

Filing # 20555857 Electronically Filed 11/13/2014 05:30:19 PM

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

CIVIL CIRCUIT DIVISION

CASE NO.:

MERCEDES MENESES, as the Personal  
Representative of the Estate of  
JESUS MENESES, deceased minor,

Plaintiff,

v.

FLORIDA POWER & LIGHT COMPANY,  
a Florida corporation,

Defendant.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, MERCEDES MENSES as Personal Representative and surviving natural parent of JESUS MENESES, deceased minor, sues the Defendants, FLORIDA POWER & LIGHT COMPANY, a Florida corporation, and alleges:

**JURISDICTION, PARTIES AND VENUE**

1. This is an action in excess of \$15,000.00, exclusive of interest, costs, and attorney's fees and is being brought pursuant to the Florida Wrongful Death Act F.S. §768.18 et. seq.
2. Venue is proper in this Circuit because the acts forming the basis of this Complaint occurred in Miami-Dade County, Florida.
3. MERCEDES MENESES has or will be duly appointed as Personal Representative of the Estate of her son, JESUS MENESES, deceased, and she brings this action on behalf of

the Estate and the Decedent's survivors, including herself and the decedent's father, Romelio Meneses.

4. At all material times prior to his death, the decedent, JESUS MENESES (age 17), was a resident of Miami-Dade County, Florida.
5. At all times material hereto, FLORIDA POWER & LIGHT COMPANY (hereafter "FP&L"), was and is a Florida for-profit corporation, organized and existing under the laws of this State, which was and is authorized to conduct business in Miami-Dade County as a Florida-based power utility.

#### **FACTS GIVING RISE TO THIS CAUSE**

6. At all material hereto, Defendant, FP&L, was the lawful owner and operator of an active power substation (hereafter "the Kinloch Substation") located at 4631 NW 4<sup>th</sup> Street in Miami, Florida, adjacent to Kinloch Park, a recreational park in West Miami that is frequented by children and families.
7. The Kinloch Park, utilized daily by children, teenagers and families, is a multi-function recreational area comprised of a basketball court, handball court, picnic area, playground, and private event shelter. The park hosts after school programs, summer and winter camps, and organized children's activities. It also sits adjacent to the Sandra DeLucca Developmental Center for the developmentally disabled, whose members have direct access to the park for supervised activities. Thus, the park is consistently occupied by children, as well as adults with developmental disabilities.
8. At the Kinloch Park, the basketball and handball courts sit approximately 12 feet from the chain link fence which divides the park and the Kinloch power substation.

9. For years prior to October 27, 2014, representatives of FP&L were aware that balls would routinely fly over the fence from the adjacent park and into its substation, prompting children and teenagers to scale the chain link fence, and/or slip through a substantial gap in the padlocked gate and other open areas of the perimeter fence, in order to retrieve their balls from the Defendant's property. In fact, various sports balls would collect on the ground within the substation on a weekly basis – placing representatives of FP&L on notice that patrons of the park, and particularly children, would foreseeably seek access to the power station to retrieve them. Despite such knowledge, FP&L took no safety measures to improve or enhance the security of its substation perimeter, or to develop ways to deny access and safeguard the persons whom the Defendant could reasonably anticipate would be present on its property on a daily basis.
10. Defendant FP&L had the ability to foresee the significant, and potentially deadly zone of risk that was created by its proximity to Kinloch Park, and a concomitant history of easy access to the Kinloch substation. By its very nature, power-generating equipment creates a zone of risk that encompasses all persons who foreseeably may come in contact with, or in close proximity to, that equipment, including the park patrons (primarily minors) who repeatedly gained entry to the substation through openings in the fence.
11. On or about October 27, 2014, the decedent, JESUS MENESES, age 17, was an invitee at Kinloch Park, and was socializing with a group of friends who were playing ball on or near the basketball court adjacent to the Kinloch substation. When a ball flew over the fence and into the substation, JESUS MENESES did what numerous minor patrons of the park had done on a weekly basis in the past, and slipped through the substantial gap in the chained/padlocked gate or gained entry through one of many other open areas along the

perimeter fence which had been inadequately secured by FP&L. Once inside the substation, JESUS MENESES easily gained access to an interior space containing high voltage power equipment which was bordered by a shorter fence with unlocked gate that displayed no additional warning signage about the deadly hazards within.

12. At the location where the decedent accessed the Defendant's substation from the park, as well as on the interior border of the towers and transformers, there were inadequate warnings and/or signage notifying persons of the electrocution dangers associated with exposure to the energized conductors within the substation. Furthermore, the height and condition of the chain link fence and gate, as well as the presence of several gaps and open areas in the fence, were inadequate to prevent children and teenagers from accessing the power substation.
13. In the short time that JESUS MENESES was inside the FP&L substation, he was fatally injured by electrocution or electrical flashover (or "arc-flash") as a result of his proximity and/or exposure to a high voltage wire, tower, transformer, or energized conductor.
14. All conditions precedent to the filing of this action have been satisfied and/or waived.

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**COUNT I:**  
**NEGLIGENCE OF FLORIDA POWER & LIGHT**

15. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 14 as if fully set forth herein.
16. At all times material hereto, Defendant FP&L, owed a duty to the general public, including the decedent, JESUS MENESES, to exercise a high degree of care in the maintenance and operation of the Kinloch substation, and to safeguard the public by

ensuring that its high voltage towers, transformers and other equipment located on the Defendant's property, were properly secured and safeguarded so as to avoid the risk of harm to persons who might, foreseeably, be present on FP&L's property, and to erect sufficient warnings to members of the public of the dangers inherent in the high voltage structures and electrical conductors contained therein.

