

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ZACHA WILSON ORTIZ AND ANDRES
ORTIZ, individually and as
parents and next friends of
JULIAN ORTIZ, a minor,

Petitioners,

vs.

Case No. 13-3392N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

ERIC EDELENBOS, D.O., R. ROLAND
POWERS, D.O., NORTH FLORIDA
OB/GYN ASSOCIATES, P.A., AND
ORANGE PARK MEDICAL CENTER,
INC.,

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 March 25, 2014, 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, Zacha Wilson Ortiz and Andres Ortiz, individually, and as parents and next friends of Julian Ortiz, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA) have agreed that Zacha Wilson Ortiz and Andres Ortiz are the parents and legal guardians of Julian Ortiz (Julian), a minor; that Zacha Wilson Ortiz and Andres Ortiz are the "Claimants" as defined by section 766.302(3); that Julian was born a live infant on or about April 2, 2013, at Orange Park Medical Center, a "hospital" as defined by section 766.302(6) located in Orange Park, Florida; and that Julian's birth weight exceeded 2,500 grams. The Parties have further agreed that Eric Edelenbos, D.O., and R. Roland Powers, D.O., provided obstetrical services at Julian's delivery and, at all material times, were "participating physicians" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The Parties have agreed that Julian suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause of Julian's permanent and substantial mental and physical impairments.

It is ORDERED:

1. The Stipulation and Joint Petition filed on March 25, 2014, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Zacha Wilson Ortiz and Andres Ortiz, as the parents and natural guardians of Julian Ortiz, a minor, are awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1, to be paid as a lump sum payment; payment of previously incurred expenses that are compensable pursuant to section 766.31(1)(a) up to and including the effective date of the Joint Stipulation and Petition, subject to the provisions of paragraph 19 of the Stipulation and Joint Petition; and payment of future expenses as incurred.

3. Respondent shall pay McMillen Law Firm, A Professional Association, attorneys for Petitioners, ten thousand dollars (\$10,000.00) for attorney's fees and four hundred thirty-two dollars and forty-eight cents (\$432.48) for expenses, totaling ten thousand four hundred thirty-two dollars and forty-eight cents (\$10,432.48) in full, for services rendered in the filing of Petitioners' claim.

4. Upon the payment of the award of \$100,000.00, past benefit/expenses, and attorneys' 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 28th day of March, 2014, 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 28th day of March, 2014.

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).