

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

SABRINA BARONE, individually )  
and as parent and next friend )  
of ROMAN BARONE, a minor, )  
)  
    Petitioner, )  
)  
vs. )           Case No. 10-2998N  
)  
FLORIDA BIRTH-RELATED )  
NEUROLOGICAL INJURY )  
COMPENSATION ASSOCIATION, )  
)  
    Respondent, )  
)  
and )  
)  
WINTER HAVEN HOSPITAL, )  
)  
    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 December 2, 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 Sabrina Barone is the mother and legal guardian of Roman Barone (Roman), a minor; that Roman was born a live infant on or about December 10, 2008, at Winter Haven Hospital,<sup>1</sup> a "hospital" as defined by Section 766.302(6), Florida Statutes, located in Winter Haven, Florida; and that Roman's birth weight exceeded 2,500 grams. The parties have further agreed that Vincent Gatto, M.D., delivered obstetrical services at Roman'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, the parties have agreed that Roman 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 December 2, 2010, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioner, Sabrina Barone, as the mother and legal guardian of Roman Barone, a minor, is awarded One hundred

thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b)1., Florida Statutes, to be paid in lump sum.

3. Allison McMillen, attorney for Petitioner, is awarded an agreed attorney's fee of Ten thousand dollars (\$10,000.00) and agreed expenses of One thousand three hundred forty-two dollars and sixty-four cents (\$1,342.64), totaling Eleven thousand three hundred forty-two dollars and sixty-four cents (\$11,342.64), as payment in full, for services rendered in the filing of this claim.

4. Upon payment of the award of One hundred thousand dollars (\$100,000.00), attorney's fees and other expenses, and past benefits/expenses, the claims of Petitioner (Claimant) shall be deemed fully satisfied and extinguished, except for the issues reserved in the parties' Stipulation and Joint Petition filed December 2, 2010, including Respondent's continuing obligation under Section 766.31(2), Florida Statutes, to pay future expenses as incurred.

5. With regard to the issues reserved in the parties' Stipulation, including but not limited to any dispute regarding past benefits/expenses, a hearing will be scheduled by a separate notice of hearing to address those issues. As for the date of hearing, the parties shall, within 45 days of the date of this Order, advise the undersigned Administrative Law Judge, with specificity, of the matters remaining in dispute, of

several mutually agreeable dates for hearing, and of the time required for such hearing.

6. 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 Order.

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



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ELLA JANE P. DAVIS  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
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Fax Filing (850) 921-6847  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 8th day of December, 2010.

ENDNOTE

1/ This is agreed by the parties including Intervenor Winter Haven Hospital, despite the allegation in the Petition as to Regency Medical Center at the same address.

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 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.