

STORAGE NAME: h0189.cla
DATE: November 6, 2001

Florida House of Representatives
Committee on Claims
Summary Claim Bill Report

Bill #: HB 189
Sponsor: Rep. Siplin
Companion Bill: SB 74 by Sen. Campbell
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

1. **Claimants:** Steven Mitchell
2. **Respondent:** Halifax Hospital Medical Center, a special taxing district in Volusia County
3. **Amount Requested:** \$2,500,000 of which \$200,000 has already been paid.
4. **Type of Claim:** Equitable – Settlement Agreement
5. **Respondent's Position:** Does not oppose claim bill.
6. **Collateral Sources:** \$15,000 from Universal Underwriters Insurance Co. as uninsured motorist coverage; \$10,000 from Delta Insurance Co., (insurer of the other driver.) There are several outstanding liens for medical care, some of which have been waived.
7. **Prior Legislative History:** HB 893 (2001) was reported favorably from the Claims Committee and died in the Procedural Council. SB 36 (2001) passed all committees of reference in the Senate and died on the Senate calendar.

B. Procedural Summary: In 1996, Mr. Mitchell filed a complaint against the Halifax Hospital Medical Center and the professional associations of several doctors, alleging that emergency room physicians that treated him were negligent and departed from the standard of care resulting in Mr. Mitchell's quadriplegia. The trial court ruled that the name of the driver of the truck that hit Mr. Mitchell was required to be on the verdict form along with the Medical Center. Prior to trial, the parties entered into a settlement agreement by which the respondent will pay the claimant's special needs trust (SNT) \$15,000 per month guaranteed for the rest of his life; payment to the SNT of \$50,000 upon passage of this bill; payment of \$625,000 to the claimant's attorneys for fees; and \$200,000 to the claimant's attorneys for costs. The present money value of the agreement is \$2,300,000.

C. Facts of Case: Steven Mitchell traveled from his home of Nashville, Tennessee to Daytona Beach to attend Bike Week in March of 1995. While riding his motorcycle northbound on County Road 415, a pick up truck pulled out of a side road and hit Mr. Mitchell's motorcycle. The other driver was cited for failing to yield the right of way. Blood alcohol tests were not taken of either driver, though the claimant stated that he had been drinking beer that day. The claimant was taken to the Halifax Medical Center emergency room where he was diagnosed with cervical strain and a fractured clavicle. Xrays did not detect injuries other than the fractured clavicle. The claimant was discharged that evening, and waited 5 hours on a gurney in the

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emergency room hallway for friends to pick him up. Hospital staff placed Mr. Mitchell in his friend's van. The following morning, Mr. Mitchell couldn't feel his legs, and was taken back to the emergency room where it was discovered that he had a spinal cord injury that ultimately rendered him a quadriplegic. Claimant's experts testified that if the claimant had been properly evaluated by emergency room physicians, timely intervention would have prevented his quadriplegia, and that his care and treatment fell below the standard of care. Mr. Mitchell is 42 years old and will require total care for the remainder of his life. Both parties were given the opportunity to supplement the record in anticipation of the 2002 Special Master's report. Neither party submitted any supplemental information.

SM: _____ SD: _____ Date: _____
Stephanie O. Birtman Stephanie O. Birtman