

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice & Claims
2 Subcommittee

3 Representative Cortes, B. offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. The facts stated in the preamble to this act
8 are found and declared to be true.

9 Section 2. Orange County is authorized and directed to
10 appropriate from funds of the county not otherwise appropriated
11 and to draw a warrant in the sum of \$2,813,536.09 payable to
12 Robert Allan Smith as compensation for injuries and damages
13 sustained as a result of the negligence of an employee of Orange
14 County.

15 Section 3. The governmental entity responsible for payment
16 of the warrant shall pay to the Florida Agency for Health Care

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17 Administration the amount due under section 409.910, Florida
18 Statutes, prior to disbursing any funds to the claimant. The
19 amount due to the agency shall be equal to all unreimbursed
20 medical payments paid by Medicaid up to the date upon which this
21 bill becomes law.

22 Section 4. The amount paid pursuant to s. 768.28, Florida
23 Statutes, and the amount awarded under this act are intended to
24 provide the sole compensation for all present and future claims
25 arising out of the factual situation described in the preamble
26 to this act which resulted in the injuries and damages sustained
27 by Robert Allan Smith. Of the amount awarded under this act, the
28 total amount paid for attorney fees may not exceed \$562,707.218,
29 the total amount paid for lobbying fees may not exceed
30 \$140,676.80, and the total amount paid for costs and other
31 similar expenses relating to this claim may not exceed
32 \$70,351.88.

33 Section 5. This act shall take effect upon becoming a law.
34

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36 **T I T L E A M E N D M E N T**

37 Remove everything before the enacting clause and insert:
38 An act for the relief of Robert Allan Smith by Orange
39 County; providing for an appropriation to compensate
40 him for injuries sustained as a result of the
41 negligence of an employee of Orange County; providing

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42 for repayment of Medicaid liens; providing a
43 limitation on the payment of fees and costs; providing
44 an effective date.

45 WHEREAS, Robert Allan Smith was involved in a motor vehicle
46 accident on DePauw Avenue and Orlando Street in Orlando, Orange
47 County, on September 7, 2006, and

48 WHEREAS, Mr. Smith was operating his motorcycle within the
49 25 mph speed limit, with headlights on, at approximately 1:43
50 p.m., in clear, dry weather, headed north on DePauw Avenue, the
51 quiet residential street he lived on and within 300 feet of his
52 home, and

53 WHEREAS, Mr. Smith approached the intersection of Orlando
54 Street, which is governed by a stop sign, and a work van headed
55 west on Orlando Avenue, owned by Orange County and driven by
56 Orange County employee Lynn Lawrence Godden, negligently pulled
57 from said stop sign directly into Mr. Smith's path and caused a
58 collision with Mr. Smith, and

59 WHEREAS, Mr. Smith saw the driver of the van visibly slow
60 down upon approaching the stop sign and look at Mr. Smith as he
61 approached on his motorcycle, but the driver of the van drove
62 through the stop sign into Mr. Smith's path, and Mr. Smith had
63 too little time and distance to prevent a collision, and

64 WHEREAS, the front of the Orange County van struck the
65 right side of Mr. Smith, causing severe and life-threatening
66 injuries, including traumatic amputation of his right leg above

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67 the knee, a badly fractured lower left leg with internal
68 fixation, and a broken pelvis and sacrum with internal fixation,
69 and Mr. Smith required a laparotomy to repair damage to his
70 rectum and internal organs, and

71 WHEREAS, the Orange County employee testified he stopped at
72 the stop sign and saw, to his left, the motorcycle pull out of a
73 driveway but erroneously thought it was heading in the other
74 direction away from him, though there was no evidence to support
75 this claim, so he then looked to his right and entered the
76 intersection without looking back to his left, and

77 WHEREAS, the Orange County employee violated Mr. Smith's
78 right-of-way and was issued a citation by the Orlando Police
79 Department for failure to yield from a stop sign, and

80 WHEREAS, before the civil jury trial, Robert Allan Smith's
81 past hospitalization, medical, and rehabilitation expenses
82 exceeded \$550,000 and his past lost earnings were in excess of
83 \$137,000, and

84 WHEREAS, the jury determined that Mr. Smith's future
85 medical expenses will total \$2,376,000 over 40 years, and past
86 medical expenses and lost wages totaled \$688,807.37, and

87 WHEREAS, Robert Allan Smith was awarded \$1,749,978 in
88 damages for past and future pain and suffering, for a total
89 verdict award of \$4,814,785.37, and

90 WHEREAS, after reduction for comparative negligence and
91 setoffs to allow for bill reductions by Medicaid and the

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 6509 (2017)

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92 | Veteran's Administration, a judgment was entered in Orange
93 | County on November 27, 2012, against Orange County and in favor
94 | of Robert Allan Smith in the amount of \$2,913,536.09, plus
95 | taxable costs, and

96 | WHEREAS, after entry of the judgment, Orange County has
97 | made partial payment to Robert Allan Smith in the amount of
98 | \$100,000, but the remainder of the judgment remains wholly
99 | unsatisfied, pending passage of this act into law, NOW,

100 | THEREFORE,

101 |