these claimants were witnesses to crimes which were never prosecuted by the State of Florida. Thus, they quite reasonably feared (and continued to fear) for their lives and safety in the aftermath of the breakdown of law and order and the official secrecy surrounding the Rosewood massacre. Under such circumstances, an individualized showing with respect to each claimant is unnecessary. The justification for not asserting claims against the same State which failed to protect them in the first place applies equally to each claimant.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

cc: David Kerns
Senate Special Master

TAL-40069

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

February 21, 1994

SPECIAL COUNSEL

SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.

GARDEN CITY, NY
NEW YORK, NY

VIA HAND DELIVERY

Mr. Jim Peters
Office of the Attorney General
Department of Legal Affairs
The Capitol
PL-01
Tallahassee, Florida 32399-1050

Re: Rosewood Claims Bill

Dear Mr. Peters:

Enclosed is the deposition transcript of Wilson Hall which was inadvertently omitted from the other transcripts we sent to you last week.

Very truly yours,

HOLLAND & KNIGHT

Kathy T. Phinazee

Kathy T. Phinazee
Secretary to:
Stephen F. Hanlon

kp/

Enclosure

TAL-39784

RECEIVED

FEB 2 1 1994

DEPT. OF LEGAL AFFAIRS
Administrative Law Section

Discovery Memo

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: J HANLON, R NIXSON, D KEMP FAX NUMBER: 224-8832, 488-9879, 407-5800

FROM: J PETERS TELEPHONE NO.: 488-1573

DATE: 2-19- NO. OF PAGES (incl. cover) 4

FAX OPERATOR: _____ FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

✓ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

✓ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

✓ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: _____

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 17, 1994

Stephen Hanlon, Esquire
Post Office Drawer 810
Tallahassee, Florida 32302-0810

RE: In the Matter for Relief of: Arnett T. Goins, et al.
HB 591
Steve

Dear ~~Mr. H~~anlon:

I am compelled to supplement my letter of February 14, 1994, and our telephone discussions of the 14th, 15th, and 16th as the date of hearing approaches.

I thank you for your delivery of the resumes of your economist and psychologist and of the sworn statements of Lee Ruth Davis, Arnett Goins, Eva Jenkins, Minnie Langley, Lilla Washington, Dorothy Goins Hosey and Willie Evans.

I do not yet have benefit of the other categories of information requested in the February 14, 1994 , letter (attached) or responses requested in the State's First and Second Interrogatories and Request for Production. Will claimants respond to these items in the absence of an order on Respondents discovery motion?

Additionally, I request the opportunity, ideally without an order from the Special Master, to inquire, at least by telephone, of claimants' economist and psychologist by no later than 12 noon, February 23, 1994.

Thank you for your courtesies and prompt response to this communication.

Sincerely,

James A. Peters
Assistant Attorney General
(904) 488-1573
(904) 488-4872 (FAX)

cc: Richard Hixson, Special Master
David Kerns, Senate Special Master

Rosewood.ltr<jimp>kcg.kf

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

S HANLON 224-8832
R HINKSON, Special Master 488-9879
TO: D KEARNS, Special Master FAX NUMBER: 487-5800

FROM: J. PETERS TELEPHONE NO.: 488-1573

DATE: 2/17/94 NO. OF PAGES (incl. cover) 4

FAX OPERATOR: [illegible] FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

✓ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

✓ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: enclosures 2/17/94 letter
2/14/94 letter

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Ross McSwain FAX NUMBER: _____

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 2/16/94 NO. OF PAGES (incl. cover) ____

FAX OPERATOR: Peters FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

/ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: Re: Rosewood claims bills.

H & K have hired at least 2 experts - an economist from Chicago and psychologist from M of F. I need #'s for consultants on possibly expert witness in similar fields. This Department has no budget for them.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Will Mahoney **FAX NUMBER:** (202) 501-5005

FROM: James Peters **TELEPHONE NO.:** (904) 488-1573

DATE: February 16, 1994 **NO. OF PAGES (incl. cover)** 1

FAX OPERATOR: Kathy Griffin **FAX NO.:** (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: To confirm our conversation this morning I am in urgent need of records of movement of troops from Camp Blanding, Florida in January, 1923 to the Rosewood Community. Violence occurred in that community over a ten-day period and witnesses have eluded to the presence of uniform soliders at the time. This matter is the subject of a $7 million claims bill pending before the Florida Legislature, to be heard at a hearing commencing Feb. 25, 1994. Any assistance you can give in this matter is appreciated.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 15, 1994

Stephen Hanlon, Esquire
Post Office Drawer 810
Tallahassee, Florida 32302-0810

RE: In the Matter for Relief of: Arnett T. Goins, et al.
HB 591

Dear Mr. Hanlon:

Yesterday afternoon Gary Moore called me from Mississippi and stated he was flying to Tallahassee to meet with you concerning a contract with Holland and Knight. He asked that I meet with him to discuss his considerable research and writings on this topic. Mr. Moore appears to be very knowledgeable of this subject and is energized by it. Accordingly, I would like to speak with him, at this time, subject to your approval based upon your firm's contractual relationship. Please call.

Sincerely,

James A. Peters
Assistant Attorney General
(904) 488-1573
(904) 488-4872 (FAX)

JAP/kcg

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 15, 1994

David Kerns
Senate Special Master
Senate Office Building
Tallahassee, FL 32399

RE: In the Matter for Relief of: Arnett T. Goins, et al.
HB 591

Dear Special Master Kerns:

I was unaware of your participation in this matter on Sunday, when Respondent's Motion for Discovery was served. Accordingly, I am enclosing for your records that First Motion, in its original and corrected form, and the related discovery requests.

Enclosed additionally is correspondence of this date.

I will copy you with all future filing, correspondence, and other matters in this claims process.

