

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TRICIA ROTH AND BRENT ROTH, AS)
PARENTS AND NATURAL GUARDIANS)
OF THEIR MINOR CHILD, BRONSON)
ROTH, AND INDIVIDUALLY,)
)
Petitioners,)
)
vs.) Case No. 09-4066N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
SOUTHERN BAPTIST HOSPITAL OF)
FLORIDA, INC., d/b/a BAPTIST)
MEDICAL CENTER, BETTINA KOHAUT,)
M.D., SJOUKJE ODETTE MOONEYHAM,)
ARNP, and FABEN OBG, INC.,)
)
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 for consideration pursuant to Sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation and Joint Petition of the parties, filed February 1, 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.

By the terms of their stipulation, the parties have agreed that Petitioners, Tricia Roth and Brent Roth, are the parents and natural guardians of Bronson Roth (Bronson), a minor; that Bronson was born a live infant on July 24, 2007, at Baptist Medical Center,¹ a "hospital" as defined by Section 766.302(6), Florida Statutes, located in Jacksonville, Florida; and that Bronson's birth weight exceeded 2,500 grams. The parties have further agreed that those persons delivering obstetrical services at Bronson's birth were Bettina Kohaut, M.D., and Sjoukje Odette Mooneyham, ARNP, who were qualified as "participating physicians" as defined in Section 766.302(7), Florida Statutes, for the Florida Birth-Related Neurological Compensation Plan. Finally, by their stipulation, the parties have agreed that Bronson 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 1, 2010, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners, Tricia Roth and Brent Roth, as the parents and natural guardians of Bronson Roth, a minor, are awarded One Hundred Thousand Dollars (\$100,000.00), pursuant to Section 766.31(1)(b), Florida Statutes, to be paid in lump sum.

3. Upon payment of the award of One Hundred Thousand Dollars (\$100,000.00), agreed attorney's fees to William E. Partridge, attorney for Petitioners, in the amount of Ten Thousand Dollars (\$10,000.00) and expenses (costs) of Eight Thousand Three Hundred Thirty-Eight Dollars and Eighty-Two Cents (\$8,338.82), 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, including but not limited to past and future expenses, should they arise, regarding the parties' compliance with the terms of such stipulation, and this order.

DONE AND ORDERED this 8th day of February, 2010, in
Tallahassee, Leon County, Florida.



ELLA JANE P. DAVIS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 8th day of February, 2010.

ENDNOTE

1/ The Petition to Intervene filed September 28, 2009,
acknowledges that Southern Baptist Hospital of Florida, Inc.,
d/b/a Baptist Medical Center.

COPIES FURNISHED:
(Via Certified Mail)

William E. Partridge, Esquire
Grossman, Roth & Partridge
1800 Second Street, Suite 777
Sarasota, Florida 34236
(Certified Mail No. 91 7108 2133 3937 0540 1863)

Kenney Shipley, Executive Director
Florida Birth Related Neurological
Injury Compensation Association
2360 Christopher Place, Suite 1
Tallahassee, Florida 32308
(Certified Mail No. 91 7108 2133 3937 0540 1870)

John R. Saalfield, Jr., Esquire
Saalfield, Shad, Jay, & Strokes, P.A.
50 North Laura Street, Suite 2950
Jacksonville, Florida 32202
(Certified Mail No. 91 7108 2133 3937 0540 1887)

Earl E. Googe, Jr., Esquire
Smith, Hulsey & Busey
225 Water Street, Suite 1800
Jacksonville, Florida 32202
(Certified Mail No. 91 7108 2133 3937 0540 1894)

M. Mark Bajalia, Esquire
Brennan, Manna & Diamond
800 West Monroe Street
Jacksonville, Florida 32202
(Certified Mail No. 91 7108 2133 3937 0540 1900)

Bettina Kohaut, M.D.
836 Prudential Drive, Suite 1506
Jacksonville, Florida 32207
(Certified Mail No. 91 7108 2133 3937 0540 1917)

Baptist Medical Center
800 Prudential Drive
Jacksonville, Florida 32207
(Certified Mail No. 91 7108 2133 3937 0540 1924)

Charlene Willoughby, Director
Consumer Services Unit - Enforcement
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified Mail No. 91 7108 2133 3937 0540 1931)

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.