

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ANGEL D. WILLIAMS, as parent and)
natural guardian of DUSTIN LANCE)
WILLIAMS, a minor,)
)
Petitioner,)
)
vs.) Case No. 01-0993N
)
FLORIDA BIRTH-RELATED NEUROLOGICAL)
INJURY COMPENSATION ASSOCIATION,)
)
Respondent.)
_____)

FINAL ORDER

Pursuant to notice, the Division of Administrative Hearings,
by Administrative Law Judge William J. Kendrick, held a final
hearing in the above-styled case on April 14, 2003, in
Tallahassee, Florida.

APPEARANCES

For Petitioner: Ken Davis, Esquire
Post Office Box 37190
Tallahassee, Florida 32315

For Respondent: B. Forest Hamilton, Esquire
Rumberger, Kirk & Caldwell
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STATEMENT OF THE ISSUES

At issue is whether Dustin Lance Williams, a minor, suffered a "birth-related neurological injury," as defined by Section 766.302(2), Florida Statutes.

PRELIMINARY STATEMENT

On March 9, 2001, Angel D. Williams, individually, and as parent and natural guardian of Dustin Lance Williams (Dustin), a minor, filed a petition (claim) with the Division of Administrative Hearings (DOAH) for compensation under the Florida Birth-Related Neurological Injury Compensation Plan (Plan).

DOAH served the Florida Birth-Related Neurological Injury Compensation Association (NICA) with a copy of the claim on March 12, 2001, and on August 20, 2001, NICA gave notice that it had "determined that such claim is not a 'birth-related neurological injury,' within the meaning of Section 766.302(2), Florida Statutes," and requested that "an order [be entered] setting a hearing in this cause . . . [to resolve such] issue." Following a period in which the case was in abeyance, such a hearing was ultimately held on April 14, 2003.

At hearing, Petitioner called Angel D. Williams, Edward James, and Edith Williams, as witnesses, and Petitioner's Exhibits 1-3 and Respondent's Exhibits 1-3 were received into evidence, subject to the limitations noted on the record.¹ No

other witnesses were called, and no further exhibits were offered.

The transcript of the hearing was filed April 29, 2003, and the parties were accorded 10 days from that date to file proposed orders. Respondent elected to file such a proposal, and it has been duly considered.

FINDINGS OF FACT

Preliminary findings

1. Angel D. Williams, currently Angel Williams James, is the natural mother and guardian of Dustin Lance Williams, a minor. Dustin was born a live infant on April 1, 1999, at Columbia Tallahassee Community Hospital (Tallahassee Community Hospital), a hospital located in Tallahassee, Florida, and his birth weight exceeded 2,500 grams.

2. The physician providing obstetrical services at Dustin's birth was Alex Davenport, M.D., who, at all times material hereto, was a "participating physician" in the Florida Birth-Related Neurological Injury Compensation Plan.

Dustin's birth and subsequent development

3. At or about 8:50 p.m., March 31, 1999, Ms. Williams (with an estimated date of delivery of April 3, 1999, and the fetus at 39 4/7 weeks gestation) was admitted to Tallahassee Community Hospital for observation. Ms. Williams' membranes were noted as intact, and mild uterine contractions were noted at a

frequency of 4 minutes, with a duration of 40-60 seconds. Fetal monitoring revealed a baseline fetal heart rate (FHR) of 145 beats per minute, with moderate variability and accelerations noted, and vaginal examination revealed the cervix at 2 centimeters, effacement thick, and the fetus' station as high.

4. At or about 9:00 a.m., April 1, 1999, Ms. Williams was examined by Dr. Davenport. At the time, Dr. Davenport's assessment was false labor; however, given earlier evidence of non-reassuring fetal heart tones (with episodes of decreased variability and decelerations), Dr. Davenport ordered a nipple stimulation contraction stress test (CST) and, if negative, Cytotec induction.

5. According to the medical records, the contraction stress test was done at 10:28 a.m., with negative results; an IV was established at 3:29 p.m.; and Cytotec was placed intravaginally at 3:45 p.m. Thereafter, Ms. Williams' labor slowly progressed; at 11:55 p.m., Dr. Davenport ruptured her membranes, with clear fluid noted; and at 11:58 p.m., while Dr. Davenport was out of the room changing clothes, Dustin was, according to the labor and delivery summary, delivered "precipitous[ly]."

