



STORAGE NAME: h3523.CJS

DATE: 4/3/2015

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

Bill #: HB 3523; Relief/Mark T. Sawicki & Sharon L. Sawicki/City of Tallahassee
Sponsor: Beshears
Companion Bill: SB 54 by Montford
Special Master: Parker Aziz

Basic Information:

Claimants:	Mark T. Sawicki and Sharon L. Sawicki
Respondent:	City of Tallahassee
Amount Requested:	\$700,000.00
Type of Claim:	Local equitable claim; Result of a Settlement Agreement
Respondent's Position:	City of Tallahassee will not oppose, obstruct or delay the passage of the claim bill or direct its representatives, agents or lobbyists to oppose, obstruct or delay the passage of said claim bill in the amount of \$700,000.00.
Collateral Sources:	None reported.
Attorney's/Lobbying Fees:	<p>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.</p> <p>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.</p>
Prior Legislative History:	<p>House Bill 3501 by Representative Beshears and Senate Bill 14 by Senator Montford were filed during the 2014 Legislative Session. Neither bill was ever heard in any committee.</p> <p>House Bill 243 by Representative Beshears and Senate Bill 12 by Senator Montford were filed during the 2013 Legislative Session. Neither bill was ever heard in any committee.</p>

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Procedural Summary: On June 7, 2010, Mark and Sharon Sawicki filed suit against the City of Tallahassee, [Case No. 2010-CA-1984], in the Circuit Court of the Second Judicial Circuit, in and for Leon County, Florida. Prior to trial, the case was settled in mediation in the amount of \$900,000.00. Pursuant to the settlement, the City paid the sovereign immunity limit of \$200,000.00 and the parties agreed that the plaintiff could seek an additional \$700,000.00 through an uncontested claim bill.

Facts of Case: On October 2, 2009, Mark Sawicki, 51 years old, was riding his bicycle on his way to work at Florida State University. Mr. Sawicki stopped at a red-light at the intersection of Call Street and North Monroe Street. A solid waste collection truck, owned by the City and operated by Paul Hudson, a City employee, made a right hand turn. During the process of the turn, the truck ran over Mr. Sawicki. The tire of the truck crossed over Mr. Sawicki's midsection causing significant injuries. After feeling his truck run over Mr. Sawicki, Mr. Hudson immediately stopped his truck. Hudson called 911 and Mr. Sawicki's wife Sharon. Mr. Sawicki was transferred via ambulance to Tallahassee Memorial Hospital ("TMH"). Mr. Sawicki was hospitalized for 32 days following the accident, followed by six weeks in a wheelchair, followed by four months on a walker, followed by four months walking with a cane. Sawicki sustained multiple fractures, including fractures to his right and left pelvic region, right femur, right acetabulum pubic ramus, and sacrum. Sawicki also sustained a torn urethra, multiple abrasions and lacerations to his right thigh and upper and lower extremities, and neurological damage to his right lower extremities resulting in a "dropped foot".

On October 12, 2009, an open reduction internal fixation was performed on Sawicki's pelvic and hip region, which required the placement of metal plates and screws to secure the structure of the bones. At this time the doctors at TMH attempted to repair the damage to his urethra, but were unsuccessful, requiring them to leave in Foley and super pubic catheters. Mr. Sawicki had six MRSA infections during the nine months of catheterization. On October 16, 2009, Sawicki was transferred to the TMH rehabilitation center for two and half weeks of inpatient physical therapy. Sawicki continued with outpatient physical therapy for several more months. He progressed from walking with a walker, to a cane, and eventually being able to walk without assistance. In May, 2010, Mr. Sawicki received surgery by Dr. Ordorica in Tampa who repaired the damage to his urethra.

Mr. Sawicki's medical expenses total \$251,315.29. Mr. Sawicki's claim also includes damages for lost wages, loss of consortium with his wife and family, and pain and suffering damages. Mr. Sawicki has received \$122,880.99 of the \$200,000.00 paid by the City, with payments to his attorneys' of \$57,500.00 and \$6,733.34 to Capitol Health Plan ("CHP"). CHP had a medical lien of \$101,018.06 which has been reduced to \$30,300.00. CHP is still owed \$23,566.66 and will be paid upon approval of this claims bill.

Mr. Sawicki's preliminary life care plan indicates that he has recovered well from his injuries. Mr. Sawicki will likely continue to have limited follow-up physician care, including an annual appointment with his urologist, David Burday, M.D. and an annual visit with an orthopedist. Mr. Sawicki will likely require continual physical therapy. His life care plan estimates 16 visits a year. Dr. Hutchinson indicates that it is probable that Mr. Sawicki will require a total hip replacement between two and twenty years. This procedure is estimated to cost roughly \$62,000.00. Mr. Sawicki has returned to his job as an engineer at Florida State University. During his recovery Mr. Sawicki used up his 710 hours of sick and leave time. His life care plan indicates that his work life may be shortened by his injuries from retiring at 66 to 63.

The City of Tallahassee supports this claim bill in the amount of \$700,000.00. The City is self-insured and there are no applicable insurance policies. The funds to pay this claim bill will be from the City's self-insurance fund. The claim amount is fully funded and reserved.

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Recommendation: I respectfully recommend that House Bill 3523 be reported **FAVORABLY**.

Parker Aziz, Special Master

Date: April 3, 2015

cc: Representative Beshears, House Sponsor
Senator Montford, Senate Sponsor
Cindy Brown, Senate Special Master