

STORAGE NAME: h0799.ju
DATE: March 7, 2003

Florida House of Representatives
Subcommittee on Claims
Summary Claim Bill Report

Bill #: HB 799
Sponsor: Rep. Poppell
Companion Bill: SB 34 by Senator Posey
Special Master: Stephanie Birtman, Esq.

A. Basic Information:

1. **Claimants:** Howard & Donna Evarts (Note: This claim is factually similar to HB 797, Hammer v. Brevard County which involves a passenger in the Evarts' van. Mr. Hammer executed a settlement agreement with Brevard County that is identical to the Evarts' agreement.)
2. **Respondent:** Brevard County
3. **Amount Requested:** \$75,705, which includes costs and attorney's fees
4. **Type of Claim:** Equitable, based on a settlement agreement
5. **Respondent's Position:** Supports the claim bill.
6. **Collateral Sources:** \$10,000 from PIP (with a \$2,000 deductible)
7. **Prior Legislative History:** None.
8. **Attorney's Fees and Costs:** Limited to 25% of the settlement amount pursuant to F.S. 768.28. Costs were reported to be \$920.67.

B. Procedural Summary: The claimants filed a complaint against Brevard County to compensate Howard Evarts for his injuries and loss of earnings, and Donna Evarts for loss of consortium due to the negligence of an employee of the County. Prior to trial, the parties signed a settlement agreement wherein the County agreed to pay the Evarts a total of \$125,000, of which \$49,295 has already been paid. A consent judgment and order was subsequently entered. Donna Evarts claim for loss of consortium was resolved by the settlement agreement and is not a part of this claim bill.

C. Facts of Case: On June 18, 1998 the claimant was driving his van westbound on Hibiscus Blvd. in Melbourne, Florida. As he slowed down to approach a construction area, a county bus rear ended the claimant's vehicle at an estimated speed of 45 mph, leaving 76 feet of skid marks, and causing the claimant's van to hit the truck in front of him. As a result of the accident Mr. Evarts, a 38 year old self-employed carpet installer (who was then without health insurance) suffered a concussion, decreased hearing in his left ear, several herniated and bulging discs, thoracic spine pain and depression. He missed 5 weeks of work, and is currently working at a restricted level.

SM: _____
Stephanie O. Birtman

Date: _____