Sincerely,

James A. Peters
Assistant Attorney General
(904) 488-1573
(904) 488-4872 (FAX)

JAP/kcg

Enclosures

cc: Richard Hixson, Special Master
Stephen Hanlon, Esquire

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 15, 1994

Richard Hixson
Special Master
House Judiciary Committee
412 House Office Building
Tallahassee, FL 32399-1300

Stephen Hanlon, Esquire
Post Office Box 810
Tallahassee, FL 32302-0810

RE: In the Matter for Relief of: Arnett T. Goins, et al.
HB 591

Dear Counselors:

I have evaluated, from Respondent's perspective, the desirability of bifurcation of this matter into liability and damages phases in which all claimants would not be required to participate in the first phase.

I acknowledge the time constraints under which we are all working and the efficiencies that would, at first blush, appear to exist if all claimants are not required to appear at the proposed phase one hearing. A substantial deficiency exists, however, if this proceeding were to so advance because of the apparent time bar legal and equitable defenses to which the State is entitled.

Fundamentally, why have all of the claimants waited 71 years to present this matter to state authorities for relief? The time bar prescribed by Section 11.065, F.S. and all traditional notions of laches require that a claims processing for liability be barred at this time and that no inquiry into damages should be made. Accordingly, I respectfully submit there can be no liability determination unless these time bars are lifted, with considerable compromise to traditional notions of fair play to those expressly or impliedly accused of wrong doing. There should no be serious debate that discussion of lifting these bars can occur only after inquiry, under oath, of each of the claimants who have, seemingly without justification, remained silent for over 70 years.

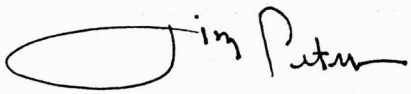
I would be remiss in my responsibilities as counsel for the State if I did not insist upon this inquiry at the initial hearing, however, it is characterized. In a legal proceeding, a motion to

dismiss would end this process. Accordingly, I respectfully object to any bifurcation of this proceeding which would deprive the State of the opportunity to inquire of the jusitifications for these untimely claims.

On a related matter I suggest the Interrogatories and Request for Production of Documents which were faxed on Sunday, and those served today, all seek information which is relevant to the liability determination. Accordingly, I request responses to the discovery in advance of claimants' appearance at the initial hearings.

Thank you for your courtesies in this matter.

Sincerely,



James A. Peters
Assistant Attorney General
(904) 488-1573
(904) 488-4872 (FAX)

JAP/kcg

cc: David Kerns, Senate Special Master

LAW OFFICES

HOLLAND & KNIGHT

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

OFFICES:

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

OF COUNSEL
MASTRY, MARGER, DAVIS, JOHNSON, BARTLETT & LYNN, P.A.
360 CENTRAL AVENUE
P.O. BOX 3542 (ZIP 33731)
ST. PETERSBURG, FL 33701
(813) 896-7171 FAX (813) 822-8048

SPECIAL COUNSEL
LITIGATION & BANKRUPTCY
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
1010 FRANKLIN AVENUE
GARDEN CITY, NY 11530
(516) 742-0610 FAX (516) 742-2670
300 EAST 42ND STREET
NEW YORK, NY 10017
(212) 338-0970

February 15, 1994

002
545-3254
681-2298
442-4234

VIA HAND DELIVERY

Mr. Jim Peters
Office of the Attorney General
Department of Legal Affairs
The Capitol
PL-01
Tallahassee, Florida 32399-1050

Re: Rosewood Claims Bill

Dear Jim:

Enclosed are some background materials which should assist you with respect to both of my experts, Stan V. Smith and Dr. Carolyn Tucker.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

Enclosures

TAL-39784

RECEIVED
FEB 15 1994
Department of Legal Affairs
Civil Section

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Richard Hixson / Steve Hanlon FAX NUMBER: 488-9879 / 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 8/15/94 NO. OF PAGES (incl. cover) 9

FAX OPERATOR: _____ FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

✓ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

✓ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: letter dated 2/15/94 and motion for discovery, second, enclosed.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 14, 1994

Stephen Hanlon, Esquire
Post Office Drawer 810
Tallahassee, Florida 32302-0810

RE: In the Matter for Relief of: Arnett T. Goins, et al.
HB 591

Dear Mr. Hanlon:

In furtherance of our discussions this morning I request the following:

1. Name, address, telephone number, occupation, professional credentials (if applicable) of all witnesses which you intend to call at the liability hearing.

2. A listing of all exhibits which you intend to introduce at the liability hearing and copies of same. You may exclude the "documented history" report, the related appendix, and the "review of the Rosewood project".

3. The Japanese reparations bill and procedure which you mentioned this morning.

4. All reports/summaries-written, unwritten, final or draft-prepared by expert witnesses identified above and by any other experts with whom you have consulted in this matter.

5. All documents requested in Respondent's 2/13/94 Request to Produce.

6. All media clippings and tapes (audio and video) concerning this matter.

Enclosed additionally is Respondent's Corrected Interrogatories and Request for Production. Typos have been corrected and Interrogatory number 1 now inquires of claimants' education as well as the other enumerated matters.

Since we spoke, I have received the sworn statements of seven of the claimants with cover letter dated February 11, 1994. Thank you for your past and future courtesies.

Sincerely,

James A. Peters
Assistant Attorney General
(904) 488-1573
(904) 488-4872 (FAX)

JAP/kcg

Enclosures

cc: Richard Hixson, Special Master

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon, Richard Wixson, David Kerns — FAX NUMBER: 224-8832, 488-9879 ✓, 487-5800 ✓

FROM: Jim Peters — TELEPHONE NO.: 488-1573

DATE: 3/2/94 — NO. OF PAGES (incl. cover) ___

FAX OPERATOR: Paula — FAX NO.: (904)488-4872

___ AS WE DISCUSSED

___ AS REQUESTED

___ FOR YOUR INFORMATION

___ FOR YOUR COMMENTS

___ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

X VIA REGULAR MAIL

___ VIA OVERNIGHT MAIL

MESSAGE: 3/2/94 ltr.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

CF

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

425.5610

FACSIMILE COVER SHEET

TO: Steve Hanlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/3/94 NO. OF PAGES (incl. cover) 3

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: 3/3/94 7:10pm ltr

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

March 3, 1994

Steve Hanlon, Esquire
P.O. Drawer 810
Tallahassee, FL 32302-0810

Re: In the Matter for Relief of: Arnett T. Goins, et al., HB 591 (Testimony of Gary Moore)

Dear Steve:

This will acknowledge your fax letter of 5:26pm this date.

