

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

HUYEN PHAM AND TONY NGUYEN ON)
BEHALF OF AND AS PARENTS AND)
NATURAL GUARDIANS OF MADDISON)
NGUYEN, A MINOR,)
)
Petitioners,)
)
vs.) Case No. 07-5275N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
ROBERT WILLIAM ANDREW, M.D.,)
)
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(7), Florida Statutes, upon the Stipulation and Joint Petition of the parties, filed October 23, 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 Huyen Pham and Tony Nguyen are the parents and legal guardians of Maddison Nguyen (Maddison), a deceased minor; that Maddison was born a live infant on August 15, 2007, at Sacred Heart Hospital, a "hospital" as defined by Section 766.302(6), Florida Statutes, located in Pensacola, Florida; that Maddison's birth weight exceeded 2,500 grams; and that Maddison died March 2, 2008. The parties have further agreed that Brian Sontag, M.D., and Robert Andrews, M.D., delivered obstetrical services at Maddison'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 Maddison 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 October 23, 2008, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners, Huyen Pham and Tony Nguyen, as the parents and legal guardians of Maddison Nguyen, a deceased minor, are 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), 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 January 6, 2009, is cancelled.

DONE AND ORDERED this 28th day of October, 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 28th day of October, 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.