

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ARMANDO PAYAS, AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
COLTON BARNHART AND HEATHER)
ARTHUR, AS MOTHER AND NATURAL)
GUARDIAN OF COLTON BARNHART,)
)
Petitioners,)
)
vs.) Case No. 07-2185N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
SHANDS TEACHING HOSPITAL AND)
CLINICS, INC., d/b/a SHANDS)
HOSPITAL AT THE UNIVERSITY OF)
FLORIDA, UNIVERSITY OF FLORIDA)
BOARD OF TRUSTEES, SHIREEN)
MADANI-SIMS, M.D., KENNETH)
KELLNER, M.D., JUDITH SIMMS-)
CENDAN, M.D., DAINA GREENE,)
M.D., and MARGARET BENNETT,)
M.D.)
)
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(7), Florida Statutes, upon the Stipulation and Joint
Petition of the parties, filed February 25, 2008, 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 the terms of their stipulation, the parties have agreed that Heather Arthur is the mother and legal guardian of Colton Barnhart (Colton), a deceased minor; that Colton was born a live infant on August 22, 2003, at Shands Hospital at the University of Florida, a "hospital" as defined by Section 766.302(6), Florida Statutes, and located in Gainesville, Florida; and that Colton's birth weight exceeded 2,500 grams. The parties have further agreed that Kenneth Kellner, M.D., and Judith Simms-Cendan, M.D., delivered obstetrical services at Colton's birth, and at all times material hereto, were "participating physician[s]" 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 Colton 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 and Joint Petition of the parties, filed February 25, 2008, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioner, Heather Arthur, as the parent of Colton Barnhart, a deceased minor, is awarded One hundred thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b)1., Florida Statutes, and a death benefit of Ten thousand dollars (\$10,000.00), pursuant to Section 766.31(1)(b)2., Florida Statutes, all to be paid in lump sum.

3. Upon payment of the award of One hundred thousand dollars (\$100,000.00), a death benefit of Ten thousand dollars (10,000.00), attorney's fees and other expenses of Eleven thousand seven hundred forty-three dollars and twenty-five cents (\$11,743.25), and past expenses, 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 disputes should they arise, regarding the parties' compliance with the terms of this Final Order.

5. The hearing scheduled for March 7, 2008, is cancelled.

DONE AND ORDERED this 27th day of February, 2008, 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 27th day of February, 2008.

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.