

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

SANDRA OLIVERAS, on behalf of )  
and as parent and natural )  
guardian of JAYDEN OLIVERAS, a )  
minor, )  
 )  
Petitioner, )  
 )  
vs. ) Case No. 10-9439N  
 )  
FLORIDA BIRTH-RELATED )  
NEUROLOGICAL INJURY )  
COMPENSATION ASSOCIATION, )  
 )  
Respondent, )  
 )  
and )  
 )  
RAUL MONTENEGRO, 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 February 17, 2011, 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.

By the terms of their stipulation, the parties have agreed that Sandra Oliveras is the mother and legal guardian of Jayden Oliveras (Jayden), a minor; that Jayden was born a live infant on or about February 19, 2008, at Bayfront Medical Center, a "hospital" as defined by section 766.302(6), located in St. Petersburg, Florida; and that Jayden's birth weight exceeded 2,500 grams. The parties have further agreed that Raul Montenegro, M.D., delivered obstetrical services at Jayden'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). Finally, by their stipulation, the parties have agreed that Jayden suffered a "birth-related neurological injury," as that term is defined by section 766.302(2).

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 February 17, 2011, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioner, Sandra Oliveras, as the mother and legal guardian of Jayden Oliveras, a minor, is awarded One hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid in periodic payments.

3. Lee Gunn, Esquire, attorney for Petitioner, is awarded an agreed attorney's fee of Ten thousand dollars (\$10,000.00) and agreed expenses of Five hundred dollars (\$500.00), totaling Ten thousand, five hundred dollars and no cents (\$10,500.00), 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 Respondent's continuing obligation under section 766.31(2), 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 23rd day of February, 2011, 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 23rd day of February, 2011.

COPIES FURNISHED:  
(Via Certified Mail)

Kenney Shipley, Executive Director  
Florida Birth Related Neurological  
Injury Compensation Association  
2360 Christopher Place, Suite 1  
Tallahassee, Florida 32308  
(Certified Mail No. 7010 1670 0000 3097 0706)

Lee D. Gunn, IV, Esquire  
Ryan Lopez, Esquire  
Gunn Law Group, P.A.  
400 North Ashley Drive, Suite 2050  
Tampa, Florida 33602  
(Certified Mail No. 7010 1670 0000 3097 0713)

David S. Nelson, Esquire  
Barr, Murman & Tonell, P.A.  
201 East Kennedy Boulevard, Suite 1700  
Tampa, Florida 33602  
(Certified Mail No. 7010 1670 0000 3097 0720)

Bayfront Medical Center  
Risk Management  
701 6th Street South  
St. Petersburg, Florida 33701  
(Certified Mail No. 7010 1670 0000 3097 0737)

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 1670 0000 3097 0744)

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 1670 0000 3097 0751)

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.