It is true that I was not assigned this case until February 11, 1994. It is unfair for the State of Florida's defense to suffer, however, as a consequence.

I must disagree with your belief that these proceedings should not be continued to accommodate Mr. Moore's appearance given the potential value of his work product in the Special Master's fact-finding processes. After 71 years, even a seven day extension is de minimis. If this unprecedented claim is to have any legitimacy, it must be with assurances that all persons with real evidence - official records and with personal knowledge - have the opportunity to participate. I read Mr. Moore's February 22, 1994 communication to Mr. Hixson to suggest the possibility that all such persons are not now present.

I am, of course, unable to accomplish Mr. Moore's appearance here in Tallahassee on twelve hours notice. Similarly, I am unable to require Mr. Moore to produce, for review by counsel and the Special Masters, the documents referred to in items one through eight, inclusive, of my fax memo to you. In fact, I am unable even to speak with Mr. Moore about this matter given, what I acknowledge, is your "concealedly (sic) well-founded objection."

If, in fact, Mr. Moore is unwilling to cooperate, so be it, but at least he was given the opportunity with reasonable notice. If, in fact, his data is not meaningful in terms of the stage I liability and damage proceedings, so be it. Indeed, if his data is harmful to the State, so be it. At least this effort to have him come would have cleared one spectre over this historical proceeding.

I have filed, for other reasons, a request that this process be left open for seven days to enable me to speak with potential witnesses in Levy County. I was otherwise just advised by Dr. McClaren that his attendance at the Griffin murder trial in Pensacola is required tomorrow morning. Accordingly, and for reasons other than Mr. Moore's testimony, the State will be unable to present and rest its entire case tomorrow, after two days of claimants' case, in the scant four hours left for us.

Please advise how we might work together to accomplish Mr. Moore's timely presence at this hearing, to focus his testimony so as not to intrude into your attorney work product privilege, meet any other concerns you may have, and to accomplish the responsible review of the materials outlined in your letter.

Thank you for your courtesies and response.

Sincerely,

Jim

James A. Peters
Assistant Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

<jimp>Ltr.Jim

CE

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: PETE A. FAX NUMBER: 7-2564

FROM: RD TELEPHONE NO.: _____

DATE: _____ NO. OF PAGES (incl. cover) 8

FAX OPERATOR: _____ FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: Hanlon 3/3/94 5:26pm ltr; our 3/3/94 7:10pm ltr; Mot to Cont. Hrg.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

SPECIAL COUNSEL
SHAW, LICITRA, FARENTE, ESERNIO & SCHWARTZ, P.C.
GARDEN CITY, NY
NEW YORK, NY

March 3, 1994

VIA FAX
488-4872

Mr. James A. Peters
Office of the Attorney General
Department of Legal Affairs
Koger Center, Room 102
Alexander Building
Tallahassee, Florida 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591 (Testimony of Gary Moore)

Dear Jim:

Thank your for your fax memo this afternoon concerning your decision to reconsider your initial position regarding Mr. Moore. Because the claims bill for the victims of the Rosewood Massacre was originally filed in January of 1993 and then refiled again in December of 1993, and because Mr. Moore's work concerning Rosewood has been a matter of public record since July 25, 1982, and because the Office of the Attorney General did not enter its appearance in this case until February 11, 1994, I do not believe that these proceedings should be continued at this late date to accommodate Mr. Moore's appearance.

On the other hand, if Mr. Moore's appearance can be obtained without continuing these proceedings beyond tomorrow, I am willing to waive the objection which you and I both agree that I have to Mr. Moore's testimony; that is, that I previously consulted with him in an effort to retain him as an expert in this case and I discussed with him both the merits of these claims as well as the parameters of an agreement to retain him as an expert. However, my agreement to waive this concealedly well-founded objection is subject to the following conditions:

1. Mr. Moore will produce for your and my review, as well as the Special Master's review, the documents referred to in items 1 through 8 (inclusive) on pages 1 and 2 of your fax memo this afternoon;

2. You would exclude from your inquiry the following:

    1. Communications between Mr. Moore, Holland & Knight, and your clients concerning the strengths and weaknesses of the claim.

    2. Work product documents exchanged between Mr. Moore, Holland & Knight, and claimants.

I do not believe that we should enter into an agreement about excluding Mr. Moore's criticism of the team report for several reasons. First, I think that the third exception which you have outlined in your fax memo this afternoon, while laudable, is probably incapable of definition or containment. Secondly, I believe that any agreement between you and me to contain Mr. Moore's criticism might well be misconstrued. My well-founded legal objections to Mr. Moore's testimony, which you and I agree upon, can be protected by exclusions 1 and 2.

I support your intention to elevate the quality of proof presented in this hearing and to enable meaningful examination of witnesses and/or competent documents concerning matters of liability and damages. As you know, both the team and I labored long and hard (and independently) to attempt to secure Mr. Moore's cooperation, and despite the team's best efforts and despite my best efforts, neither one of us were eventually able to secure his cooperation. Thus, if you are unable at this late date, literally the eleventh hour, to obtain Mr. Moore's cooperation, I do not believe that it would be fair to conclude, as you suggest in your fax memo this afternoon that "this claims bill process was a hurried and compromised project with unfounded conclusions and inadequate documentation." Rather, I believe that in that event it would be fair to conclude that despite the best efforts of all concerned Mr. Moore was unwilling to cooperate with anyone by providing some data which would be helpful in these proceedings, particularly in the stage two bifurcated proceedings pertaining to individual claims. Candidly, I do not believe that Mr. Moore's data is all that terribly meaningful in terms of the stage one liability and damage proceedings in which we are now involved. I tend to agree with the reviewers that his information is at the periphery of the core issues here, and not at the center.

