

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

KIEARA JOHNSON AND JOSHUA MAIER,
as parents and natural guardians
of KAYDEN MAIER, a minor child,

Petitioners,

vs.

Case No. 19-2178N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

GALENCARE, INC., d/b/a BRANDON
REGIONAL HOSPITAL; AND JOSE E.
LLINAS MESSEGUER, M.D.,

Intervenors.

_____ /

FINAL ORDER

On November 14, 2019, Petitioners 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 (Stipulation and Joint Petition). The Florida Birth-Related Neurological Injury Compensation Association (NICA) represents that they have conferred with counsel for Intervenors and are authorized to represent that Intervenors' signatures are not necessary.

Petitioners and Respondent seek the entry of an order approving the resolution of the claim for benefits filed in accordance with the provisions of chapter 766, Florida Statutes.

FINDINGS OF FACT

Based upon Petitioners and Respondent's stipulation, the following facts are found:

1. Kieara Johnson and Joshua Maier (Petitioners) are the parents and legal guardians of Kayden Maier (Kayden), and are the "Claimants" as defined by section 766.302(3), Florida Statutes.

2. Kayden incurred a birth-related neurological injury as that term is defined in section 766.302(2), which was the sole and proximate cause of Kayden's injury.

3. At birth, Kayden weighed 3,830 grams.

4. Jose Llinas Messeguer, M.D., and Richard Strathmann, M.D., rendered obstetrical services in the delivery of Kayden, and at all times material to these proceedings, were "participating physicians" as defined in section 766.302(7).

5. Brandon Regional Hospital is a hospital located in Brandon, Florida, and is the "hospital" as that term is defined in section 766.302(6), where Kayden was born.

6. Petitioners filed a petition pursuant to section 766.305, seeking compensation from NICA, and that Petition is incorporated by reference in its entirety, including any

attachments. Any reference made within this document to NICA encompasses, where appropriate, the Florida Birth-Related Neurological Injury Compensation Plan (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.

CONCLUSION

Based upon the Findings of Fact and Conclusions of Law, it is

ORDERED:

1. The Stipulation and Joint Petition filed November 14, 2019, is approved, and the parties are directed to comply with provisions of the Stipulation and Joint Petition.

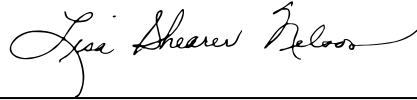
2. Petitioners, Kieara Johnson and Joshua Maier, as the parents and legal guardians of Kayden Maier, are awarded one hundred thousand dollars (\$100,000), to be paid to the parents as periodic payments, pursuant to section 766.31(1)(b), as well as payment of benefits as authorized pursuant to section 766.31(1)(a), subject to the provisions of paragraph 19 of the parties' Stipulation and Joint Petition.

3. NICA will reimburse Scott Borders, Esquire, attorney for Petitioners, an agreed-upon attorney's fee of Twelve Thousand Five Hundred Dollars (\$12,500.00) and expenses of Six Thousand Five Hundred Sixty-Four Dollars and Thirty-Three Cents (\$6,564.33), totaling Nineteen Thousand Sixty-Four Dollars and Thirty-Three Cents (\$19,064.33) in full, for services rendered in this proceeding.

4. Upon the payment of the award of \$100,000, and past benefits/expenses, and payment of the attorney's fees awarded to Petitioners' counsel, Petitioners' claims shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under section 766.301(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 21st day of November, 2019, 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 21st day of November, 2019.

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).