

1-1 By: Jackson S.C.R. No. 33  
1-2 (In the Senate - Filed February 24, 2009; March 13, 2009,  
1-3 read first time and referred to Committee on Jurisprudence;  
1-4 March 30, 2009, reported favorably by the following vote: Yeas 4,  
1-5 Nays 2; March 30, 2009, 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 Company 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;

1-29 (10) additionally, Betty Bardwell signed an  
1-30 "Authorization for Release of Information" addressed to Dr. Emmie  
1-31 Ko, the surgeon who performed the wrist surgery, on which she  
1-32 indicated that only medical records related to the injuries  
1-33 sustained in the fall should be released;

1-34 (11) during the Texas Workers' Compensation Commission  
1-35 hearing, she discovered that Bradley D. McClellan, assistant  
1-36 attorney general for the State of Texas, had access to her entire  
1-37 medical file;

1-38 (12) The University of Texas Medical Branch at  
1-39 Galveston released her entire medical file to Rydman Record  
1-40 Retrieval, a company that was contracted by the attorney general's  
1-41 office to obtain her medical records;

1-42 (13) the original "Authorization for Release of  
1-43 Information" was altered by either the attorney general's office or  
1-44 Rydman Record Retrieval, and that Dr. Emmie Ko's name had been  
1-45 removed from the request;

1-46 (14) the request as submitted by Rydman Record  
1-47 Retrieval was not compliant with the Health Insurance Portability  
1-48 and Accountability Act of 1996 (HIPAA);

1-49 (15) Bradley D. McClellan is ultimately responsible  
1-50 for the altered release form; and

1-51 (16) Betty Bardwell is entitled to exemplary damages  
1-52 in the amount of \$500,000; now, therefore, be it

1-53 RESOLVED by the Legislature of the State of Texas, That Betty  
1-54 Bardwell is granted permission to sue the State of Texas, The  
1-55 University of Texas Medical Branch at Galveston, and the Office of  
1-56 the Attorney General subject to Chapter 107, Civil Practice and  
1-57 Remedies Code; and, be it further

1-58 RESOLVED, That the president of The University of Texas  
1-59 Medical Branch at Galveston and the attorney general be served  
1-60 process as provided by Subdivision (3), Subsection (a), Section  
1-61 107.002, Civil Practice and Remedies Code.

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