Please call me after you have had a chance to review this memo and we can discuss this matter further.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

TAL-40627

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

SPECIAL COUNSEL
SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.
GARDEN CITY, NY
NEW YORK, NY

March 3, 1994

VIA FAX
488-4872

Mr. James A. Peters
Office of the Attorney General
Department of Legal Affairs
Koger Center, Room 102
Alexander Building
Tallahassee, Florida 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591 (Testimony of Gary Moore)

Dear Jim:

Thank your for your fax memo this afternoon concerning your decision to reconsider your initial position regarding Mr. Moore. Because the claims bill for the victims of the Rosewood Massacre was originally filed in January of 1993 and then refiled again in December of 1993, and because Mr. Moore's work concerning Rosewood has been a matter of public record since July 25, 1982, and because the Office of the Attorney General did not enter its appearance in this case until February 11, 1994, I do not believe that these proceedings should be continued at this late date to accommodate Mr. Moore's appearance.

On the other hand, if Mr. Moore's appearance can be obtained without continuing these proceedings beyond tomorrow, I am willing to waive the objection which you and I both agree that I have to Mr. Moore's testimony; that is, that I previously consulted with him in an effort to retain him as an expert in this case and I discussed with him both the merits of these claims as well as the parameters of an agreement to retain him as an expert. However, my agreement to waive this concealedly well-founded objection is subject to the following conditions:

1. Mr. Moore will produce for your and my review, as well as the Special Master's review, the documents referred to in items 1 through 8 (inclusive) on pages 1 and 2 of your fax memo this afternoon;

2. You would exclude from your inquiry the following:

    1. Communications between Mr. Moore, Holland & Knight, and your clients concerning the strengths and weaknesses of the claim.

    2. Work product documents exchanged between Mr. Moore, Holland & Knight, and claimants.

I do not believe that we should enter into an agreement about excluding Mr. Moore's criticism of the team report for several reasons. First, I think that the third exception which you have outlined in your fax memo this afternoon, while laudable, is probably incapable of definition or containment. Secondly, I believe that any agreement between you and me to contain Mr. Moore's criticism might well be misconstrued. My well-founded legal objections to Mr. Moore's testimony, which you and I agree upon, can be protected by exclusions 1 and 2.

I support your intention to elevate the quality of proof presented in this hearing and to enable meaningful examination of witnesses and/or competent documents concerning matters of liability and damages. As you know, both the team and I labored long and hard (and independently) to attempt to secure Mr. Moore's cooperation, and despite the team's best efforts and despite my best efforts, neither one of us were eventually able to secure his cooperation. Thus, if you are unable at this late date, literally the eleventh hour, to obtain Mr. Moore's cooperation, I do not believe that it would be fair to conclude, as you suggest in your fax memo this afternoon that "this claims bill process was a hurried and compromised project with unfounded conclusions and inadequate documentation." Rather, I believe that in that event it would be fair to conclude that despite the best efforts of all concerned Mr. Moore was unwilling to cooperate with anyone by providing some data which would be helpful in these proceedings, particularly in the stage two bifurcated proceedings pertaining to individual claims. Candidly, I do not believe that Mr. Moore's data is all that terribly meaningful in terms of the stage one liability and damage proceedings in which we are now involved. I tend to agree with the reviewers that his information is at the periphery of the core issues here, and not at the center.

Please call me after you have had a chance to review this memo and we can discuss this matter further.

Very truly yours,

HOLLAND & KNIGHT

Stephen F. Hanlon

SFH/kp

TAL-40627

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon, Richard Hixson, David Icems — FAX NUMBER: 224-9832 ✓, 488-9879 ✓, 487-5800 ✓

FROM: Jim Peters — TELEPHONE NO.: 488-1573

DATE: 3/3/94 — NO. OF PAGES (incl. cover) 5

FAX OPERATOR: Paula — FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

__X__ by hand-delivery tomorrow

MESSAGE: Supp. Wit + Exh. List; Motion to Cont. Hrgs.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

box to Steve Hamilton
3/2 -
please call ..

Cedar Key Historical Society

P. O. BOX 222
CEDAR KEY, FLORIDA 32625

1 March, 1994

Mr. James Peters
Office of the Attorney General
The Alexander Building, Suite 102
2020 Capitol Circle, SE
Tallahassee, FL 32399

Dear Mr. Peters,

Enclosed is a cassette tape recording of comments made by Jason McElveen concerning the incident at Rosewood, FL during January, 1923 as you requested by copy of your FAX dtd. Included are comments made to Lindon Lindsey of Chiefland, FL who was then President of the Cedar Key Historical Society. Also are comments made by Edith Foster concerning the events occurring during the same period.

As noted in your FAX, we expect that this tape will be made available to the claimants counsel as well as the Special Master. Details concerning the taping of these interviews can be obtained by contacting Lindon Lindsey, Chiefland, FL Phone # 904-543-4066.

Please feel free to contact me if we can be of further assistance.

Sincerely,

Capt. Robert B. Crane
Director
904-543-5549 or 904-543-6352

— box to Stu Hamlin 3/2 - please call ..

Cedar Key Historical Society

P. O. BOX 222
CEDAR KEY, FLORIDA 32625

1 March, 1994

Mr. James Peters
Office of the Attorney General
The Alexander Building, Suite 102
2020 Capitol Circle, SE
Tallahassee, FL 32399

Dear Mr. Peters,

Enclosed is a cassette tape recording of comments made by Jason McElveen concerning the incident at Rosewood, FL during January, 1923 as you requested by copy of your FAX dtd. Included are comments made to Lindon Lindsey of Chiefland, FL who was then President of the Cedar Key Historical Society. Also are comments made by Edith Foster concerning the events occurring during the same period.

As noted in your FAX, we expect that this tape will be made available to the claimants counsel as well as the Special Master. Details concerning the taping of these interviews can be obtained by contacting Lindon Lindsey, Chiefland, FL Phone # 904-543-4066.

Please feel free to contact me if we can be of further assistance.

