

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

OLIVIA MARTIN RAYBURN, on)
behalf of and as parent and)
natural guardian of JAMES DAVID)
MARTIN, a deceased minor,)
)
Petitioner,)
)
vs.) Case No. 03-2861N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
CATHERINE J. MCINTYRE, M.D. and)
MEMORIAL HOSPITAL JACKSONVILLE,)
)
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 Sections 766.304 and 766.305(6), Florida Statutes,¹ upon the Amended Stipulation and Joint Petition of the Petitioner and Respondent, filed December 19, 2003, 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,

and the letters for Intervenor Catherine J. McIntyre, M.D., and Intervenor Memorial Hospital Jacksonville, filed December 19, 2003, and December 23, 2003, respectively, announcing they have no objection to the approval of Petitioner's and Respondent's stipulation.

By the terms of the Amended Stipulation, Petitioner and Respondent have agreed that Petitioner, Olivia Martin Rayburn, is the mother and natural guardian of James David Martin (James), a deceased minor; that James was born a live infant on March 6, 2002, at Memorial Hospital Jacksonville, a hospital located in Jacksonville, Florida; and that his birth weight was in excess of 2,500 grams. The parties have further agreed that the physician delivering obstetrical services during the birth of James was Catherine J. McIntyre, M.D., who, at all times material hereto, was a participating physician in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by Section 766.302(7), Florida Statutes. Finally, the parties have agreed that James 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 Amended Stipulation, filed December 19, 2003, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Olivia Martin Rayburn, as the mother of James David Martin, a deceased minor, is accorded a lump sum award of One hundred thousand dollars (\$100,000.00).

3. Upon payment of the lump sum award of One hundred thousand dollars (\$100,000.00) to the mother (claimant), a death benefit of Ten thousand dollars (\$10,000.00), funeral and burial expenses of One thousand three hundred eighty dollars and seventy cents (\$1,380.70), and attorney's fees and other expenses of Twelve thousand sixty dollars and forty-four cents (\$12,060.44) incurred in pursuing the subject claim, the claims of Petitioner (claimant) 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 26th day of December, 2003, 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 26th day of December, 2003.

ENDNOTE

1/ All citations are to Florida Statutes (2003) unless otherwise indicated.

COPIES FURNISHED:
(via 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 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.