6. On delivery, Dustin was accorded positive pressure ventilation for 1 minute and free flow oxygen for 3 minutes. "Bruising [was] noted to face, left arm, and leg from precipitous

[delivery]."² Apgar scores were 4 and 9 at one and five minutes respectively.³

7. Following delivery, Dustin was transferred to the regular newborn nursery and on April 4, 1999, he and his mother were discharged. Notably, apart from the bruising noted at delivery, Dustin's newborn assessments were normal, and without evidence of perinatal or postnatal complications.

8. Following discharge, Dustin's development was without significant complication; however, over time, decreased use of his right upper extremity was noted, and in December 1999, at 8 months of age, Dustin was referred by his pediatrician (Dr. Joanna Yao) to Dr. Ricardo Ayala, a pediatric neurologist, for evaluation. The results of that evaluation, which occurred January 13, 2000, were reported by Dr. Ayala, as follows:

PHYSICAL EXAMINATION

* * *

Head: Normocephalic. No dysmorphic features

Eyes: Pupils equally reactive to light and accommodation. Isocoric. Funduscopic exam reveals no evidence of optic nerve edema, hemorrhages; venous pulsations are well observed. Extra-ocular movements are full. No abnormal nystagmus. No dysconjugate is observed.

* * *

Oral Cavity: Tongue and uvula are midline. No naso-labial fold asymmetry.

* * *

Spine: No scoliosis, no scapular winging, no fasciculations observed.

* * *

Extremities: Increased tone on right side.

Pulses: Good brachial and pedal pulses.

Neurologic Examination:

High cortical function: alert

Motor Exam: Patient has good spontaneous movement of all limbs however decreased right side

* * *

Deep tendon reflexes: 2/4 in all limbs. No clonus. Questionable Babinski right side

Cranial nerves exam: II-XII is unremarkable

Cerebella, gait, stance exam: Cortical posture of the right side

* * *

MEDICAL DECISION MAKING

Differential Diagnosis & Management Options:

A. Clinical Impression: CP with evidence of right-sided hemiparesis. No evidence of microcephaly.

1. Differential Diagnosis: History of traumatic birth. No indication of contractures or severe spasms to suggest spinal cord.

2. Diagnosis: Same

B. Treatment Plan: Physical therapy

C. Referrals/Consultations: Physical therapist

Date Reviewed:

A. Diagnostic Services Ordered: MRI of the brain to rule out left hemispheric injury. EEG of the brain to rule out epileptic activity

9. The results of the MRI of the brain, done February 29, 2000, were reported, as follows:

FINDINGS: An area of porencephaly is seen adjacent to the body of the left lateral ventricle. There is no evidence of mass effect, hydrocephalus, or intracranial hemorrhage.

IMPRESSION: Area of porencephaly adjacent to the body of the left lateral ventricle.

The results of the EEG, done March 9, 2000, were reported as within normal limits.

10. On October 11, 2000, Dustin was seen by Dr. Donald Dewey for an orthopedic examination. Dr. Dewey reported the results of that examination, as follows:

HISTORY: This young man is eighteen months of age. History of pregnancy complicated at delivery by a diagnosis of porencephalic cyst. His neurologic exam by Dr. Ayala suggested rightsided hemiparesis without substantial hemiatrophy.^[4] He has been followed by Dr. Yao and by Dr. Ayala since birth. MRI of 02/29/00 suggest porencephaly adjacent to the body of left lateral ventricle with low lying cerebellar tonsils. This young man now has independent sitting and stands and cruises on furniture. He has been undertaking physical therapy with

Regional Therapy Services and has improved steadily. Mom indicates that when she holds both his hands he walks well with her assistance but when she holds only the left hand he becomes quite ataxic.

