

STORAGE NAME: h1249.ju
DATE: March 12, 2003

Florida House of Representatives
Subcommittee on Claims
Summary Claim Bill Report

Bill #: HB 1249
Sponsor: Rep. Mayfield
Companion Bill: SB 44 by Sen. Posey
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

1. **Claimants:** Clay Haywood and Tatiana Haywood, aged 11 and 9 at the time of the accident.
2. **Respondent:** Indian River County School Board
3. **Amount Requested:** Total settlement of \$225,000 to be paid in 3 annual installments of \$75,000, inclusive of attorney's fees and costs.
4. **Type of Claim:** Settlement agreement.
5. **Respondent's Position:** Admitted liability; does not oppose settlement.
6. **Collateral Sources:** Clay Haywood has an outstanding lien from Blue Cross Blue Shield for \$23,575.77; a lien for 9,088.48; has received \$8000 in benefits from an auto policy, and \$450 from a school board insurance policy. Tatiana Haywood has an outstanding lien from Blue Cross Blue Shield for \$2,254.10 and received \$979 in benefits from a school board insurance policy.
7. **Prior Legislative History:** None.
8. **Attorney's Fees and Costs:** Attorney's fees are limited to 25% of recovery pursuant to s.768.28, F.S. Costs total \$22,961.94, of which \$13,500 is attributable solely to lobbying fees.

B. Procedural Summary: Michelle O'Halloran as mother and natural guardian of Clay and Tatiana Haywood, filed suit against the Indian River County School Board for bodily injuries, pain and suffering, disability, disfigurement, mental anguish, loss of capacity, and past, permanent, and continuing medical expenses associated with the injuries. The School Board conceded liability; thereafter the parties entered into a settlement agreement (prior to trial) wherein the School Board agreed to pay a total of \$225,000 (\$200,000 for Clay and \$25,000 for Tatiana) in 3 annual installments of \$75,000 each. The settlement agreement was approved by the court, which ordered that payments be made directly into a restricted guardianship account.

C. Facts of Case: On January 25, 1999, Clay and Tatiana Haywood were passengers on an Indian River County School bus traveling west bound on 45th Street, approaching 66th Avenue. At the same time, a 1996 tractor-trailer was traveling southbound on 66th Avenue, approaching the intersection. The bus driver failed to stop at the stop sign and collided with the tractor-trailer, killing

the tractor-trailer driver (see Smith/Hughes/Truitt claim bill) and injuring 14 other children, one of whom died (see 2002-320, LOF, Dixon claim). Tatiana Haywood suffered severe lacerations on her face and forearm and has been treated by a plastic surgeon. She continues to suffer psychological and emotional affects from the accident. Tatiana's medical bills exceed \$3,908.75.

Clay Haywood was rendered unconscious, fractured his left femur, an orbital injury and several dental injuries, and it was reported that he suffered a 20% physical impairment to his body. Clay's medical expenses exceed \$88,347.07 to date.

SM: _____
Stephanie O. Birtman

Date: _____