

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

NICODEMO MACRI and JONI M. MACRI, )  
as Personal Representatives of the )  
Estate of JENA MACRI, deceased, )  
 )  
Claimants, )  
 )  
vs. ) Case No. 02-4743MA  
 )  
TALLAHASSEE MEMORIAL )  
HEALTHCARE, INC., )  
 )  
Defendant. )  
\_\_\_\_\_ )

ARBITRATION AWARD

The final arbitration hearing in this case was held before William J. Kendrick, Chief Arbitrator; Paul D. Jess, Arbitrator; and Bret Q. Lucas, Arbitrator, on June 23, 2003, in Tallahassee, Florida.

APPEARANCES

For Claimants: Donald M. Hinkle, Esquire  
Hinkle & Foran  
1545 Raymond Diehl Road, Suite 150  
Tallahassee, Florida 32308

For Defendant: Michael J. Thomas, Esquire  
Pennington, Moore, Wilkerson, Bell  
& Dunbar, P.A.  
Post Office Box 10095  
Tallahassee, Florida 32302-2095

AWARD

At the conclusion of the arbitration hearing, the following award was agreed to by all arbitrators:

1. Claimants Nicodemo Macri and Joni Macri, jointly, are awarded economic damages of \$18,944.61 for medical expenses (\$12,397.65), funeral expenses (\$5,515.00), and costs of probate (\$1,031.96) associated with the birth and death of their child, Jena Macri. Section 766.207(7)(a), Florida Statutes.

2. The claim of Nicodemo Macri for loss of earnings is denied.

3. Claimants Nicodemo Macri and Joni Macri, jointly, are awarded economic damages of \$13,360.00, which represents the present value for loss of services of their child, Jena Macri. Section 766.207(7)(a), Florida Statutes. Provided appropriate security is posted, such sum is to be paid in six equal installments, over a six-year period, with the first installment due within 20 days from the date of this award and an equal sum each year thereafter. Absent appropriate security, such award shall be paid in lump sum. Sections 766.202(8), 766.207(7)(c), and 766.211, Florida Statutes.

4. Claimant Nicodemo Macri is awarded noneconomic damages of \$125,000.00 and Claimant Joni Macri is awarded noneconomic damages of \$125,000.00. Section 766.207(7)(b), Florida Statutes.

5. Claimants Nicodemo Macri and Joni Macri, as Personal Representatives of the Estate of Jena Macri, deceased, are awarded economic damages of \$1,188,022.00, which represents 80 percent of the present value of lost earning capacity for Jena Macri,

deceased. Section 766.207(7)(a), Florida Statutes. Provided appropriate security is posted, such sum is to be paid in six equal installments, over a six-year period, with the first installment due within 20 days from the date of this award and an equal sum each year thereafter. Absent appropriate security, such award shall be paid in lump sum. Sections 766.202(8), 766.207(7)(c), and 766.211, Florida Statutes.

6. Defendant shall pay Claimants' the sum of \$165,968.64,<sup>1</sup> which represents the Claimants' reasonable attorney's fees (\$150,000.00) and costs (\$15,968.64).<sup>2</sup> Section 766.207(7)(f), Florida Statutes.

In addition to the foregoing, the Defendant shall pay each arbitrator, other than the administrative law judge, a fee of \$1,600.00, (\$200.00 an hour, for 8 hours), and the cost of the court reporter.<sup>3</sup> Section 766.207(7)(g), Florida Statutes.

DONE AND ENTERED this 1st day of July, 2003, in Tallahassee, Leon County, Florida.



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WILLIAM J. KENDRICK, Chief Arbitrator  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 1st day of July, 2003.

ENDNOTES

1/ The parties stipulated to the amount awarded as attorney's fees and costs, and that stipulation was approved by the arbitrators during a telephone conference on July 1, 2003.

2/ Given the parties' stipulation regarding attorney's fees and costs, the Claimants' award totals \$1,636,295.25 (economic damages, \$1,220,326.61; noneconomic damages, \$250,000.00; and attorney's fees and costs, \$165,968.64).

3/ The parties stipulated to the rate of compensation for the arbitrators.

COPIES FURNISHED:

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## RIGHT TO JUDICIAL REVIEW

Any party who is adversely affected by this arbitration award is entitled to judicial review pursuant to Sections 120.68 and 766.212, 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 Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal for the district in which the arbitration took place. The notice of appeal must be filed within 30 days of rendition of the arbitration award to be reviewed.