Sincerely,

Robert B. Crane

Capt. Robert B. Crane
Director
904-543-5549 or 904-543-6352

CF

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/1/94 NO. OF PAGES (incl. cover) 1

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: _____

I respectfully request a copy of the appendix to the undated report bearing the footer "MIA-83379" which was provided to me during Stan Smith's interview this morning. If these materials cannot be provided to me by tomorrow morning, please so advise.

It would otherwise be helpful if you or someone could advise me how this summary and the attachments were disseminated and to whom.

Thank you for your courtesies.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

CF

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Douglas McCox FAX NUMBER: 904-486-5166

FROM: Jim Peters TELEPHONE NO.: 904-488-1573

DATE: 3/1/94 NO. OF PAGES (incl. cover) 1

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: _____

I have received several telephone calls and messages suggesting that the Cummers Mill Proprietorship owns the land and many of the houses in Rosewood that the black mill workers lived in. To the extent your records search does not identify owners with names on the claimants sheets which I forwarded yesterday, records may disclose substantial ownership in Rosewood by Cummers Mill.

Please advise. Thank you for your courtesies.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

CF

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/1/94 NO. OF PAGES (incl. cover) 4

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

X FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: Affidavit of Margaret Cannon - I intend to present this witness at hearing

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Adam Yeomans FAX NUMBER: 224-2099

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/1/94 NO. OF PAGES (incl. cover) 9

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: _____

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

FLORIDA HOUSE OF REPRESENTATIVES

IN THE MATTER FOR RELIEF OF:

Relief of ARNETT T. GOINS,
MINNIE L. LANGLEY, et al.,

Claimants,

v. HB 591

STATE OF FLORIDA,

Respondent.
_____/

AFFIDAVIT OF MARGARET CANNON

STATE OF FLORIDA)
)SS
COUNTY OF ALACHUA)

MARGARET CANNON, being duly sworn, states as follows:

1. My name is MARGARET CANNON. I reside in Waldo, Florida. I was born in 1926.

2. My father was Morris Cannon. He was born in 1902, and was employed as a Deputy Sheriff in Levy County in January, 1923.

3. When I was between 16 and 19 and again when I was 26 (1952), he and I discussed the incidents that occurred in Rosewood in January, 1923. He died in 1978.

4. He told me that he knew:

-- Henry Andrews and "Boly" Wilkerson personally;

-- that Henry Andrews and Boly Wilkerson were involved with searching for the man accused of attacking Frances Taylor;

-- that Andrews and Wilkerson knew Sarah Carrier;

-- that they went to Sarah Carrier's house in their search for the accused man because they knew her;

-- that they went with several other men;

-- that they went to help keep the peace and not to hurt anyone; and

-- that they were not a mob.

5. He told me Andrews and Wilkerson were ambushed at the Carrier house and killed.

6. He told me Sheriff Walker then went to the Carrier house with other deputies and men to arrest those who killed Andrews and Wilkerson and a gun battle ensued.

7. He told me he was brought in by train as a reinforcement near the conclusion of the gun battle, and, after the firing had ceased and the house was on fire, Sheriff Walker asked for volunteers to help the children in the house and my father volunteered.

8. He told me he went in and took 5 or 6 children from the Carrier house to a nearby house for safekeeping.

9. What happened to the black families in Rosewood was wrong, but Sheriff Walker tried to help them.

10. No one from the State Universities has ever asked to interview me about this.

FURTHER AFFIANT SAYETH NOT.

Margaret E. Cannon
MARGARET CANNON

Sworn to and subscribed before me this 25 day of February, 1994.

Joyce R Land
(Signature of Notary Public, State of Florida)

JOYCE R. LAND
MY COMMISSION # CC 198357 EXPIRES
May 30, 1996
BONDED THRU TROY FAIN INSURANCE, INC.

Print, type of stamp commissioned name of Notary Public.

Commission No. _____

My Commission Expires: _____

Personally Known ✓ or
Produced Identification _____
(Check One)

Type of Identification Produced:

Personally Known

<jimp>Rosewood.Aff

APPEARANCES:

LAW OFFICES OF HOLLAND & KNIGHT
BY: STEPHEN F. HANLON, ESQUIRE
AND LORA J. SMELTZLY, ESQUIRE
400 NORTH ASHLEY
P.O. BOX 1288
TAMPA, FLORIDA 33601

ALSO PRESENT: ARMANDO GARCIA
MICHAEL O'MCCARTHY
JANIE BLACK

I N D E X

WITNESS	DIRECT
LEE RUTH DAVIS (BY MR. HANLON)	3

A. POLY?

Q. YES.

A. I WON'T KNOW.

Q. HENRY ANDREWS. DOES THAT NAME RING A BELL?

A. HENRY?

Q. YES.

A. NO, THAT DOESN'T RING A BELL.

Q. A SOMETHING-SUPERINTENDENT?

A. THAT WAS SOMETHING AROUND THE MILL UP THERE.

Q. AND SYLVESTER CARRIER. YES, SYLVESTER.

Q. BERTHA CARRIER, MOTHER OF SYLVESTER CARRIER?

A. SARAH CARRIER.

Q. THAT IS REALLY SARAH?

A. YES, THAT IS SARAH CARRIER.

Q. WILLIAMS, A NEGRO AGE 48, SOMEBODY WILLIAMS. MILLER. I CAN'T READ IT.

MR. MCCARTHY: DO YOU WANT ME TO TRY?

MR. HANLON: SEE IF YOU CAN PICK UP THAT WILLIAMS' NAME. S-I-N-I-K-O-G?

MR. MCCARTHY: AN UNIDENTIFIED NEGRO WOMAN. THERE WAS A NEGRO WILLIAMS, AGE 48. HUDSON AND STUDSTILL GOT SHOT IN THE ARM. ODUM GOT SHOT

THROUGH THE NECK.

HE CLAIMS THAT SYLVESTER WAS KILLED.

MR. HANLON: I APPRECIATE IT.

THANK YOU.

THE WITNESS: ODUM? I DON'T KNOW.