PHYSICAL EXAMINATION: Reveals a well developed small white male with thick-rimmed glasses. Cervical spine motion is full, upper extremity shows no obvious deformity or abnormal motor tone. No joint instability is noted. Spine shows normal alignment without asymmetry or buttock cleft. Lower extremity exam shows mild decrease in thigh and calf circumference on the right as compared to the left. Limb lengths appear to be grossly equal. Slight increased motor tone of both lower extremities noted more on the right than the left. No evidence of joint instability or deformity noted. Observed him walking with an ataxic type gait. Babinski's downgoing at this point. There is no evidence of sustained clonus

IMPRESSION: Right hemiparesis secondary to encephalopathy and porencephalic cyst

11. Notably, of those physicians who have treated Dustin, and whose observations are of record, none expressed an opinion regarding the cause or timing of his brain injury; none expressed an opinion that his mental status was less than age appropriate; and none expressed an opinion that his physical impairment was substantial.

Coverage under the Plan

12. Pertinent to this case, coverage is afforded by the Plan for infants who suffer a "birth-related neurological injury," defined as an "injury to the brain . . . caused by

oxygen deprivation or mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate post-delivery period in a hospital, which renders the infant permanently and substantially mentally and physically impaired." Section 766.302(2), Florida Statutes. See also Section 766.309 and 766.31, Florida Statutes. Here, Respondent is of the view that Dustin did not suffer an injury to the brain caused by oxygen deprivation or mechanical injury in the course of labor, delivery, or resuscitation, and whatever the cause of Dustin's injury he was not rendered permanently and substantially mentally and physically impaired. Petitioner is apparently of a contrary opinion; however, no competent or compelling proof was offered to support a contrary conclusion.

The cause and significance of Dustin's neurologic impairment

13. To address the cause and significance of Dustin's impairment, Petitioner offered selected medical records relating to Dustin's birth and subsequent development, relevant portions of which have heretofore been addressed, as well as the testimony of Dustin's mother (Angel Williams), stepfather (Edward James), and grandmother (Edith Williams). In turn, Respondent offered the deposition testimony of Michael Duchowny, M.D., including the results of Dr. Duchowny's neurologic evaluation of Dustin.

14. Dr. Duchowny is board-certified in pediatrics, neurology with special competence in child neurology, and

clinical neurophysiology, and performed a neurology evaluation of Dustin on August 7, 2001. Based on that evaluation, Dr. Duchowny concluded that Dustin's mental status was age appropriate, and that while Dustin evidenced a mild right hemiparesis, his neurologic functioning was otherwise fully preserved. The results of the evaluation were reported, as follows:

Dustin's NEUROLOGIC EXAMINATION reveals him to be socially adept and engaging. He speaks fluently with well developed sentence structure. He obeys commands readily and is quite cooperative. The cranial nerve examination reveals full visual fields to direct confrontation testing and no fundoscopic abnormalities. The pupils are 3 mm and briskly reactive to direct and consensually presented light. There are no significant facial asymmetries. The tongue and palate move well, with the uvula being in the midline. Motor examination reveals evidence of a mild right hemiparesis affecting the arm and leg. There is an asymmetry of arm movement. The right leg is externally rotated at the hip, with eversion of the foot. There is an asymmetry of the Achilles' tendons with dorsiflexion being possible only with extra relaxation on the right. There is also reflex asymmetry with relatively brisker deep tendon reflexes at 3+ on the right lower extremity, as compared to 2+ on the left. The upper extremity deep tendon reflexes are symmetric. There is a right Babinski response. The left toe is downgoing. Sensory examination is grossly intact to sensation. Dustin's gait reveals mild to moderate hemiparetic posturing. He is able to grasp a cube with either hand, although his grip is more dexterous on the left with better individual finger motility. In contrast, Dustin's grip strength on the right is slightly reduced with a palmar accentuation to his grasp and mirror

movements from right to left. Dustin can elevate both arms above his shoulders. The neurovascular examination reveals no cervical, cranial or ocular bruits and no temperature or pulse asymmetries.

In SUMMARY, Dustin's neurologic examination reveals evidence of a mild right hemiparesis affecting leg greater than arm. There is also a reflex asymmetry, but no evidence of an hemianopic field cut. His verbal abilities are well preserved and he seems cognitively intact.

