

Florida House of Representatives
Committee on Claims
Summary Claim Bill Report

Bill #: HB 821
Sponsor: Representative Arza
Companion Bill: SB 50 by Senator Diaz de la Portilla
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

1. **Claimants:** Oscar Ortiz
2. **Respondent:** City of Miami
3. **Amount Requested:** \$4,900,000 to be paid out over three years.
4. **Type of Claim:** Equitable – pursuant to settlement agreement.
5. **Respondent's Position:** Agreed to assist in the passage of the claim bill.
6. **Collateral Sources:** None.
7. **Prior Legislative History:** SB 24 was filed in the 2000 legislative session. As the claim involved pending judicial activity, it was reported unfavorably by the special master and died. The parties have since settled the claim.

B. Procedural Summary: Litigation involving this claim was commenced in 1997. The claimant prevailed at trial, and the jury awarded \$15,718,000 to the claimant as a result of the negligence of a City police officer in a motor vehicle accident. The jury further found that the claimant was comparatively negligent for failing to wear a seat belt, and assessed 13% of the fault against the claimant. Final judgment was entered for \$13,674,660 in June, 1999, and the City appealed. In April, 2000, the parties entered into a settlement agreement whereby the City agreed to dismiss its appeal, to pay a total of \$5,000,000 over 3 years, and to assist in the passage of the claim bill. All of the contingencies in the settlement have been met. The City has already paid the \$100,000 statutory cap.

C. Facts of Case: Oscar Ortiz, who was 22 years old at the time of the accident, was returning home after attending a Miami Heat basketball game in a car driven by a friend. A City Police Officer operating a marked police vehicle failed to yield the right of way at an intersection and crashed into the vehicle in which the claimant was a passenger. An internal investigation revealed that the officer was careless and negligent, and the direct cause of the crash. As a result of the accident, Oscar Ortiz has been rendered a permanent quadriplegic with no control over his bladder or bowel functions and an inability to care for himself in any meaningful way. He will require 24 hour care for the remainder of his life. After the payment of fees and costs, medical bills and other immediate needs, the remaining proceeds will be placed into a special needs trust set up exclusively for the claimant's use and benefit. Any funds remaining in the trust at the time of the claimant's death should revert back to the City of Miami.

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