



**THE FLORIDA SENATE**  
**SPECIAL MASTER ON CLAIM BILLS**

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October 5, 1999

<u>SPECIAL MASTER'S FINAL REPORT</u>	<u>DATE</u>	<u>COMM</u>	<u>ACTION</u>
The Honorable Toni Jennings President, The Florida Senate Suite 409, The Capitol Tallahassee, Florida 32399-1100	11/19/99	SM CJ FR	Unfavorable

Re: SB 24 - Senator Walter "Skip" Campbell  
Relief of Oscar Ortiz

THIS IS AN EXCESS JUDGMENT CLAIM FOR \$13,574,660, BASED ON A JURY VERDICT AGAINST THE CITY OF MIAMI TO COMPENSATE OSCAR ORTIZ FOR DAMAGES MR. ORTIZ SUSTAINED AS A RESULT OF A CITY POLICE OFFICER'S NEGLIGENCE IN A CAR CRASH. THIS BILL DIRECTS THE CITY TO PAY THE CLAIM FROM ITS OWN FUNDS.

FINDINGS OF FACT:

For the reasons discussed below, no Special Master hearing was conducted on this claim. Consequently, the following facts are taken from the Senate bill and are provided solely as background information.

On the night of December 6, 1996, Oscar Ortiz was a passenger in a car driven by his friend, Marcos Valdez. At the intersection of Northeast 1st Avenue and 14th Street, a City of Miami Police Officer ran a red light and crashed into Mr. Valdez's car.

A police department crash review board conducted an internal investigation and unanimously found that the officer's actions were negligent and the cause of the crash.

Sadly, as a result of the crash, Mr. Ortiz was rendered a permanent quadriplegic. He is unable to care for himself

and will require 24-hour-a-day custodial and nursing care.

On August 4, 1997, a jury returned a verdict against the City of Miami in the amount of \$15,718,000, allocated as follows: \$718,000 for past lost wages and past hospital and medical care, \$12 million for future medical custodial and hospital care, \$1 million in past intangible damages, and \$2 million in future intangible damages. The court reduced the total amount of the award by 13 percent because the jury found Mr. Ortiz to be comparatively negligent based on his failure to wear a seat belt. A final judgment for \$13,674,660 was entered on June 15, 1999.

The City of Miami has paid Mr. Ortiz \$100,000, the maximum allowable under section 768.28, Florida Statutes. This claim bill is for the excess judgment: \$13,574,660.

CONCLUSIONS OF LAW:

Senate Rule 4.81(f), states:

The hearing and consideration of a claim, any element of which is pending in litigation, shall be held in abeyance until all judicial activity thereon, **including any appellate proceedings**, shall have come to rest. (Emphasis supplied.)

The defendant, City of Miami, has filed a Notice of Appeal. Pursuant to Rule 4.81(f), this claim is held in abeyance while the appeal is pending.

The parties were notified that the appeal would have to be disposed of before a Special Master's hearing could be held. As of this date, the appeal remains pending in the Third District Court of Appeal. Consequently, the Special Master is not able to hold a timely hearing on this claim.

ATTORNEYS FEES:

Not applicable.

RECOMMENDATIONS:

Because each claimant carries the burden of proof and the burden of going forward at a Special Master's hearing with a preponderance of evidence to support his or her claim; and because Mr. Ortiz has been unable to do so in light of the City of Miami's pending judicial appeal of the Final Judgment that underlies this claim, associated with the tolling requirement of Senate Rule 4.81; and without expressing any opinion or conclusions on the merits of Mr. Ortiz's claim as the merits may be made to appear at a Special Master's hearing, I recommend that SB 24 (2000) be reported UNFAVORABLY.

Respectfully submitted,

Abel Gomez  
Senate Special Master

cc: Senator Walter "Skip" Campbell  
Faye Blanton, Secretary of the Senate  
Stephanie Birtman, House Special Master