

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AMANDA KARP AND SCOTT HAMILTON,)
on behalf of and as parents and)
natural guardians of ALEXANDER)
HAMILTON, a minor,)
)
Petitioners,)
)
vs.) Case No. 09-6623N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
ST. PETERSBURG GENERAL)
HOSPITAL, MARIANNE MARRYSHOW,)
C.N.M., AND OB/GYN ASSOCIATES,)
P.A.,)
)
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 August 25, 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 Amanda Karp and Scott Hamilton, are the parents and legal guardians of Alexander Hamilton, a deceased minor; that Alexander was born a live infant on October 19, 2005, at St. Petersburg General Hospital, a "hospital," as defined by Section 766.302(6), Florida Statutes, located in St. Petersburg, Florida; and that Alexander's birth weight exceeded 2,500 grams. The parties have further agreed that obstetrical services at Alexander's birth were rendered by Marianne Marryshow, C.N.M., who, 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 Alexander suffered a "birth-related neurological injury," as that term is defined by Section 766.302(2), Florida Statutes, and died on December 31, 2009.

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 August 25, 2010, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners, Amanda Karp and Scott Hamilton, as the parents and legal guardians of Alexander Hamilton, a deceased minor, are awarded One hundred thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b)1., Florida Statutes, to be paid in lump sum; a death benefit of Ten thousand dollars (\$10,000.00), pursuant to Section 766.31(1)(b)2., Florida Statutes, to be paid in lump sum; and One hundred thousand dollars (\$100,000.00) as full payment for custodial care rendered by Amanda Karp and Scott Hamilton to Alexander Hamilton.

3. NICA will reimburse William E. Hahn, Esquire, and C. Bryant Boydston, Esquire, attorneys for Petitioners, an agreed upon attorney's fee of Ten thousand dollars (\$10,000.00) and Five hundred dollars (\$500.00) for expenses (costs), thereby resolving any and all claims for attorney's fees in this cause.

4. Upon payment of the award of One hundred thousand dollars (\$100,000.00), a death benefit of Ten thousand dollars (\$10,000.00), payment of parental custodial care of One hundred thousand dollars (\$100,000.00), and payment of past benefits under Section 766.31(1)(a), Florida Statutes, the claims of Petitioners (claimants) shall be deemed fully satisfied and extinguished.

5. No provision is made under Section 766.31(2), Florida Statutes, to pay future benefits/expenses because the child, Alexander, is deceased.

6. 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 3rd day of September, 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 3rd day of September, 2010.

COPIES FURNISHED:

William E. Hahn, Esquire
William E. Hahn, P.A.
310 South Fielding Avenue
Tampa, Florida 33606-2225
(Certified Mail No. 7010 0290 0001 2352 0796)

C. Bryant Boydston, Esquire
Abbey Adams
360 Central Avenue, 11th Floor
St. Petersburg, Florida 33701
(Certified Mail No. 7010 0290 0001 2352 1045)

Kenney Shipley, Executive Director
Florida Birth Related Neurological
Injury Compensation Association
2360 Christopher Place, Suite 1
Tallahassee, Florida 32308
(Certified Mail No. 7010 0290 0001 2352 1052)

Randy J. Ogden, Esquire
Ogden & Sullivan, P.A.
113 South Armenia Avenue
Tampa, Florida 33609
(Certified Mail No. 7010 0290 0001 2352 0802)

Troy J. Crotts, Esquire
Bush Ross, P.A.
Post Office Box 3913
Tampa, Florida 33601-3913
(Certified Mail No. 7010 0290 0001 2352 0819)

David W. Black, Esquire
Frank, Weinberg & Black, P.L.
7805 Southwest Sixth Court
Plantation, Florida 33324
(Certified Mail No. 7010 0290 0001 2352 0826)

Amy Rice, Acting Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified Mail No. 7010 0290 0001 2352 0833)

Elizabeth Dudek, Deputy Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
(Certified Mail No. 7010 0290 0001 2352 0840)

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.