15. Dr. Duchowny also reviewed the medical records associated with Dustin's birth and subsequent development, and concluded that, more likely than not, Dustin's brain injury was prenatal (developmental) in origin, having occurred prior to the onset of labor, and did not result from oxygen deprivation or trauma during labor, delivery, or resuscitation. Dr. Duchowny explained the basis for his conclusions, as follows:

Q. . . . I'm sure that you reviewed this thick volume of medical records which we put together and filed.

It's basically more or less the complete medical records on Dustin Williams.

A. Yes, I did.

Q. Okay. Have you had occasion to review the MRI which was conducted. It's an MRI of the head on 2/29/2000.

I believe the film was read and a report was written by Steven G. Ostroff.

A. Yes.

Q. I believe his findings are an area of porencephaly, that is seen adjacent to the body of the left lateral ventricle. No evidence of massive hydrocephaly or intracranial hemorrhage.

Impression, area of porencephaly adjacent to the body of the left later ventricle, is that correct?

A. Yes.

Q. Do you agree with that interpretation of the film?

A. Yes.

* * *

Q. Now, what are the causes of porencephaly?

A. Cerebral vascular accident, either embolic stroke or ischemic stroke, possibly infectious basis. Most we don't even really know.

Q. Okay. When you say "most you don't really know," explain it, please.

A. They are acquired in utero and we can only speculate as to the cause.

Q. Can you say to the extent that "most don't really know," you can't really give[] an opinion within reasonable medical probability of . . . [the cause], can you?

A. Well, you can give an opinion in terms of the timing of it, but you can't say exactly what caused it.

Q. So, you're telling us that your impression and opinion here is not based upon the cause of it, but more or exclusively on the timing of the event?

A. Yes.

* * *

Q. Now, when you say that your opinion is based upon the point in time when it occurred, tell us what factors went into that conclusion.

A. The fact that the deficit was present after birth, that there were no risk factors associated with labor and delivery that might contribute to that, and that the [infant's] course was simply not consistent with acquisition during labor or delivery or the immediate period thereafter.

Q. You're basically saying this by exclusion as opposed to directly cause and effect?

A. That is correct.

* * *

Q. You're not telling us that you know what caused it? You're just saying that you think it was[n't] caused during the course of birth?

A. Well, I'm saying -- I'm saying what I think cause[d] it, but I'm more clear about the timing than I am about the cause.

* * *

Q. Okay. Now, you indicated that there were basically three categories CVA, infection and idiopathic.

Did you see any evidence of infection . . .
[?]

A. No.

Q. And so because of the location you concluded that it was CVA?

A. Yes.

* * *

Q. . . . As I understand what you said, it .
. . occur[ed] prior to labor and delivery?

A. That is correct.

Q. Now, at what point in time did it occur?

A. I don't know.

Q. Is it possible that hypoxic-type injury
which is caused by oxygen deprivation or
mechanical trauma can cause porencephaly?

A. Not in the way it appears with Dustin.

Q. Explain why.

A. Because his damages are limited to one
cerebral hemisphere and it would be extremely
unlikely for hypoxic ischemic encephalopathy
to act in that fashion.

Q. It is possible, however, for a person to
have hypoxic ischemia as a result of oxygen
deprivation where it does go, it may be rare,
where it occurs only in one hemisphere?

A. No. Hypoxia generally does not work that
way.

Q. How does it generally work?

A. Both cerebral hemispheres are affected.

Q. And that is based upon the idea that it's
diffuse or multifocal, as opposed to focal-
type lesion?

A. Yes.

* * *

Q. . . . Can trauma be the cause of
porencephaly?

A. Yes.

Q. Are you aware that in the process of delivery that Dustin Williams struck his head on the delivery table?

A. Yes.

Q. Is that not also a possible for the porencephaly?

A. Not for Dustin?

* * *

Q. How do you [know] that?

A. Because of the anatomic location.

Q. What about the blow to the --

A. It wouldn't matter because the damage is deep. It's not superficial.

Q. How do you know that the magnitude of the trauma that he sustained wasn't sufficient? Do you have any description?

A. Well, you just would not see a porencephaly such as what Dustin has on his MRI from trauma to the skull.

Q. How do you know that?

A. Because you couldn't get the deep area of porencephaly without having something more superficial.

It just doesn't anatomically work that way.