MR. HANLON: LET'S GO OFF THE RECORD FOR A MINUTE.

[DISCUSSION OFF THE RECORD.]

MR. HANLON: BACK ON THE RECORD.

BY MR. HANLON:

Q. HOW OLD ARE YOU NOW?

A. 76.

Q. 76?

A. 77 NOW.

Q. HOW IS YOUR HEALTH?

A. GOOD. EVERYBODY, I DON'T KNOW HOW I AM DOING OF WHAT YOU ARE DOING.

Q. WHAT ARE YOU DOING SUNDAY?

A. CHURCH ALL DAY SUNDAY.

Q. TELL ME HOW SUNDAY MORNING GOES.

A. SUNDAYS, I GUESS, I AM UP MAYBE AROUND 5 O'CLOCK AND GET MYSELF BREAKFAST. I GET TO CHURCH AROUND 7:00, A QUARTER TO 7:00, AND I GET BACK HOME ABOUT 3 O'CLOCK.

MOST OF THE TIME I GET A BREAKFAST, AND

The sworn statement of MINNIE LEE LANGLEY was made to Stephen F. Hanlon, Esquire, before Tina S. Radloff, a Notary Public in and for the State of Florida at Large; commencing at approximately 4:25 o'clock p.m., on June 2, 1992, at 1998 West 30th Street, Jacksonville, Florida.

A P P E A R A N C E S

STEPHEN F. HANLON, ESQUIRE
HOLLAND & KNIGHT
P.O. DRAWER 810
Tallahassee, Florida

LORA SMELTZLY, ATTORNEY AT LAW
HOLLAND & KNIGHT
P.O. BOX 1288
Tampa, Florida 33601

ALSO PRESENT:
Michael O' McCarthy
Dorothy Smith
Betty S. Carley

MR. McCARTHY: I'm sorry, I wasn't listening.

MS. CARLEY: Did you bring her a copy of the manuscript?

MR. McCARTHY: No, I'm going to mail it up to you on Thursday. I've been on the road and I did not return to Miami so I didn't bring my file.

MS. CARLEY: And if you all get a copy of the Ed Bradley tape will you all give him a copy of that too, the transcript.

MR. McCARTHY: I'll mail you up on Thursday, this coming Thursday.

(Whereupon, a discussion was held off the record.)

THE WITNESS: All our houses, every one but Wrights, but the store keeper, they burn every house in that town.

BY MR. HANLON:

Q All the churches burned?

A Churches and everything, they left nothing.

Q When you were --

A Took all our chickens and cows and everything from us.

Q When you were in the woods --

A We seen the fire burning, when sister came up there to get us, that fire just leaping over the

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: DAVID WHITE ESQUIRE FAX NUMBER: 904-543-6177

FROM: JAMES PETERS TELEPHONE NO.: 904-488-1573

DATE: 2/28/94 NO. OF PAGES (incl. cover) 1

FAX OPERATOR: PAULA FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

To: Cedar Key Historical Society
Attn: David White, Esquire
Re: House Bill 591 (Rosewood Claims Bill)

I wish to confirm our telephone conversation this date and my request for the taped interview of Jason McElveen, and other tapes which may be on file at the Cedar Key Historical Society Museum concerning the violence at Rosewood, Florida in January, 1923.

I represent the State of Florida in this matter and hope that this matter can be fairly evaluated in an objective fashion. In that regard, I will make a copy of this tape, and others which you deem relevant, and provide them to claimants' counsel and the Special Master. To the extent you have background information indicating the circumstances by which these interviews were taped, including particularly the interviewer and date, that background information will be helpful in evaluating the reliability of the information contained on the tapes.

Thank you for your courtesies.

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

CF

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Bob Krauss FAX NUMBER: SC 542-4771

FROM: Jim Peters TELEPHONE NO.: SC 278-1573

DATE: 2/8/94 NO. OF PAGES (incl. cover) 21

FAX OPERATOR: Paula FAX NO.: (904)488-4872

___ AS WE DISCUSSED

___ AS REQUESTED

___ FOR YOUR INFORMATION

___ FOR YOUR COMMENTS

___ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

___ VIA REGULAR MAIL

___ VIA OVERNIGHT MAIL

MESSAGE: from Richard Doran to Greg Durden -- He will pick up tomorrow. (Pstng. Memo)

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Douglas McCoy FAX NUMBER: 904-486-5166

FROM: Jim Peters TELEPHONE NO.: 904-488-1573

DATE: 2/28/94 NO. OF PAGES (incl. cover) ____

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

X FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: Please advise.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

CF
6 pins

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

February 25, 1994

Susan K. Cituk, Executive Director
Florida Telephone Association
1311-A Paul Russell Rd., Suite 101
P.O. Box 1776
Tallahassee, FL 32302

Dear Ms. Cituk:

We appreciate the help you and Ms. Wathen gave us in this matter. As it turns out, the telephone system was good enough in 1923 that we could not argue that no communications could be made.

Thank you for your help.

Yours truly,

Arthur C. Wallberg
Assistant Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

<acw>Ltr.Skip3

AN AFFIRMATIVE ACTION/EQUAL OPPORTUNITY EMPLOYER

CF

National Archives—Southeast Region
1557 St. Joseph Avenue East Point, Georgia 30344

February 25, 1994

Office of the Attorney General
PL-01, State Capitol
Tallahassee, FL 32399-1050
Attn: Gen. Civil Litigation
Ms. Paula Noor

Dear Ms. Noor:

This is a bill for photocopies of 36 pages of peonage case files, U. S. District Court, Northern District of Florida, which I recently mailed to you. The cost is $ .25 per page for a total of $9.00. Please make check payable to National Archives Trust Fund and send to our address to the attention of our secretary, Mrs. Pam Whittington. Please send a copy of this letter with your payment.

