

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AMBER DUDNEY, individually and
as parent and next friend of
CLARK HUDSON, a minor,

Petitioner,

vs.

Case No. 15-0348N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

HALIFAX HOSPITAL MEDICAL CENTER,
BRENDA LUCILLE HARRIS-WATSON,
M.D., AND CHRISTINE DASILVA,
M.D.,

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 July 28, 2015, 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, Amber Dudney, as parent and natural guardian of Clark Hudson, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Amber Dudney is the parent and legal guardian of Clark Hudson (Clark), a minor; that Clark was born a live infant on or about February 11, 2014, at Halifax Medical Center, a "hospital" as defined by section 766.302(6) located in Daytona Beach, Florida; and that Clark's birth weight exceeded 2,500 grams. The Parties have further agreed that Christine DaSilva, M.D., and Brenda Harris-Watson, M.D., provided obstetrical services at Clark'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 Clark suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause of Clark's permanent and substantial mental and physical impairments.

It is ORDERED:

1. The Stipulation and Joint Petition filed on July 28, 2015, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioner, Amber Dudney, as the parent and legal guardian of Clark Hudson, a minor, is awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as lump sum 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 McMillen Law Firm, A Professional Association, attorneys for Petitioner, an agreed-upon attorney's fee of \$10,000.00 and expenses of \$710.14, totaling \$10,710.14 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 \$10,710.14 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 31st day of July, 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 31st day of July, 2015.

COPIES FURNISHED:
(via certified mail)

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 0000 0359 2587)

Allison C. McMillen, Esquire
McMillen Law Firm, P.A.
608 East Central Boulevard
Orlando, Florida 32801
(eServed)
(Certified Mail No. 7014 2120 0000 0359 2594)

Jason O. Brown, Esquire
Cranshaw Brown
481 North U.S. Highway 1
Ormond Beach, Florida 32174
(eServed)
(Certified Mail No. 7014 2120 0000 0359 2617)

Michael R. D`Lugo, Esquire
Wicker, Smith, O`Hara, McCoy, Ford, P.A.
Post Office Box 2753
Orlando, Florida 32802
(eServed)
(Certified Mail No. 7014 2120 0000 0359 2624)

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 0000 0359 2631)

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 0000 0359 2648)

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).