16. Apart from the medical records heretofore discussed, and contrasted with the medical testimony offered by Respondent, Petitioner offered the lay testimony of Angel Williams and

Edith Williams, as to their observations regarding Dustin's birth and subsequent development, and the testimony of Mr. James, as to his observations regarding Dustin's development. Notably, the lay testimony of Angel Williams and Edith Williams regarding their perception of a causal relationship between the events surrounding Dustin's birth and his neurologic impairment is speculative, and legally insufficient to support a finding regarding the cause or timing of Dustin's brain injury. See Vero Beach Care Center v. Ricks, 476 So. 2d 262, 264 (Fla. 1st DCA 1985)("[L]ay testimony is legally insufficient to support a finding of causation where the medical condition involved is not readily observable.") Moreover, Petitioner's witnesses offered no compelling proof that Dustin's mental presentation was less than age appropriate, and their observations regarding his physical impairment were less than compelling (compared with those expressed by Dr. Duchowny) and do not support a conclusion that Dustin is substantially physically impaired. Consequently, it must be resolved that, more likely than not, Dustin's brain injury did not occur "in the course of labor, delivery, or resuscitation," and that Dustin's injury did not render him "permanently and substantially mentally and physically impaired." See Thomas v. Salvation Army, 562 So. 2d 746, 749 (Fla. 1st DCA 1990)("In evaluating medical evidence, a judge of compensation

claims may not reject uncontroverted medical testimony without a reasonable explanation.")

CONCLUSIONS OF LAW

17. The Division of Administrative Hearings has jurisdiction over the parties to, and the subject matter of, these proceedings. Section 766.301, et seq., Florida Statutes.

18. The Florida Birth-Related Neurological Injury Compensation Plan was established by the Legislature "for the purpose of providing compensation, irrespective of fault, for birth-related neurological injury claims" relating to births occurring on or after January 1, 1989. Section 766.303(1), Florida Statutes.

19. The injured "infant, her or his personal representative, parents, dependents, and next of kin," may seek compensation under the Plan by filing a claim for compensation with the Division of Administrative Hearings. Sections 766.302(3), 766.303(2), 766.305(1), and 766.313, Florida Statutes. The Florida Birth-Related Neurological Injury Compensation Association, which administers the Plan, has "45 days from the date of service of a complete claim . . . in which to file a response to the petition and to submit relevant written information relating to the issue of whether the injury is a birth-related neurological injury." Section 766.305(3), Florida Statutes.

20. If NICA determines that the injury alleged in a claim is a compensable birth-related neurological injury, it may award compensation to the claimant, provided that the award is approved by the administrative law judge to whom the claim has been assigned. Section 766.305(6), Florida Statutes. If, however, NICA disputes the claim, as it has in the instant case, the dispute must be resolved by the assigned administrative law judge in accordance with the provisions of Chapter 120, Florida Statutes. Sections 766.304, 766.307, 766.309, and 766.31, Florida Statutes.

21. In discharging this responsibility, the administrative law judge must make the following determination based upon the available evidence:

(a) Whether the injury claimed is a birth-related neurological injury. If the claimant has demonstrated, to the satisfaction of the administrative law judge, that the infant has sustained a brain or spinal cord injury caused by oxygen deprivation or mechanical injury and that the infant was thereby rendered permanently and substantially mentally and physically impaired, a rebuttable presumption shall arise that the injury is a birth-related neurological injury as defined in s. 766.303(2).

(b) Whether obstetrical services were delivered by a participating physician in the course of labor, delivery, or resuscitation in the immediate post-delivery period in a hospital; or by a certified nurse midwife in a teaching hospital supervised by a participating physician in the course of

labor, delivery, or resuscitation in the immediate post-delivery period in a hospital.

Section 766.309(1), Florida Statutes. An award may be sustained only if the administrative law judge concludes that the "infant has sustained a birth-related neurological injury and that obstetrical services were delivered by a participating physician at birth." Section 766.31(1), Florida Statutes.