Sincerely,

Mary Ann Hawkins

MARY ANN HAWKINS, Archivist
National Archives-Southeast Region

JNS 2/28/94
Ok to pay
Goins v. State of Florida
AG #94-00148
HB 591

National Archives and Records Administration

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

Post-It™ brand fax transmittal memo 7671 | # of pages ▸

To Patricia Novy	From Arthur Wallberg
Co.	Co. Asst. Atty. Gen.
Dept.	Phone # 904-488-1573
Fax # 904-754-4477	Fax # 904-488-4872

February 23, 1994

Commissioner Patricia Novy
Hernando County
20 Main St.
Room 460
Brooksville, FL 34601

Dear Commissioner Novy:

As we discussed, anyone with knowledge of the Rosewood incident is welcome to provide this office with an Affidavit reflecting whatever information they may have. Please have any witness write (or type) their statement. At the end of the Affidavit this sentence can be included, "Under penalties of perjury, I declare I have read the foregoing document and that the facts stated in it are true." This substitutes for being notarized. The statement should include information identifying the author and the source of his or her knowledge.

Thank you very much for your help in this matter. Please send the Affidavits to me at the address below.

Yours truly,

Arthur C. Wallberg
Assistant Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

<acw>Ltr.Skip

Going

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

S. Hanlon 224-8832
R. Hixson 488-9879
TO: D. Kerns FAX NUMBER: 487-5800

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 2/23 NO. OF PAGES (incl. cover) 10

FAX OPERATOR: Paula FAX NO.: (904)488-4872

___ AS WE DISCUSSED

___ AS REQUESTED

___ FOR YOUR INFORMATION

___ FOR YOUR COMMENTS

___ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

X VIA REGULAR MAIL

___ VIA OVERNIGHT MAIL

MESSAGE: Wit + Exh List

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

LAW OFFICES

HOLLAND & KNIGHT

FORT LAUDERDALE
JACKSONVILLE
LAKELAND
MIAMI
ORLANDO
ST. PETERSBURG
TALLAHASSEE
TAMPA
WEST PALM BEACH
WASHINGTON, D.C.

315 SOUTH CALHOUN STREET
P.O. DRAWER 810 (ZIP 32302-0810)
TALLAHASSEE, FLORIDA 32301
(904) 224-7000
FAX (904) 224-8832

February 22, 1994

SPECIAL COUNSEL

SHAW, LICITRA, PARENTE, ESERNIO & SCHWARTZ, P.C.

GARDEN CITY, NY
NEW YORK, NY

Mr. Richard Hixson
Special Master
House Judiciary Committee
412 House Office Building
Tallahassee, Fla. 32399-1300

Mr. James A. Peters
Office of Attorney General
Dept. of Legal Affairs
The Capitol, PL-01
Tallahassee, Fla. 32399-1050

Re: In the Matter for Relief of:
Arnett T. Goins, et al.
HB 591

Dear Counselors:

I have reviewed Mr. Peters' February 15, 1994 letter concerning the Respondent's perspective of the desirability of the bifurcation of this matter announced by Mr. Hixson. As I understand it, the hearing which is to begin on February 25, 1994 will involve an initial liability and damages determination, without presentation of any evidence with respect to individual claims.

I disagree with Mr. Peters' analysis of this matter. As an initial matter, the current Legislature is not bound by the four-year claims period provided in Section 11.065, Florida Statutes. See 1955 Op. Atty. Gen. Fla. 055-82 (April 14, 1955). While we do not believe that claimants must establish all of the legal prerequisites for application of the equitable tolling doctrine, we do believe that certain general principles found in that jurisprudence would justify a decision by the current Legislature not to enforce that limitations period in this case.

In any event, statute of limitations claims are frequently tried together with claims on the merits, especially when those claims involve factual issues which cannot be resolved by motions to dismiss or motions for summary judgment in advance of trial. Thus, there is nothing particularly unusual about having a hearing which involves both the merits of the claims and the statute of limitations defense. The claimants intend to present evidence tending to establish that certain principles found in equitable

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/3/94 NO. OF PAGES (incl. cover) 3

FAX OPERATOR: Paula FAX NO.: (904)488-4872

X AS WE DISCUSSED

___ AS REQUESTED

___ FOR YOUR INFORMATION

___ FOR YOUR COMMENTS

___ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

___ VIA REGULAR MAIL

___ VIA OVERNIGHT MAIL

MESSAGE: 3/3/94 16r.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

MEMORANDUM

TO: Steve Hanlon

FROM: Jim Peters
Assistant Attorney General

DATE: March 3, 1994

Re: In the Matter for Relief of: Arnett T. Goins, HB 591 (Testimony of Gary Moore)

In furtherance of our telephone conversations this morning, I would propose to focus State's inquiry of Mr. Moore to the following matters in his personal knowledge and personal possession:

1. Official records relevant to liability and damages issues including, but not limited to, records of the Governor, Levy and Alachua Sheriffs, State Attorney, and State Militia.

2. Property records.

3. News clips.

4. Rosewood census records.

5. Official records of death, birth, and location of claimants and their families.

6. Names and locations of living witnesses from whom first person non-hearsay testimony might be elicited.

7. Photographs of Rosewood.

8. Documentation of the role of movie producer McCarthy, including contracts and narratives, given to him by claimants.

I would exclude from inquiry the following:

1. Communications between Mr. Moore, Holland & Knight, and your clients concerning the strengths and weaknesses of the claim.

2. Work product documents exchanged between Mr. Moore, Holland & Knight, and claimants.

3. Criticism, whether written or oral, by and between Mr. Moore and the team which prepared the "Documented History," except to the extent that the criticism is directed toward information sources which were missed, omitted, or misstated in the official report.

My intention is to elevate the quality of proof presented in this hearing, to enable meaningful examination of witnesses and/or competent documents concerning matters of liability and damages, and to attempt to preclude the spectre that this claims bill process was a hurried and compromised project with unfounded conclusions and inadequate documentation.

Please advise.

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/3/94 NO. OF PAGES (incl. cover) 6

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: Please discuss.
McKoy Aff.

