



STORAGE NAME: h1039.CVJS

DATE: 2/15/2012

**Florida House of Representatives
Summary Claim Bill Report**

Bill #: HB 1039; Relief/James Feurtado/Miami-Dade County

Sponsor: Representative Steube

Companion Bill: SB 42 by Senator Flores

Special Master: Tom Thomas

Basic Information:

Claimants:	James D. Feurtado, III
Respondent:	Miami-Dade County
Amount Requested:	\$1,150,000
Type of Claim:	Local equitable claim; result of a settlement agreement.
Respondent's Position:	Miami-Dade County agrees that settlement in this matter is appropriate and has agreed to remain neutral and not take any action adverse to the pursuit of a claim bill by Mr. Feurtado.
Collateral Sources:	None reported.
Attorney's/Lobbying Fees:	The claimant's attorney provided an affidavit stating that the attorney's fees will be capped at 25% of the total claim award in accordance with s. 768.28(8), F.S., and that the lobbyist's fees, if any, will be included in the 25% fee cap.
Prior Legislative History:	House Bill 1013 by Representative Ingram and Senate Bill 324 by Senator Flores were filed during the 2011 Legislative Session. The House Bill passed its only committee of reference (Civil Justice), passed the full House, but died in Messages. The Senate Bill passed its only committee of reference (Rules) but died on the Calendar.

Procedural Summary: Mr. Feurtado filed a lawsuit against Miami-Dade County for negligence in the 11th Judicial Circuit Court, in and for Miami-Dade County. Prior to trial, the parties reached a settlement agreement by mediation for \$1,250,000, of which \$100,000 has been paid by the County pursuant to the statutory cap on liability imposed by s. 768.28, F.S., and the remainder is conditioned upon the passage of a claim bill.

SPECIAL MASTER'S SUMMARY REPORT--

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Facts of Case: On February 12, 2009, James D. Feurtado, III, while jogging, was hit by a bus owned by Miami-Dade County at approximately 7:00 p.m. at the intersection of Pisano Avenue and University Drive in Coral Gables. The operator of the bus failed to stop at the stop sign before making a right-hand turn and collided into Mr. Feurtado, age 37 at the time. The bus operator was found guilty of violating s. 316.123(2)(a), F.S., for failing to obey the stop sign and was disciplined by Miami-Dade County for violations of safety policies and procedures. Mr. Feurtado, a pharmaceutical sales representative, was in excellent health at the time of the accident.

Mr. Feurtado was transported to the Jackson Memorial Hospital Ryder Trauma Center, where he was found to have sustained serious injuries to the skull and brain and a right maxillary sinus fracture. He underwent a craniotomy and placement of a drain. He later required further surgery to insert a shunt in order to reduce the brain swelling to a point where a cranioplasty was performed. Although the Claimant's physicians were able to replace a portion of the Claimant's skull approximately eight months after the accident (the skull was kept frozen), a visible defect is still present. Mr. Feurtado has permanent brain damage, unilateral deafness, vertigo, headaches, psychiatric sequelae, a shunt, scarring, and skull defect, and has sustained serious and permanent neurologic and orthopedic injuries.

While Mr. Feurtado has been able to return to work, he has great difficulty performing his duties and cannot do so as efficiently as he did prior to his brain injury. His ability to remember pertinent information has been impaired, and he often loses his train of thought when speaking with customers. His deafness in one ear makes it nearly impossible for him to successfully interact in social situations with physicians and other customers, which is an essential component of pharmaceutical sales.

The present value of Mr. Feurtado's economic damages from this incident is calculated to be \$1,823,468, which consists of his future and past lost earning capacity of \$508,083, anticipated future medical expenses of \$1,176,840, and past medical expenses of \$138,545. If the bill is passed, Miami-Dade Transit operating funds will be used to satisfy the claim.

Recommendation: I respectfully recommend that House Bill 1039 be reported **FAVORABLY**.

Tom Thomas, Special Master

Date: February 15, 2012

cc: Representative Steube, House Sponsor
Senator Flores, Senate Sponsor
Judge Edward T. Bauer, Senate Special Master