22. Pertinent to this case, "birth-related neurological injury" is defined by Section 766.302(2), Florida Statutes, to mean:

. . . injury to the brain or spinal cord of a live infant weighing at least 2,500 grams at birth caused by oxygen deprivation or mechanical injury occurring in the course of labor, delivery, or resuscitation in the immediate post-delivery period in a hospital, which renders the infant permanently and substantially mentally and physically impaired. This definition shall apply to live births only and shall not include disability or death caused by genetic or congenital abnormality.

23. As the claimant, the burden rested on Petitioner to demonstrate entitlement to compensation. Section 766.309(1)(a), Florida Statutes. See also Balino v. Department of Health and Rehabilitative Services, 348 So. 2d 349, 350 (Fla. 1st DCA 1977) ("[T]he burden of proof, apart from statute, is on the party asserting the affirmative issue before an administrative tribunal.")

24. Here, given that the proof demonstrated, more likely than not, that Dustin's brain injury predated the onset of labor, and that Dustin's brain injury did not render him permanently and substantially mentally and physically impaired, it must be resolved that the record developed in this case failed to demonstrate that Dustin suffered a "birth-related neurological injury," within the meaning of Section 766.302(2), Florida Statutes. Sections 766.302(2), 766.309(1), and 766.31(1), Florida Statutes. See also Florida Birth-Related Neurological Injury Compensation Association v. Florida Division of Administrative Hearings, 686 So. 2d 1349 (Fla. 1997)(The Plan is written in the conjunctive and can only be interpreted to require both substantial physical and mental impairment.); Humana of Florida, Inc. v. McKaughan, 658 So. 2d 852, 859 (Fla. 5th DCA 1995)("[B]ecause the Plan . . . is a statutory substitute for common law rights and liabilities, it should be strictly construed to include only those subjects clearly embraced within its terms."), approved, Florida Birth-Related Neurological Injury Compensation Association v. McKaughan, 668 So. 2d 974, 979 (Fla. 1996).

25. Where, as here, the administrative law judge determines that ". . . the injury alleged is not a birth-related neurological injury . . . he [is required to] enter an order [to such effect] and . . . cause a copy of such order to be sent

immediately to the parties by registered or certified mail."
Section 766.309(2), Florida Statutes. Such an order constitutes
final agency action subject to appellate court review. Section
766.311(1), Florida Statutes.

CONCLUSION

Based on the foregoing Findings of Fact and Conclusions of
Law, it is

ORDERED that the petition for compensation filed by Angel D.
Williams, individually, and as parent and natural guardian of
Dustin Lance Williams, a minor, be and the same is hereby denied
with prejudice.

DONE AND ORDERED this 21st day of May, 2003, in Tallahassee,
Leon County, Florida.

WILLIAM J. KENDRICK
Administrative Law Judge
Division of Administrative Hearings
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1230 Apalachee Parkway
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Filed with the Clerk of the
Division of Administrative Hearings
this 21st day of May, 2003.

ENDNOTES

1/ Petitioner's Exhibit 2 and Respondent's Exhibits 2 and 3 are
hearsay, and their evidentiary value in this proceeding is

circumscribed by Section 120.57(1)(c), Florida Statutes (2002)("Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.") Otherwise, the value of Petitioner's Exhibit 2 is circumscribed by Section 90.706, Florida Statutes, regarding the use of authoritative literature in cross-examination of an expert witness.

2/ When delivered, Dustin landed on the delivery table.

3/ The Apgar scores assigned to Dustin are a numerical expression of the condition of a newborn infant, and reflect the sum points gained on assessment of heart rate, respiratory effort, muscle tone, reflex response, and color, with each category being assigned a score ranging from the lowest score of 0 through a maximum score of 2. As noted, at one minute, Dustin's Apgar score totaled 4, with heart rate being graded at 2, respiratory effort and reflex response being graded at 1 each, and muscle tone and color being graded at 0. At five minutes, Dustin's Apgar score totaled 9, with heart rate, respiratory effort, muscle tone, and reflex response being graded at 2 each, and color being graded at 1.

4/ "Hemiatrophy" is commonly understood to mean "atrophy of one side of the body or one half of an organ or part." Dorland's Illustrated Medical Dictionary, Twenty-sixth Edition (1985).

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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 the original of a notice of appeal with the Agency Clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the appropriate District Court of Appeal. See Section 766.311, 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.