

STORAGE NAME: h0797.ju
DATE: March 7, 2003

Florida House of Representatives
Subcommittee on Claims
Summary Claim Bill Report

Bill #: HB 797
Sponsor: Rep. Poppell
Companion Bill: SB 26 by Senator Posey
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

1. **Claimants:** Alan Hammer (Note: This claim is factually similar to HB 799, Howard & Donna Evarts v. Brevard County which involves the driver of the van. The Evarts executed a settlement agreement with Brevard County that is identical to Mr. Hammer's agreement.)
2. **Respondent:** Brevard County
3. **Amount Requested:** \$75,705, inclusive of attorney's fees and costs
4. **Type of Claim:** Equitable, based on a settlement agreement
5. **Respondent's Position:** Supports the claim bill.
6. **Collateral Sources:** \$12,000 (\$10,000 plus \$2,000 in medical payments coverage) from PIP; \$10,000 in uninsured motorist coverage.
7. **Prior Legislative History:** None.
8. **Attorney's Fees and Costs:** Limited to 25% of the settlement agreement as provided by s. 768.28, F.S. Costs were reported to be \$1,797.45.

B. Procedural Summary: The claimant filed a complaint against Brevard County to compensate Alan Hammer for his injuries and loss of earnings due to the negligence of an employee of the County. Prior to trial, the parties signed a settlement agreement wherein the County agreed to pay the claimant a total of \$125,000, of which \$49,295 has already been paid. A consent judgment and order was subsequently entered.

C. Facts of Case: On June 18, 1998 the claimant was a passenger in a van driven by Howard Evarts, who was driving his van westbound on Hibiscus Blvd. in Melbourne, Florida. As the van slowed down to approach a construction area, a county bus rear ended it at an estimated speed of 45 mph, leaving 76 feet of skid marks, and causing the van to hit the truck in front of it. As a result of the accident Mr. Hammer, a 38 year old self-employed carpet installer (who was then without health insurance) suffered a herniated nucleus pulposus, a bulging disc and a herniated disc, significant decreased memory, left carpal tunnel syndrome, left ulnar neuropathy at the elbow, and a decreased range of motion in his right shoulder, which required surgery. He missed 9 weeks of work, and is currently working at a restricted level. He is a candidate for future surgeries to his spine.

SM: _____
Stephanie O. Birtman

Date: _____