

By: Kuempel

H.C.R. No. 112

CONCURRENT RESOLUTION

1 WHEREAS, Annabelle Whiting, John Whiting, Erica De La
2 Garza, Victoria Cruz, and Margaret Whiting allege that:

3 (1) The University of Texas Medical Branch at Galveston
4 administered a Willed Body Program that was overseen by the
5 Anatomical Board of the State of Texas;

6 (2) an individual may will his or her own body to be used by
7 medical students and scientific researchers for the advancement of
8 medical science as provided by Section 691.028(a), Health and
9 Safety Code;

10 (3) according to applicable rules, after a body that has
11 been willed or donated to The University of Texas Medical Branch at
12 Galveston is used for medical science, the cremated remains of that
13 body must be returned to a designated family member, if return of
14 the remains was requested in advance, as provided by 25 T.A.C.
15 Section 479.4;

16 (4) the individuals named in this resolution are family
17 members of an individual whose remains were willed to The
18 University of Texas Medical Branch at Galveston's Willed Body
19 Program;

20 (5) in the spring of 2002, The University of Texas Medical
21 Branch at Galveston learned that one or more of its employees
22 mishandled bodies willed or donated to The University of Texas
23 Medical Branch at Galveston and commingled the ashes of bodies,
24 making it impossible to determine which ashes should be returned to

1 designated family members;

2 (6) in addition, one or more employees of The University of
3 Texas Medical Branch at Galveston's Willed Body Program transferred
4 or sold willed or donated bodies or parts of bodies to out-of-state
5 recipients and failed to request that the recipients or buyers of
6 the bodies return the ashes to The University of Texas Medical
7 Branch at Galveston for return to the families who had requested
8 their loved ones' ashes;

9 (7) The University of Texas Medical Branch at Galveston
10 admitted that its "failure of oversight . . . caused pain to the
11 relatives of those to whom [it] owe[s] such a special debt of
12 gratitude" and that The University of Texas Medical Branch at
13 Galveston may have compromised the trust of the families of those
14 who donated their bodies to The University of Texas Medical Branch
15 at Galveston's Willed Body Program;

16 (8) the individuals named in this resolution have been
17 greatly distressed and anguished by The University of Texas Medical
18 Branch at Galveston's failure to return the ashes of their family
19 member and are entitled to recover damages; and

20 (9) family members of other individuals who willed or
21 donated bodies to The University of Texas Medical Branch at
22 Galveston's Willed Body Program have filed several lawsuits against
23 The University of Texas Medical Branch at Galveston and the
24 Anatomical Board of the State of Texas regarding the Willed Body
25 Program, but all claims against The University of Texas Medical
26 Branch at Galveston, the Anatomical Board of the State of Texas, and
27 other entities or employees of the State of Texas have been or

1 likely will be dismissed on grounds that the State of Texas and
2 agencies of the State of Texas enjoy sovereign immunity from these
3 claims; now, therefore, be it

4 RESOLVED by the Legislature of the State of Texas, That
5 Annabelle Whiting, John Whiting, Erica De La Garza, Victoria
6 Cruz, and Margaret Whiting are granted permission to sue the
7 State of Texas, The University of Texas Medical Branch at
8 Galveston, and the Anatomical Board of the State of Texas for any
9 and all causes of action, including breach of contract, that relate
10 to or arise from the facts and circumstances described in this
11 resolution, subject to Chapter 107, Civil Practice and Remedies
12 Code; and, be it further

13 RESOLVED, That the aggregate of all amounts awarded in the
14 suits authorized by this resolution, including damages, court
15 costs, attorney's fees, and prejudgment interest awarded under law,
16 may not exceed \$2 million, the plaintiffs may not plead relief in
17 excess of that amount in a suit authorized by this resolution, and
18 this is the total aggregate amount that may be recovered by the
19 persons named in this resolution with respect to any and all causes
20 of action, including breach of contract, that relate to or arise
21 from the facts and circumstances described in this resolution; and,
22 be it further

23 RESOLVED, That the payment of any amount awarded in a suit
24 authorized by this resolution is contingent on appropriations for
25 that purpose; and, be it further

26 RESOLVED, That the president of The University of Texas
27 Medical Branch at Galveston and the chairman of the Anatomical

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1 Board of the State of Texas be served process as provided by Section
2 107.002(a)(3), Civil Practice and Remedies Code.