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

noon
CF

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Adam Yeomans FAX NUMBER: 224-2099

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/3/94 NO. OF PAGES (incl. cover) ____

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

__X__ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: _____

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

CF

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

March 3, 1994

Richard Hixson
Special Master
House Judiciary Committee
412 House Office Building
Tallahassee, FL 32399-1300

David Kerns
Special Master
35 Senate Office Building
Tallahassee, FL 32399

Re: In the Matter for Relief of: Arnett T. Goins,
HB 591 (Rosewood Claims Bill)

Dear Mr. Hixson and Mr. Kerns:

I have reviewed the February 22, 1994 correspondence from Mr. Gary Moore to Richard Hixson, Special Master, and have otherwise reconsidered the December 22, 1993 "Documented History" in light of Mr. Moore's work product in that report, and in the subsequent Appendix and Review (Hearing Exhibits 1, 2, and 3).

It would appear that Mr. Moore's appearance at this public hearing is appropriate if the controversies concerning the 1923 violence at Rosewood, Florida, the methodology and documentation supportive of a documented history, and the existence of living witnesses who can present competent evidence are to be fairly and fully aired.

Accordingly, on behalf of State of Florida, I request that Mr. Moore be afforded the opportunity to testify in this matter.

Sincerely,

James A. Peters

James A. Peters
Assistant Attorney General
Office of the Attorney General
PL-01 The Capitol
Tallahassee, FL 32399-1050
(904) 488-1573
(904) 488-4872 (Fax)

cc: Steve Hanlon

<jimp>Ltr.Jim2

CF

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: Steve Hanlon FAX NUMBER: 224-8832

FROM: Jim Peters TELEPHONE NO.: 488-1573

DATE: 3/3/94 NO. OF PAGES (incl. cover) 4

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

X FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

____ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: 3/3/94 ltrs

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.

CF

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

MEMORANDUM

TO: Steve Hanlon

FROM: Jim Peters
Assistant Attorney General

DATE: March 3, 1994

Re: In the Matter for Relief of: Arnett T. Goins, HB 591 (Rosewood Claims Bill)

I respectfully request a copy of the materials utilized by Arnett Doctor as he prepared the "Claimants' tree." Additionally, I request copies of the materials specified in the April 5, 1993 letter (copy enclosed).

I can have a runner pick these materials up at your office as soon as they are available. Thank you for your courtesies.

<jimp>Memo.Jim

The Rosewood Family Advisory Committee

1912 E. New Orleans Avenue
Tampa, Florida 33610

Chairman
Arnett T. Doctor

Administrative Assistant
Patricia Williams

Recording Secretary
Mae McDonald

Treasurer
Albert Edwards

Chaplain
Rose Wooten

Senior Advisor
Dr. Adib A. Shakir

Advisor/Researcher
Gretchen Douglas

Advisor
Dr. Annette Goins Shakir

Rosewood Families
Bradleys
Carriers
Colemans
Edwards
Evans
Goins
Robinsons

April 5, 1993

Dear Family Members,

Enclosed you will find three (3) very important informational documents. It is imperative that you read them and act immediately to insure accountability.

Form #1, and Form #2 must be returned and received by me not later than April 18, 1993. Remember, NOT responding will also be considered refusal of any monetary awards, if they are forthcoming.

I will be speaking at the State NAACP Board meeting on April 24, 1993 in Fort Myers, Florida. Any family members desiring to attend that function are welcome, but they need to alert me of their intentions to attend. It is expected that all Advisory Committee members will be present at the forementioned event.

Again, I wish to thank all family members for their support, and remind you that our monthly dues of $5.00 is due on the tenth of each month. A check or money order should be sent to our treasurer at the following address:

Mr. Albert Edwards, 709 South Parsons Dr., Deland, Fl 32720

Your cooperation will be greatly appreciated, and may God be with you all.

Your Servant,

Arnett T. Doctor

cc: All Family Members

CF

OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

MEMORANDUM

TO: Steve Hanlon

FROM: Jim Peters
Assistant Attorney General

DATE: March 3, 1994

Re: In the Matter for Relief of: Arnett T. Goins, HB 591 (Rosewood Claims Bill)

I wish to confirm our March 2, 1994 telephone conversation that Dr. Carl Schmertmann will not be present at hearing and that you will not object to submission of his Affidavit and Report in his absence. I am advised that the Special Masters will accept an Affidavit unless opposing counsel objects.

On other matters, I anticipate Dr. McClaren's participation in the Gainesville murder trial will conclude sometime after 5:00pm today. He will call to advise if his involvement concludes earlier. Have you a time for your interview of him?

I have asked Douglas McKoy, Clerk of the Court, Levy County, to inquire of the existence of property records evidencing 1923 ownership in Rosewood (904-486-5100). He is preparing an Affidavit indicating the existence of such records, or lack thereof. I may tender his Affidavit or, if you prefer, his personal testimony in this regard. I will forward the Affidavit as soon as it is received.

Please call if other details arise.

<jimp>Memo.Jim

OFFICE OF THE ATTORNEY GENERAL
GENERAL CIVIL LITIGATION SECTION
THE CAPITOL, STE. PL-01
TALLAHASSEE, FLORIDA 32399-1050
TELEPHONE: 904/488-1573 or 904/488-9935

FACSIMILE COVER SHEET

TO: ~~Steve Hamlon~~ Richard Hixson ~~David Kerns~~ FAX NUMBER: 224-8832 488-9879 487-5300

FROM: Jim Peters TELEPHONE NO.: 488 1573

DATE: 3/3/94 NO. OF PAGES (incl. cover) ____

FAX OPERATOR: Paula FAX NO.: (904)488-4872

____ AS WE DISCUSSED

____ AS REQUESTED

____ FOR YOUR INFORMATION

____ FOR YOUR COMMENTS

____ FOR YOUR APPROVAL

___ FACSIMILE TRANSMISSION ONLY

HARD COPY WILL BE SENT:

_X_ VIA REGULAR MAIL

____ VIA OVERNIGHT MAIL

MESSAGE: 3/3/94 ltr

CONFIDENTIALITY STATEMENT

The information contained in this facsimile is attorney-privileged and is confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone. Thank you.