

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

THOMASINA FORD, as the Personal
Representative of the Estate of
PATRICK A. SAILOR, JR., deceased
minor,

Petitioner,

vs.

Case No. 16-4886N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

SHANDS JACKSONVILLE MEDICAL
CENTER, INC. d/b/a UF HEALTH
JACKSONVILLE; AND UNIVERSITY OF
FLORIDA BOARD OF TRUSTEES,

Intervenors.

_____ /

FINAL ORDER APPROVING STIPULATION FOR ENTRY OF AWARD

This cause came on for consideration pursuant to sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation and Joint Petition for Compensation of Claim Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Stipulation and Joint Petition), filed with the Division of Administrative Hearings on February 14, 2017, for the entry of an order approving the resolution of a claim for compensation benefits filed in accordance with the

provisions of chapter 766 and a resolution of the exclusive remedy otherwise available as outlined in chapter 766.

By the terms of their stipulation, Petitioner, as parent and natural guardian of Patrick A. Sailor, Jr., deceased, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Thomasina Ford is the parent and legal guardian of Patrick A. Sailor, Jr. (Patrick), deceased; that Patrick was born a live infant on or about March 5, 2015, at UF Health Jacksonville Hospital, a "hospital" as defined by section 766.302(6) located in Jacksonville, Florida; and that Patrick's birth weight exceeded 2,500 grams. The Parties have further agreed that B.F. Irby, M.D., and Isaac Delke, M.D., provided obstetrical services at Patrick's delivery and were "participating physicians" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The Parties have agreed that Patrick suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause of his injury and subsequent death.

It is ORDERED:

1. The Stipulation and Joint Petition filed on February 14, 2017, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioner, Thomasina Ford, as the parent and legal guardian of Patrick, deceased, is awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as a lump sum to Morgan and Morgan Trust Account on behalf of Petitioner; payment of benefits up to and including the effective date of the Stipulation and Joint Petition pursuant to section 766.31(1)(a), subject to the provisions of paragraph 20 of the Stipulation and Joint Petition; and payment of the \$10,000.00 death benefit pursuant to section 766.31(1)(b)1.

3. NICA will reimburse Grant Kuvin, Esquire, attorney for Petitioner, an agreed-upon attorney's fee of \$10,000.00 and expenses of \$6,154.32, totaling \$16,154.32 in full for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000.00, the death benefit of \$10,000.00, past benefit/expenses, and \$16,154.32 for attorney's fees and costs, the claims of Petitioner shall be deemed fully satisfied and extinguished.

5. 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 17th day of February, 2017, in
Tallahassee, Leon County, Florida.



W. DAVID WATKINS
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 17th day of February, 2017.

COPIES FURNISHED:
(via certified mail)

Grant A. Kuvin, Esquire
Morgan & Morgan, P.A.
20 North Orange Avenue
Orlando, Florida 32801
(eServed)
(Certified Mail No. 7005 3110 0002 0289 9946)

David O. Doyle, Jr., Esquire
Pearson Biitman
Suite 401
485 North Keller Road
Orlando, Florida 32751
(eServed)
(Certified Mail No. 7005 3110 0002 0289 9953)

Kenney Shipley, Executive Director
Florida Birth Related Neurological
Injury Compensation Association
2360 Christopher Place, Suite 1
Tallahassee, Florida 32308
(eServed)
(Certified Mail No. 7005 3110 0002 0289 9960)

Amie Rice, Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified Mail No. 7005 3110 0002 0289 9977)

Justin Senior, Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 1
Tallahassee, Florida 32308
(eServed)
(Certified Mail No. 7005 3110 0002 0289 9984)

Amy Hammers, M.D.
655 West 8th Street
Jacksonville, Florida 32209
(Certified Mail No. 7005 3110 0002 0289 9991)

Isaac Delke, M.D.
653-1 8th Street
Jacksonville, Florida 32209
(Certified Mail No. 7005 1820 0002 9840 6284)

Irby Freeman, M.D.
655 West 8th Street
Jacksonville, Florida 32209
(Certified Mail No. 7005 1820 0002 9840 6345)

Kristine Tibavisky, M.D.
655 West 8th Street
Jacksonville, Florida 32209
(Certified Mail No. 7005 1820 0002 9840 6352)

NOTICE OF RIGHT TO JUDICIAL REVIEW

Review of a final order of an administrative law judge shall be by appeal to the District Court of Appeal pursuant to section 766.311(1), Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy, accompanied by filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal.

See § 766.311(1), Fla. Stat., and Fla. Birth-Related Neurological Injury Comp. Ass'n v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992).