

Joint House/Senate Subcommittee on Claims

Subcommittee Minutes

Friday, November 9, 2007

123 State Capitol

9:00 a.m.

In Attendance:

Representative Dennis Ozment

Representative Tom Anzelc

Representative Diane Loeffler

Senator Ron Latz

Senator David Hann

Senator Rick Olseen

Call to Order by Chair, Senator Ron Latz – 9:14 a.m.

A quorum is present.

Senator Latz opened the meeting, explained the makeup and responsibilities of the Claims Subcommittee and announced that the subcommittee would meet again the week of November 26, 2007.

Testimony regarding potential claims from the 35W bridge collapse:

Testifying on laws governing state tort liability and cases relevant to transportation functions:

Peter Watson, *Senate Counsel*

Kathleen Pontius, *Senate Counsel*

Mark Shepard, *House Research*

Matt Gehring, *House Research*

Allen Gilbert, *Solicitor General, Attorney General's Office* – Provided background on tort liability caps.

Ken Feinberg, *Washington, D.C., Former Special Master of the September 11 Victim Compensation Fund* – Explained the formation and administration of the fund.

Robert Commadore, *Acting Director of Market Assurance, Commerce Department*; and **John Gross**, *Commerce Department* – Reviewed auto and health insurance issues.

Bernie Arseneau, *Tort Claims Unit, Minnesota Department of Transportation* – Explained Department's handling of tort claims.

Phillip Blue, *Director of Risk Management, Department of Administration*; and **Tom Chukel**, *Claims Manager, Department of Administration* – Explained Department's handling of state's insurance claims and provided Claims Helpline # - 612-766-3920.

11:45 a.m. to 1:15 p.m. – *lunch break*

1:25 p.m. – *meeting continues*

Tom Hanson, *Commissioner of Finance* – Mr. Hanson gave a broad idea of the cost to the State of different options to compensate the survivors/victims of the I-35W bridge collapse. Mr. Hanson went over three different scenarios including the \$300,000 tort cap, work compensation option and the Virginia Tech Fund.

Linda Suzanne Paul, *Survivor* – Mrs. Paul told the story of her personal experience on the North end of the I-35W bridge when it collapsed and her recovery afterwards.

Brad Coulter, *Survivor* – Mr. Coulter told the story of his families' personal story about their experience on the North end of the I-35W bridge when it collapsed and his and his families' recovery afterwards.

Jim Schwebel, *Attorney with Schwebel, Goetz & Sieben* – Mr. Schwebel is representing some of the survivors/victims of the I-35W bridge collapse. He discussed the uniqueness of the suffering and experiences of the survivors/victims. He shared his disappointment that the State is not talking about the human loss, just the bridge loss. He also added that there is a great need for a hardship fund.

Chris Messerly, *Attorney with Robins, Kaplan, Miller & Ciresi* – Mr. Messerly, as well as being an attorney, is a spokesperson for 20 law firms who are representing I-35W bridge survivors/victims in a pro-bono manner. Mr. Messerly discussed the unique nature of the event of the bridge collapse and the necessity to help those affected by this event. He believes that the fund makes a lot more sense than addressing it with lifting the caps. He also mentioned that any compensation thru tort law goes, by Federal law, back to the insurance companies first (ARISA law).

Joseph Crumley, *President of the MN Association of Justice* – Mr. Crumley discussed the shortcomings in the law when it comes to helping the bridge survivors/victims. He spoke about the liability cap and how they need to be fixed because they are unjust as well as many other exceptions to liability that the law affords Government. He also spoke about inadequacies in auto insurance law. He states that a fund is absolutely necessary but that it is a band-aid approach and the tort laws need to be fixed for a long term solution.

Paul Rajkowski, *President of the MN Defense Lawyers Association* – Mr. Rajkowski discussed the legal issues around the I-35W bridge collapse. He also discussed the legal issues in regards to creating a compensation fund for the survivors/victims such as scope, definition of the effect of participation, target benefits, discovery, and subrogation. Believes the removal or rising of liability caps beyond the I-35W bridge collapse should be discussed in a much larger setting, the legislature, where all who are affected could be part of the discussion.

Michael Ford, *President-Elect of the MN Bar Association* – Mr. Ford discussed State Statute 604.01 that allows the state to pay claimants money directly and also spoke about an article he wrote about the statute in Minnesota Defense Lawyers Magazine.

Members Discussion – Discussion by members of what they would like to do to compensate the survivors/victims and what the agenda might look like for their next meeting. The next meeting of the Joint House/Senate Subcommittee on Claims was set for Nov. 29 in the morning with exact time and room number to be announced.

Adjourned by Chair, Senator Ron Latz – 4:40 p.m.

Respectfully submitted,



Representative Dennis Ozment, Chair
Joint House/Senate Subcommittee on Claims



Senator Ron Latz, Chair
Joint House/Senate Subcommittee on Claims



Marilyn Brick, Legislative Assistant
Joint House/Senate Subcommittee on Claims



Cheryl Youakim, Legislative Assistant
Joint House/Senate Subcommittee on Claims