

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ARLENE FABREGAS AND JENE )  
FABREGAS, ON BEHALF OF AND AS )  
PARENTS AND NATURAL GUARDIANS )  
OF CHARIS FAITH FABREGAS, A )  
MINOR, )  
 )  
Petitioners, )  
 )  
vs. ) Case No. 09-1015N  
 )  
FLORIDA BIRTH-RELATED )  
NEUROLOGICAL INJURY )  
COMPENSATION ASSOCIATION, )  
 )  
Respondent. )  
\_\_\_\_\_ )

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 for consideration pursuant to Sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation and Joint Petition of the parties, filed May 14, 2010, 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.<sup>1</sup>

By the terms of this stipulation, the parties have agreed that Arlene Fabregas and Jene Fabregas are the parents and legal guardians of Charis Faith Fabregas (Charis), a minor; that

Charis was born a live infant on or about June 28, 2007, at Memorial Hospital West, a "hospital" as defined by Section 766.302(6), Florida Statutes, located in Pembroke Pines, Florida; and that Charis' birth weight exceeded 2,500 grams. The parties have further agreed that Joanne Richards, M.D., delivered obstetrical services at Charis' 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, the parties have agreed that Charis 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 May 14, 2010, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners Arlene Fabregas and Jene Fabregas, as the parents and legal guardians of Charis Faith Fabregas, a minor, are together awarded One hundred thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b)1., Florida Statutes, to be paid in periodic payments subject to written directions to be

supplied by the parents to NICA within a reasonable time from date of this Order.

3. Upon payment of the award of One hundred thousand dollars (\$100,000.00), and past benefits/expenses, the claims of Petitioners (Claimants) shall be deemed fully satisfied and extinguished, except to the extent of 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 as to the interpretation of any provision of the parties' Stipulation and/or any disputes should they arise, regarding the parties' compliance with the terms of their Stipulation and this Final Order.

DONE AND ORDERED this 20th day of May, 2010, in Tallahassee, Leon County, Florida.



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ELLA JANE P. DAVIS  
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, 2010.

ENDNOTE

1/ This case was twice scheduled for final formal hearing upon Respondent's denial of compensability. However, on May 7, 2010, by telephonic conference call, counsel for Respondent advised that upon further oral advice from its medical witnesses, the claim would be accepted as compensable.

COPIES FURNISHED:

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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 Fla. Birth-Related Neurological Injury Comp. Ass'n. 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.