17. At all times material hereto, the Kinloch substation and its high voltage apparatus constituted an inherently dangerous condition, the hazards of which were not readily observable to children and teenagers who, in the months preceding this accident, were routinely present on FP&L's property. As such, the Defendant held a heightened duty of care to protect and safeguard from harm - those whom the Defendant had actual knowledge and/or could reasonably anticipate might be exposed to such dangers on its property, particularly given the gaps and openings in the perimeter fence.
18. At all times material hereto, the Defendant FP&L breached its duty of care to the public and to the decedent, in particular, by the following negligent acts and/or omissions:
  - a) Failing to maintain its property and the inherently dangerous conditions present on said property in a reasonably safe condition;
  - b) Failing to construct and maintain an effective barrier between the Kinloch substation and the recreational park which lay in close proximity to the high voltage dangers at the substation;
  - c) Disregarding the weekly presence of various sports balls within its facility which would logically draw minors onto FP&L's premises to retrieve them;
  - d) Failing to take additional measures to lessen or eliminate the easy accessibility of the FP&L substation once FP&L was on notice that its perimeter fencing was inadequate

and ineffective in preventing park patrons, and primarily children, from accessing the Defendant's property;

- e) Failing to comply with applicable federal and local safety standards, including but not limited to the National Electric Safety Code and FP&L's own internal substation construction standards and safety protocols;
- f) Maintaining energized wires and/or equipment too close to a public area devoted to use and patronage by children in violation of reasonable engineering standards;
- g) Failing to have adequate warnings in place to alert park visitors to the high voltage exposure that lay in close proximity to the basketball court;
- h) Failing to take any measures to address the safety hazards associated with children and teenagers routinely accessing the substation with FP&L's knowledge;
- i) Failing to perform routine inspections of the fence surrounding the substation to ensure there were no gaps or holes that would foreseeably permit entry by minors playing in the adjacent park;
- j) Failing to properly monitor the activity at the Kinloch substation -- through electronic surveillance or otherwise -- to identify incidents of park patrons (mostly minors) accessing the substation property through breaches in the fence;
- k) Failing to erect a safe enclosure of the towers and transformers in the substation's interior so as to prevent the foreseeable risk of injury to those persons who, once on the FP&L property, might inadvertently come into contact with or in close proximity to its energized apparatus and conductors;
- l) Failing to erect sufficient warning signs on the *interior* fencing of the substation to notify laypersons of the dangers associated with even general proximity to the

energized towers, transformers and switches – particularly with the Defendant's knowledge that arc flashes can inflict fatal injuries to a person from a distance of ten (10) feet away; and,

m) Otherwise failing to maintain its property in a reasonably safe condition.

19. As a direct and proximate result of the negligence of Defendant, FP&L as described above, the decedent, JESUS MENESES, suffered fatal injuries from electrocution.

WHEREFORE, MERCEDES MENESES, as Personal Representative of the Estate of JESUS MENESES, deceased, demands judgment against the Defendant, FLORIDA POWER & LIGHT COMPANY, for damages, costs, interest and such further relief as is just and proper, for the Estate of the decedent and its survivors. Plaintiff further reserves the right to seek leave to amend to add a claim for punitive damages upon the proper evidentiary foundation for same.

**COUNT II:**  
**STRICT LIABILITY OF FLORIDA POWER & LIGHT**  
**FOR ULTRAHAZARDOUS ACTIVITY**

20. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 14 as if fully set forth herein.

21. At all times material hereto, Defendant FP&L, was engaged in the performance of an ultrahazardous activity at the Kinloch substation where energized, high voltage towers, transformers, switches and wires were uncovered and/or exposed, thereby presenting an immediate threat of bodily harm or death to those who might come into contact with, or in close proximity to same.

22. The Defendant's activity at the Kinloch substation is abnormally dangerous in that it:

a) Involves a high degree of risk of harm to persons exposed to such hazards;

- b) The resultant harm is likely to be great;
- c) The risk cannot be eliminated by the exercise of ordinary care, but rather, requires the utmost heightened degree of care that is commensurate with the abnormal risk of injury or death;
- d) The activity is not a matter of common usage (i.e. - by ordinary landowners); and,
- e) The activity is inappropriate to the place where it is performed- namely, in such close proximity to a children's recreational park.

23. As a result of FP&L's participation in an ultrahazardous or abnormally dangerous activity at the property described herein, Defendant is strictly liable for harm that falls within the scope of the abnormal risk which is the basis of that liability - namely, injury or death from exposure to energized and deadly-high voltage apparatus and equipment.

24. The ultrahazardous activity engaged in by Defendant FP&L at the Kinloch substation, and the abnormal risks associated therewith, were the foreseeable, direct and proximate cause of the death of Plaintiff's decedent, JESUS MENESES.

WHEREFORE, MERCEDES MENESES, as Personal Representative of the Estate of JESUS MENESES, deceased, demands judgment against the Defendant, FLORIDA POWER & LIGHT COMPANY, for damages, costs, interest and such further relief as is just and proper, for the Estate of the decedent and its survivors. Plaintiff further reserves the right to seek leave to amend to add a claim for punitive damages upon the proper evidentiary foundation for same.

#### DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues triable as of right by jury.

DATED this 13<sup>th</sup> day of November, 2014.



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BY: 

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