



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 Petitioners, Bibi Kahn and Michael Devine, are the natural parents of Cyra Devine (Cyra), a minor; that Cyra was born a live infant on June 30, 2007, at Winnie Palmer Hospital for Women & Babies, a "hospital," as defined by section 766.302(6); and that Cyra's birth weight was 4,100 grams, exceeding the statutory 2,500 grams. The parties have further agreed that Peter Perry, M.D., delivered obstetrical services, and that at all times material hereto, Dr. Perry 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 Cyra 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 of the parties, filed October 3, 2011, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition as filed.

2. Petitioners, Bibi Kahn and Michael Devine, as the parents of Cyra Devine, a minor, are awarded One hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid forthwith in lump sum.

3. Upon payment of the award of One hundred thousand dollars (\$100,000.00), and past benefits (benefits up to and including the effective date of their Stipulation and Joint Petition), the claims of Petitioners (claimants) shall be deemed fully satisfied and extinguished, except for (a) the issues reserved in paragraph 12 of the parties' Stipulation and Joint Petition (a potential second parental award of \$100,000.00), including attorney's fees and costs the Petitioners may be entitled to as a result thereof; (b) future benefits and expenses pursuant to section 766.31(2); and (c) past attorney's fees and costs (expenses).

4. With regard to the issues reserved in paragraph 12 of the parties' Stipulation and Joint Petition (the potential of a second parental award of \$100,000.00), and with regard to any dispute regarding attorney's fees and other expenses of the claim, a hearing (or hearings, if the parties elect to address fees and expenses to date in advance of an appellate ruling in Samples v. NICA (SC 10-1295)), will be scheduled by separate notice(s) of hearing(s) to address those issue(s). As for the date of the hearing(s), the parties shall, within 60 days of the

date of this Order, advise the undersigned Administrative Law Judge, with specificity, of the matters remaining in dispute, of whether they intend to determine fees and costs to date or to reserve the issue of fees and costs to date until after the decision in Samples v. NICA (SC 10-1295), and several mutually agreeable dates for hearing if appropriate.

5. By the parties' express agreement, this case will be abated as to the issues reserved in paragraph 12 of the parties' Stipulation and Joint Petition and fees and expenses related thereto until after the decision in Samples v. NICA (SC 10-1295). The parties are charged with providing the undersigned with a copy of that appellate decision within 20 days of its rendition.

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 should they arise, regarding the parties' compliance with the terms of such stipulation and this Final Order.

DONE AND ORDERED this 12th day of October, 2011, in  
Tallahassee, Leon County, Florida.



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ELLA JANE P. DAVIS  
Administrative Law Judge  
Division of Administrative Hearings  
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1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 12th day of October, 2011.

ENDNOTE

1/ It is noted that the parties' Stipulation and Joint Petition refers, in Paragraph 6, to a petition "and amended petition." However, there has been no amended petition filed in the instant cause. The undersigned assumes the phrase to be a typographical error, as it does not affect the parties' agreement/stipulation.

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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 § 766.311, Fla. Stat., and Fla. Birth-Related Neurological Injury Comp. Ass'n 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.