

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JOSEPH H. LEE, ON BEHALF OF AND)
AS PARENT AND NATURAL GUARDIAN)
OF EMERSON VALINDA LEE, A MINOR)
CHILD,)
)
)
Petitioner,)
)
vs.) Case No. 09-4817N
)
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
)
Respondent,)
)
)
and)
)
)
RICHARD S. DILLON, 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 for consideration pursuant to Sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation and Joint Petition of the parties, filed May 24, 2010,¹ 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 Petitioner, Joseph H. Lee, is the parent and legal guardian of Emerson Valinda Lee (Emerson), a minor; that Emerson was born a live infant on or about December 23, 2005, at University Community Hospital, a "hospital," as defined by Section 766.302(6), Florida Statutes; and that Emerson's birth weight exceeded 2,500 grams. The parties have further agreed that Richard S. Dillon, M.D., delivered obstetrical services at Emerson's birth, and at all times material, 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 Emerson 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 24, 2010, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioner, Joseph H. Lee, as the parent and natural guardian of Emerson Valinda Lee, a minor, is 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 and other expenses totaling Fifteen thousand, three hundred eighty-six dollars and thirteen cents (\$15,386.13), and past expenses, the claims of Petitioner (claimant) shall be deemed fully satisfied and extinguished, except for 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 expenses, should they arise, regarding the parties' compliance with the terms of such stipulation and this Final Order.

DONE AND ORDERED this 25th day of May, 2010, in
Tallahassee, Leon County, Florida.



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 25th day of May, 2010.

ENDNOTE

1/ This Stipulation and Joint Petition supersedes one filed
May 5, 2010, which has not been approved.

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.