

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BERTHONY ALDOPHE and ARMANTE DUPUY,)
as parents and natural guardians of)
MIXMASE FLORENCE ALDOPHE, a)
deceased minor)

Petitioners,)

vs.)

Case No. 99-2901N)

FLORIDA BIRTH-RELATED NEUROLOGICAL)
INJURY COMPENSATION ASSOCIATION,)

Respondent,)

and)

TIMOTHY D. O'LEARY, M.D.; W. ERIC)
FROHN, M.D.; and ORLANDO REGIONAL)
HEALTHCARE SYSTEM, INC.,)

Intervenors.)

FINAL ORDER APPROVING STIPULATION AND JOINT PETITION FOR
COMPENSATION OF CLAIM ARISING OUT OF FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY PURSUANT TO CHAPTER 766, FLORIDA STATUTES

This cause came on to be heard pursuant to Section 766.304, Florida Statutes, upon the Stipulation and Joint Petition of Petitioners and Respondent, filed December 26, 2000, for the entry of an order approving the resolution of a formal claim for compensation benefits heretofore filed in this cause in accordance with the provisions of Chapter 766, Florida Statutes, and a resolution of the exclusive remedy otherwise available as outlined in Chapter 766, Florida Statutes. By letter of

January 11, 2001, filed January 16, 2001, Intervenors advised that they have no objection to the approval of the Stipulation and the acceptance of this claim as compensable.

By the terms of their Stipulation, the parties have agreed that Petitioners, Berthony Aldophe and Armante Dupuy, are the parents and natural guardians of Mixmase Florence Aldophe (Mixmase), a deceased minor; that Mixmase was born a live infant on January 18, 1996, at Orlando Regional Medical Center, Orange County, Florida; and that her birth weight was in excess of 2,500 grams. The parties have further agreed that the physician delivering obstetrical services during the birth of Mixmase was Timothy O'Leary, M.D., who was, at all times material hereto, a participating physician in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by Section 766.302(7), Florida Statutes. Finally, by their Stipulation, the parties have agreed that Mixmase suffered a "birth-related neurological injury," as that term is defined by Section 766.302(2), Florida Statutes.

After due consideration of the interests of all parties, and being otherwise fully advised in the premises, it is

ORDERED that:

1. The Stipulation of the parties, filed of record December 26, 2000, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners, Berthony Aldophe and Armante Dupuy, as the parents and natural guardians of Mixmase Florence Aldophe, a deceased minor, are accorded a lump sum award of One hundred thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b), Florida Statutes.

3. Upon payment of the award of One hundred thousand dollars (\$100,000.00) to the parents (claimants), payment of past expenses, and payment of attorney's fees and other expenses incurred in connection with the filing of the claim which, if not agreed to between the parties, will be assessed at a later date, the claims of Petitioners (claimants) shall be deemed fully satisfied and extinguished.

4. The Division of Administrative Hearings retains jurisdiction over this matter to resolve any dispute as to the interpretation of any provision of the parties' Stipulation and to resolve any disputes, should they arise, regarding the parties' compliance with the terms of such Stipulation.

DONE AND ORDERED this 22nd day of January, 2001, in
Tallahassee, Leon County, Florida.

WILLIAM J. KENDRICK
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 22nd day of January, 2001.

COPIES FURNISHED:
(By certified mail)

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this final order is entitled to judicial review pursuant to Sections 120.68 and 766.311, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the appropriate District Court of Appeal. See Section 120.68(2), Florida Statutes, and Florida Birth-Related Neurological Injury Compensation Association v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992). The Notice of Appeal must be filed within 30 days of rendition of the order to be reviewed.