

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JAQUESHA WARREN AND DANTRELLIS)
TOWNSEND, as natural parents)
and guardians of KIONDA)
TOWNSEND, a minor, and)
JACQUESHA WARREN AND DANTRELLIS)
TOWNSEND, individually,)
)
Petitioners,)
)
vs.) Case No. 12-0785N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent.)
_____)

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 May 13, 2013, 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, Petitioners, Jaquesha Warren and Dantrellis Townsend, individually and as parents and natural guardians of Kionda Townsend, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA) (collectively, the Parties), have agreed that Jaquesha Warren and Dantrellis Townsend are the parents and legal guardians of Kionda Townsend (Kionda), a minor; that Jaquesha Warren and Dantrellis Townsend are the "Claimants" as defined by section 766.302(3); that Kionda was born a live infant on or about February 24, 2012, at Lawnwood Medical Center, Inc., d/b/a Lawnwood Medical Center & Heart Institute (Lawnwood), a "hospital" as defined by section 766.302(6) located in Fort Pierce, Florida; and that Kionda's birth weight was 3,075 grams. The Parties have further agreed that William Brian King, M.D., provided obstetrical services at Kionda's delivery and, at all material times, was a "participating physician" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The Parties have agreed that Susan M. Thul, ARNP, was a certified nurse-midwife, who was not a participating physician, but who participated in the care of the mother in the labor and delivery of the child. The Parties have agreed that Kionda suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and

proximate cause of Kionda's permanent and substantial mental and physical impairments.

It is ORDERED:

1. The Stipulation and Joint Petition filed on May 13, 2013, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Jaquesha Warren and Dantrellis Townsend, as the parents and natural guardians of Kionda Townsend, a minor, are awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1, to be paid in a lump sum; payment of benefits up to and including the effective date of the Joint Stipulation and Petition pursuant to section 766.31(1)(a), subject to the provisions of paragraph 19 of the Stipulation and Joint Petition; and payment of future expenses as incurred.

3. NICA will reimburse attorneys for the Petitioners, Alan Goldfarb, P.A. (Alan Goldfarb and Frederick Gunion) an agreed-upon attorney's fees of \$7,500.00 and expenses of \$1,714.20, totaling \$9,214.20, in full for services rendered in the filing of this claim. Alan Goldfarb, P.A., will be responsible for paying any attorney's fees and costs owed to Janice Vessell Fisher, Esquire, from the agreed-upon attorney's fees and costs.

4. Upon the payment of the award of \$100,000.00, past benefit/expenses, and \$9,214.20 for attorney's fees and costs the claims of Petitioners shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under section 766.31(2) to pay future expenses as incurred.

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 21st day of May, 2013, in Tallahassee, Leon County, Florida.

Susan Belyeu Kirklund

SUSAN BELYEU KIRKLAND
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 21st day of May, 2013.

COPIES FURNISHED:

(Via Certified Mail)

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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).