

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ROSETTE VILLANUEVA AND OSCAR)
VILLANUEVA, ON BEHALF OF AND AS)
PARENTS AND NATURAL GUARDIANS)
OF SEAN VILLANUEVA, A MINOR,)
)
Petitioners,)
)
vs.) Case No. 09-0856N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
ORANGE PARK MEDICAL CENTER,)
INC.,)
)
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 Petitioners and Respondent, filed September 3, 2009, 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, Petitioners and Respondent have agreed that Rosette Villanueva and Oscar Villanueva, are the parents and legal guardians of Sean Villanueva (Sean), a minor; that Sean was born a live infant on July 20, 2004, at Orange Park Medical Center, a "hospital" as defined by Section 766.302(6), Florida Statutes, located in Orange Park, Florida; and that Sean's birth weight exceeded 2,500 grams. Petitioners and Respondent have further agreed that David Hyler, II, M.D., delivered obstetrical services at Sean's birth, and 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, Petitioners and Respondent have agreed that Sean 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, filed September 3, 2009, is hereby approved, and the parties are directed to comply with the provisions thereof.
2. Petitioners, Rosette Villanueva and Oscar Villanueva, as the parents and legal guardians of Sean Villanueva, a minor,

are awarded One hundred thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b)1., 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) and past expenses, the claims of Petitioners (Claimants) shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under 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 disputes should they arise, regarding the parties' compliance with the terms of this Final Order.

DONE AND ORDERED this 4th day of September, 2009, 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 4th day of September, 2009.

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.