

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CHYNNA FONTAINE, on behalf of
and as parent and natural
guardian of KAYDEN MARTIN, a
minor,

Petitioner,

vs.

Case No. 14-2694N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

TENET, ST. MARY'S, INC., d/b/a
ST. MARY'S MEDICAL CENTER; LAURA
BASILE, M.D.; PEDIATRIX MEDICAL
GROUP OF FLORIDA, INC.; NADIA
PIERRE, M.D.; AND OB/GYN
SPECIALISTS OF THE PALM BEACHES,
P.A.,

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 December 29,

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, Petitioner, Chynna Fontaine, as parent and natural guardian of Kayden Martin, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Chynna Fontaine is the parent and natural guardian of Kayden Martin (Kayden), a minor; that Kayden was born a live infant on or about November 16, 2011, at St. Mary's Medical Center, a "hospital" as defined by section 766.302(6) located in West Palm Beach, Florida; and that Kayden's birth weight exceeded 2,500 grams. The Parties have further agreed that Nadia Pierre, M.D., provided obstetrical services at Kayden's delivery and 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 Kayden suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause of Kayden's permanent and substantial mental and physical impairments.

It is ORDERED:

1. The Stipulation and Joint Petition filed on December 29, 2014, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioner, Chynna Fontaine, as the parent and natural guardian of Kayden, a minor, is awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as periodic payments to the parent; 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 payments of future expenses as incurred.

3. NICA will reimburse Gary Friedman, Esquire, attorney for Petitioner, an agreed upon attorney's fee of \$10,000.00 and expenses of \$500.00, totaling \$10,500.00 in full for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000.00, past benefit/expenses, and \$10,500.00 for attorney's fees and costs, the claims of Petitioner 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 7th day of January, 2015, in Tallahassee, Leon County, Florida.



BARBARA J. STAROS
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 7th day of January, 2015.

COPIES FURNISHED:
(via certified mail)

Gary Alan Friedman, Esquire
Friedman and Friedman, P.A.
2600 Douglas Road, Suite 1011
Coral Gables, Florida 33134
(eServed)
(Certified Mail No. 7014 2120 0003 1053 1644)

Kenney Shipley, Executive Director
Florida Birth Related Neurological
Injury Compensation Association
2360 Christopher Place, Suite 1
Tallahassee, Florida 32308
(eServed)
(Certified Mail No. 7014 2120 0003 1053 1651)

Robert Scott Covitz, Esquire
Falk, Waas, Hernandez, Cortina,
Solomon and Bonner
Suite 210E
1900 Northwest Corporate Boulevard
Boca Raton, Florida 33431
(eServed)
(Certified Mail No. 7014 2120 0003 1053 1668)

Julia M. Ingle, Esquire
Lubell and Rosen, LLC
Suite 602
200 South Andrews Avenue
Fort Lauderdale, Florida 33301
(eServed)
(Certified Mail No. 7014 2120 0003 1053 1675)

Karissa L. Owens, Esquire
Rissman, Barrett, Hurt,
Donahue and McLain, P.A.
201 East Pine Street, Suite 1500
Orlando, Florida 32801
(eServed)
(Certified Mail No. 7014 2120 0003 1053 1682)

David W. Black, Esquire
Frank, Weinberg and Black, P.L.
7805 Southwest 6th Court
Plantation, Florida 33324
(eServed)
(Certified Mail No. 7014 2120 0003 1053 1699)

Amie Rice, Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified Mail No. 7014 2120 0003 1053 1064)

Elizabeth Dudek, Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
(Certified Mail No. 7014 2120 0003 1053 1071)

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).