

1-1 By: Jackson S.C.R. No. 65
1-2 (In the Senate - Filed April 25, 2007; April 26, 2007, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 May 10, 2007, reported favorably by the following vote: Yeas 4,
1-5 Nays 0; May 10, 2007, sent to printer.)

1-6 SENATE CONCURRENT RESOLUTION

1-7 WHEREAS, Betty Bardwell alleges that:

1-8 (1) she was employed by the Rebecca Sealy Hospital,
1-9 part of The University of Texas Medical Branch at Galveston;

1-10 (2) on or about May 13, 2003, she slipped on a liquid
1-11 substance on the floor of the employee break room at the Rebecca
1-12 Sealy Hospital;

1-13 (3) as a result of the fall, she sustained injuries to
1-14 her right wrist that required surgery;

1-15 (4) there were no warning signs that indicated
1-16 housekeeping had mopped the floor;

1-17 (5) she reported the incident to David H. McLaren of
1-18 The University of Texas Medical Branch at Galveston, and that his
1-19 subsequent report to The University of Texas System Workers'
1-20 Compensation Insurance Office was "totally incorrect";

1-21 (6) David McLaren's report indicated that Betty
1-22 Bardwell knowingly walked on a wet floor despite warning signs;

1-23 (7) her reputation has been damaged as a result of the
1-24 inaccurate report;

1-25 (8) the Texas Workers' Compensation Commission
1-26 conducted a hearing on January 5, 2004, to determine the validity of
1-27 her claims;

1-28 (9) the decision was favorable to Betty Bardwell, and
1-29 the case is on appeal;

1-30 (10) additionally, Betty Bardwell signed an
1-31 "Authorization for Release of Information" addressed to Dr. Emmie
1-32 Ko, the surgeon who performed the wrist surgery, on which she
1-33 indicated that only medical records related to the injuries
1-34 sustained in the fall should be released;

1-35 (11) during the Texas Workers' Compensation Commission
1-36 hearing, she discovered that Bradley D. McClellan, assistant
1-37 attorney general for the State of Texas, had access to her entire
1-38 medical file;

1-39 (12) The University of Texas Medical Branch at
1-40 Galveston released her entire medical file to Rydman Record
1-41 Retrieval, a company that was contracted by the attorney general's
1-42 office to obtain her medical records;

1-43 (13) the original "Authorization for Release of
1-44 Information" was altered by either the attorney general's office,
1-45 or by Rydman Record Retrieval, and that Dr. Emmie Ko's name had been
1-46 removed from the request;

1-47 (14) the request as submitted by Rydman Record
1-48 Retrieval was not compliant with the Health Insurance Portability
1-49 and Accountability Act of 1996 (HIPAA);

1-50 (15) Bradley D. McClellan is ultimately responsible
1-51 for the altered release form; and

1-52 (16) Betty Bardwell is entitled to exemplary damages
1-53 in the amount of \$500,000; now, therefore, be it

1-54 RESOLVED by the Legislature of the State of Texas, That Betty
1-55 Bardwell is granted permission to sue the State of Texas, The
1-56 University of Texas Medical Branch at Galveston, and the Office of
1-57 the Attorney General subject to Chapter 107, Civil Practice and
1-58 Remedies Code; and, be it further

1-59 RESOLVED, That the president of The University of Texas
1-60 Medical Branch at Galveston and the attorney general be served
1-61 process as provided by Subdivision (3), Subsection (a), Section
1-62 107.002, Civil Practice and Remedies Code.

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