

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

YOLANDA KINSLER AND LLOYD )  
KINSLER, on behalf of and as )  
parents and natural guardians )  
of LAXAVIER KINSLER, a minor, )  
 )  
Petitioners, )  
 )  
vs. ) Case No. 05-0365N  
 )  
FLORIDA BIRTH-RELATED )  
NEUROLOGICAL INJURY )  
COMPENSATION ASSOCIATION, )  
 )  
Respondent, )  
 )  
and )  
 )  
MARION COMMUNITY HOSPITAL, )  
INC., d/b/a OCALA REGIONAL )  
MEDICAL CENTER, )  
 )  
Intervenor. )  
\_\_\_\_\_ )

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, upon the stipulation and joint petition of the Petitioners and Respondent, filed April 29, 2005, 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 Amended Notice of Filing, filed by Respondent on May 18, 2005, which reflects service of the stipulation and joint petition on Intervenor and Intervenor's agreement to the entry of an order approving the stipulation and joint petition.

By the terms of their stipulation, the Petitioners and Respondent have agreed that Petitioners, Yolanda Kinsler and Lloyd Kinsler, are the parents and natural guardians of Laxavier Kinsler (Laxavier), a minor; that Laxavier was born a live infant on October 16, 2002, at Ocala Regional Medical Center, a hospital located in Ocala, Florida; and that his birth weight exceeded 2,500 grams. The parties have further agreed that the physician delivering obstetrical services during the birth of Laxavier was Seaborn Hunt, Jr., 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, by their stipulation, the parties have agreed that Laxavier 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 April 29, 2005, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners, Yolanda Kinsler and Lloyd Kinsler, as the parents of Laxavier Kinsler, a minor, are accorded an award of One hundred thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b), Florida Statutes, to be used for purposes consistent with the terms of the parties' stipulation.

3. Upon payment of the award of One hundred thousand dollars (\$100,000.00) to the parents (claimants), and past expenses, the claims of Petitioners (claimants) shall be deemed fully satisfied and extinguished, except to the extent of Respondent's continuing obligation under the provisions of Section 766.31(2), Florida Statutes, to pay future expenses as incurred.

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 20th day of May, 2005, in  
Tallahassee, Leon County, Florida.

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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 20th day of May, 2005.

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.