

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AMANDA WALLING AND BRYAN)
WALLING, on behalf of and as)
parents and natural guardians)
of LAYLA ISABELLA WALLING, a)
deceased minor,)
)
Petitioners,)
)
vs.) Case No. 11-3406N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
HEART OF FLORIDA OB/GYN)
ASSOCIATES AND JULIO SAN)
MARTIN, M.D.,)
)
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 31, 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 Petitioners, Amanda Walling and Bryan Walling, are the parents and legal guardians of Layla Isabella Walling (Layla), a deceased minor; that Layla was born a live infant on July 6, 2010, at Heart of Florida Medical Center, a "hospital," as defined by section 766.302(6); and that Layla's birth weight was 3,766 grams, exceeding the statutory 2,500 grams. The parties have further agreed that the physician delivering obstetrical services at Layla's birth was Julio San Martin, M.D., 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). Finally, by their stipulation, the parties have agreed that Layla suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), and died on July 12, 2010.

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 31, 2011, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners, Amanda Walling and Bryan Walling, as the parents and legal guardians of Layla Isabella Walling, a deceased minor, are awarded One hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., and a death benefit of Ten thousand dollars (\$10,000.00), pursuant to section 766.31(1)(b)2., to be paid in lump sum.

3. Petitioners' attorney, Hector A. Moré, is awarded an agreed attorney's fee of Ten thousand dollars (\$10,000.00) and expenses of Five hundred dollars (\$500.00), totaling Ten thousand five hundred dollars (\$10,500.00) in full, for services rendered in the filing of this claim, also to be paid in lump sum, forthwith.

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

5. No provision is made under section 766.31(2), to pay future benefits/expenses because the child, Layla, 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 12th day of September, 2011, 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 12th day of September, 2011.

ENDNOTE

1/ The Stipulation and Joint Petition for Compensation of Claim also stipulates that a medical malpractice claim or civil action against Julio San Martin, M.D., Heart of Florida OB/GYN Associates, and Heart of Florida Medical Center is precluded.

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 § 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.