

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SHENEE S. GREEN AND LAEL O.
WRIGHT, on behalf of and as
parents and natural guardians of
NAYVIANNA DARCEL GREEN, a
deceased minor,

Petitioners,

vs.

Case No. 16-3701N

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 October 26, 2016, 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, Shenee S. Green and Lael O. Wright, as parents and natural guardians of

Nayvianne Darcel Green, deceased, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Shenee S. Green and Lael O. Wright are the parents and legal guardians of Nayvianne Darcel Green (Nayvianne), deceased; that Nayvianne was born a live infant on or about August 27, 2015, at Sacred Heart Hospital, a "hospital" as defined by section 766.302(6) located in Pensacola, Florida; and that Nayvianne's birth weight exceeded 2,500 grams. The Parties have further agreed that Joseph Peterson, M.D., provided obstetrical services at Nayvianne'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 Nayvianne suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause of her injury.

It is ORDERED:

1. The Stipulation and Joint Petition filed on October 26, 2016, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Shenee S. Green and Lael O. Wright, as the parents and legal guardians of Nayvianne Darcel Green, deceased, 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 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 M. Justin Lusko, Esquire, attorney for Petitioners, an agreed-upon attorney's fee of \$10,000.00 and expenses of \$324.84, totaling \$10,324.84 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 \$10,324.84 for attorney's fees and costs, the claims of Petitioners 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 27th day of October, 2016, in
Tallahassee, Leon County, Florida.



BARBARA J. STAROS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 27th day of October, 2016.

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).