



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**

402 Senate Office Building

**Mailing Address**

404 South Monroe Street  
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DATE	COMM	ACTION
12/1/11	SM	Favorable
2/23/12	RC	Favorable

December 1, 2011

The Honorable Mike Haridopolos  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **SB 40 (2012)** – Senator Jim Norman  
Relief of Yvonne Morton

### SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR \$650,000 FROM GENERAL REVENUE BASED ON A COURT-APPROVED SETTLEMENT AGREEMENT BETWEEN THE CLAIMANT, YVONNE MORTON, AND THE DEPARTMENT OF HEALTH FOR THE PERMANENT INJURIES SUFFERED BY MS. MORTON AS A RESULT OF AN AUTOMOBILE COLLISION CAUSED BY A DEPARTMENT EMPLOYEE.

#### FINDINGS OF FACT:

On January 2, 2007, Yvonne Morton, then 85 years old, was driving home from a gym in Tarpon Springs when William Herbert, a Department of Health pharmacy inspector, pulled out from a side street in front of Ms. Morton's car. Herbert failed to yield after stopping at a stop sign. Ms. Morton was driving at the posted speed limit and was unable to avoid the collision that occurred. The collision totaled both vehicles.

Ms. Morton was taken to Helen Ellis Hospital, and then airlifted to the trauma unit at Bayfront Medical Center in St. Petersburg. She was diagnosed with spine and spinal cord injuries, as well as multiple rib fractures and a collapsed right lung. Treatment of the spinal injury required surgical installation of metal hardware, including screws, rods, and a crosslink at her neck. She needed breathing machines for a time because of her collapsed lung. She suffered from

quadriplegia, an inability to move her arms and her legs, but eventually was able to regain some strength and mobility in her arms. However, since the accident, Ms. Morton has been wheelchair-bound, as well as incontinent.

Ms. Morton was moved to ManorCare in Palm Harbor for skilled nursing care. Within a week, however, she had trouble breathing and other complications and had to be taken to Mease Countryside Hospital for eleven days. She later moved to Orchard Ridge. In April 2007, she was hospitalized again for a few days due to blood clots caused by her immobility. In August 2007, she moved from the nursing home to an assisted living facility called La Casa Grande in New Port Richey, where she still lives, requiring assistance with many day-to-day activities. Her average monthly expenses are \$3,532.

Prior to the accident, Ms. Morton led an independent and active lifestyle. She lived alone and was able to completely care for herself. She would regularly travel to visit her family. Two or three times per week she drove to a health club where she was both a participant and an instructor. Her neighbors described her as an inspiration because she was fit and active, with "the energy level of a 30-year old", and always staying busy. Ms. Morton has lost her physical fitness and independence and is prone to depression since the accident.

Ms. Morton's medical expenses were approximately \$570,000. Medicare and private insurance company liens apply to these expenses.

Ms. Morton's automobile insurance paid \$10,000 toward medical costs and \$100,000 for uninsured/underinsured motorist coverage. After deducting attorney's fees and costs, she received \$65,756, which has been expended on her medical expenses, medical supplies, and care.

#### LITIGATION HISTORY:

A lawsuit was filed in September 2007 in the circuit court for Pinellas County. In March 2010, the case was dismissed when the parties entered into a settlement agreement in which the Department of Health agreed to pay the \$100,000 sovereignty immunity limit and to not oppose a claim bill for an additional \$650,000.

After deducting attorney's fees and costs and paying medical liens totaling about \$67,000, Ms. Morton received \$1,871 from the \$100,000 sovereign immunity limit paid by the Department of Health.

CONCLUSIONS OF LAW:

The claim bill hearing was a de novo proceeding for the purpose of determining, based on the evidence presented to the Special Master, whether the Department of Health is liable in negligence for the injuries Ms. Morton suffered, and, if so, whether the amount of the claim is reasonable.

Herbert had a duty to operate his vehicle with reasonable care to avoid injury to other motorists, including the specific duty to yield to vehicles before proceeding from a stop sign. His failure to do so was the direct and proximate cause of the collision that injured Ms. Morton. Herbert was an employee of Department of Health, acting in the course and scope of his employment at the time of the collision. His negligence is therefore attributable to the Department.

The amount of the claim is fair and reasonable.

ATTORNEYS FEES:

In compliance with s. 768.28(8), F.S., Yvonne Morton's attorneys will limit their fees to 25 percent of any amount awarded by the Legislature.

RECOMMENDATIONS:

For the reasons set forth above, I recommend that the Senate Bill 40 (2012) be reported FAVORABLY.

Respectfully submitted,

Bram D. E. Canter  
Senate Special Master

cc: Senator Jim Norman  
Debbie Brown, Interim Secretary of the Senate  
Counsel of Record