



STORAGE NAME: h1415.SCCB

DATE: 4/9/2013

Florida House of Representatives Summary Claim Bill Report

Bill #: HB 1415; Relief/Miller/City of Hollywood

Sponsor: Representative Gibbons

Companion Bill: SB 44 by Senator Sobel

Special Master: Tom Thomas

Basic Information:

Claimants: Ronald Miller

Respondent: City of Hollywood

Amount Requested: \$100,000

Type of Claim: Local equitable claim; result of a settlement agreement.

Respondent's Position: Agrees that the settlement in this matter and the passage of this claim bill are appropriate.

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.

Notwithstanding the attorney's affidavit, the bill specifically provides that the total amount paid for attorney fees, lobbying fees, costs, and similar expenses relating to the claim may not exceed 25% of the total awarded under the bill.

Prior Legislative History: House Bill 191 by Representative Gibson and Senate Bill 60 by Senator Rich were filed during the 2009 Legislative Session. Neither of these bills received a hearing.

House Bill 519 by Representative Gibson and Senate Bill 44 by Senator Gelber were filed during the 2010 Legislative Session. Neither of these bills received a hearing.

House Bill 569 by Representative Cruz and Senate Bill 64 by Senator Siplin were filed during the 2011 Legislative

Session. The House Bill passed its only committee of reference (Civil Justice) but died on the Calendar. The Senate Bill was never heard in any Committee.

House Bill 43 by Representative Jenne and Senate Bill 8 by Senator Sobel were filed during the 2012 Legislative Session. The House Bill passed its committees of reference (Civil Justice and Judiciary), passed the full House, but died in the Senate. The Senate Bill was never heard in any Committee.

Procedural Summary: In January 2005, Mr. Miller filed suit in the Circuit Court of the 17th Judicial Circuit in and for Broward County. After trial, the jury found in favor of Ronald Miller and a final judgment was entered in the amount of \$1,130,731.89, which included approximately \$75,000 for past medical bills and \$415,000 for future medical expenses, \$200,000 for past pain and suffering, and \$500,000 for future pain and suffering. A cost Judgment was entered in favor of Mr. Miller for \$17,257.82. The City of Hollywood appealed and the Fourth District Court of Appeal affirmed the judgment per curiam. The City has paid \$100,000 to Ronald Miller under the statutory limits of liability set forth in s. 768.28, F.S. The parties have now settled the matter and the City has agreed to pay Mr. Miller an additional \$100,000 to resolve this claim.

Facts of Case: This case arises out of a motor vehicle accident that occurred on July 30, 2002. Mr. Miller was traveling northbound in his pickup truck on North Federal Highway, just south of Sheridan Street in the City of Hollywood, Florida. At approximately 5:30 p.m., Mr. Miller entered the center lane, planning on turning left at Sherman Street, the westbound street immediately south of Sheridan Street, traveling at approximately 15 miles-per-hour. At the same time, Robert Mettler, an employee of the City of Hollywood driving a City utilities truck, was exiting a Burger King Restaurant immediately to the right (on the east side of North Federal Highway). Stopped northbound traffic on North Federal Highway parted to allow Mr. Mettler to drive across the two northbound lanes into the center lane. As Mr. Mettler entered the center lane, he turned left in order to merge onto southbound North Federal Highway where he collided head-on into Mr. Miller. Mr. Miller was wearing his seatbelt and did not seek medical treatment at the scene of the accident. Though belted, Mr. Miller later testified that he banged his knees on the dashboard of his truck as a result of the crash impact. Later that night, Mr. Miller went to the emergency room to seek medical treatment.

In March of 2003, Dr. Steven Wender, M.D., performed extensive knee surgery on Mr. Miller (a right knee partial medial and lateral meniscectomy and tricompartmental chondroplasty, and a left knee lateral meniscectomy and chondroplasty of the medial compartment and lateral compartmental and patella with synovectomy). Mr. Miller developed post-operative complications including pneumonia and deep vein thrombosis. Dr. Wender testified that Mr. Miller will need to have at least one bilateral knee replacement surgery in the future. Mr. Miller did have knee surgeries prior to the accident. The City's expert, Dr. Phillip Averbach, testified at trial that Mr. Miller did not sustain any permanent orthopedic or neurological injuries related to the accident. Dr. Averbach also testified that he believed at least 90 percent of Mr. Miller's current complaints and injuries were pre-existing to the accident. While there is testimony on both sides of how extensively Mr. Miller was injured as a result of the accident, the parties have agreed to settle the matter.

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Recommendation: I respectfully recommend that House Bill 1415 be reported **FAVORABLY**.

Tom Thomas, Special Master

Date: April 8, 2013

cc: Representative Gibbons, House Sponsor
Senator Sobel, Senate Sponsor