

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

VANESSA AUGUSTIN, as parent and
natural guardian of OWENS ST.
JACQUES, a minor,

Petitioners,

vs.

Case No. 18-2553N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

UNIVERSITY COMMUNITY HOSPITAL,
INC., d/b/a FLORIDA HOSPITAL
TAMPA,

Intervenor.

_____ /

FINAL ORDER

On August 22, 2018, Petitioner and Respondent filed a Stipulation and Joint Petition for Compensation of Claim Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes. The following day, Intervenor, University Community Hospital, Inc., d/b/a Florida Hospital Tampa, filed a notice that, while not stipulating to the facts contained within the Joint Stipulation and Joint Petition, Intervenor did not object to the entry of an order approving the Stipulation and Joint Petition.

Petitioner and Respondent seek the entry of an order approving the resolution of a claim for compensation of benefits filed in accordance with the provisions of chapter 766 and a resolution of the exclusive remedy otherwise available as outlined in chapter 766.

FINDINGS OF FACT

Based on the stipulation of Petitioner and Respondent, the following facts are found:

1. Petitioner, Vanessa Augustin, is the mother of Owens St. Jacques, and is the "claimant" as defined by section 766.302(2).

2. On or about October 22, 2015, Owens St. Jacques incurred a "birth-related neurological injury" as that term is defined in section 766.302(2).

3. At birth, Owens St. Jacques weighed 2924 grams.

4. Ezekiel Aderemi Osuntogun, M.D., rendered obstetrical services in the delivery of Owens St. Jacques and, at all material times, was a "participating physician" as defined in section 766.203(7).

5. University Community Hospital, Inc., d/b/a Florida Hospital Tampa, is a hospital located in Tampa, Hillsborough County, Florida, and is the "hospital," as that term is defined in section 766.302(6), where Owens St. Jacques was born.

6. Petitioner filed a petition pursuant to section 766.305, seeking compensation from the Florida Birth-Related Neurological

Injury Compensation Association (NICA), and that petition, including all attachments, is incorporated in its entirety, by reference, into the parties' stipulation. By stipulation of the parties, NICA has determined that the claim for benefits is compensable. Any reference in the stipulation to NICA encompasses, where appropriate, the Florida Birth-Related Injury Compensation Plan (the Plan).

CONCLUSIONS OF LAW

7. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties to this proceeding pursuant to section 766.301.

8. Section 766.305(7) requires the presiding administrative law judge to approve the settlement of any claim where NICA determines that the injury is compensable.

It is ORDERED:

1. The Stipulation and Joint Petition filed on August 22, 2018, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioner, Vanessa Augustin, as the parent and natural guardian of Owens St. Jacques, a minor, is awarded one hundred thousand dollars (\$100,000), pursuant to section 766.31(1)(b)1., to be paid as a lump sum to Petitioner; as well as payment of benefits as authorized pursuant to section 766.31(1)(a), subject

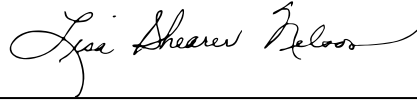
to the provisions of paragraph 19 of the parties' Stipulation and Joint Petition.

3. NICA will also reimburse McMillen Law Firm, a Professional Association, the attorneys for Petitioner, an agreed-upon attorney's fee of ten thousand dollars (\$10,000), and expenses of \$432.51 in full, for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000, past benefit/expenses, and the award for attorney's fees and costs, Petitioner's claims 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 5th day of September, 2018, in
Tallahassee, Leon County, Florida.



LISA SHEARER NELSON
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 5th day of September, 2018.

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).