

STORAGE NAME: h0237.GEAC.doc
DATE: April 6, 2007

Florida House of Representatives
Summary Claim Bill Report

Bill #: HB 237
Sponsor: Rep. Pickens
Companion Bill: SB 486 by Senator Oelrich
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

Claimants: Sheryl and George Allen

Respondent: City of Tallahassee

Amount Requested: \$775,000

Type of Claim: Equitable claim based on a consent agreement whereby the City agreed to pay \$775,000 in addition to the \$200,000 limit already paid.

Respondent's Position: Supports the claim. The city is self-insured and there is an existing case reserve to pay the claim.

Collateral Sources: While not legally considered collateral sources, Mrs. Allen's motor vehicle insurance has paid \$11,000 in PIP and Med Pay benefits; her health insurance has paid \$7,897.01 (which subrogation claim was settled for \$4,661.24); and she has received \$1300 in supplemental hospital benefits. Mrs. Allen currently receives \$780 per month in Social Security Disability payments.

Attorney's Fees: The claimant's attorney has submitted an affidavit certifying that attorney's fees are limited to 25% of the award in accordance with s. 768.28(5), F.S., and that lobbying fees of \$20,000 will be included within the 25% cap on attorney's fees. There are outstanding costs of \$1,696.40.

Prior Legislative History: HB 7 (2005) by Representative Pickens passed favorably out of the Claims Committee and Justice Council, but died on the Calendar. The claim was introduced by Senator Lynn as SB 26 (2005), and was never heard in any Senate Committee.

HB 107 (2006) was filed by Rep. Pickens, was considered favorably by the Claims Committee and died in the Justice Council. SB 48 (2006) was filed by Senator Lynn and was never heard in any Senate Committee.

- B. Procedural Summary:** The claimants filed a negligence suit against the City of Tallahassee in the Second Judicial Circuit in and for Leon County. Prior to trial the parties entered into a settlement agreement whereby the City agreed to pay Sheryl and George Allen a total of \$975,000, of which \$200,000 has already been paid pursuant to s. 768.28(5), F.S. The settlement includes costs and attorney's fees. The City Commission unanimously approved the settlement on April 28, 2004.
- C. Facts of Case:** On December 8, 2001, Sheryl Allen who was then 51 years old, was chaperoning her daughter's high school band and assisting band members to board their bus back to Keystone Heights after participation in Tallahassee's Winter Festival of Lights parade. As she was waiting in a downtown parking lot, a flatbed trailer owned and operated by the City and used in the parade to carry a float struck her, causing her to hit her head on the cement curb. As a result of the accident, Mrs. Allen suffered a traumatic brain injury which has left her permanently disabled. She is unable to drive, has memory deficiencies that prevent her from reading or remembering. She suffers from debilitating headaches, seizures, and has lost most of her sense of smell. Her medical bills totaled \$47,016.89, and experts estimate that the amount for her future medical and rehabilitative needs, as well as her estimated loss of future earnings is estimated to be \$816,076.

Both parties have been given the opportunity to provide further supplemental information and argument supporting or opposing the 2007 version of this claim. The claimant's attorney has provided a current status report indicating continuing adjustment of medications and resulting side effects, as well as the inability to afford attendant services. The claimant indicates that her daughter's college funds have been used for Ms. Allen's rehabilitation. The claimant's attorney also indicates that it has been necessary for part of the family businesses to be sold and that Mr. Allen, the primary care giver, has suffered health problems attributed to stress.

SM: _____ Date: _____
Stephanie O. Birtman