

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DANIEL DAWOOD, BY AND THROUGH HIS
PARENTS, SALLY AND JOSEPH DAWOOD,

Petitioners

and

JEFFREY J. MARKS, M.D. AND WOMEN'S
CARE FLORIDA, LLC,

Intervenors,

vs.

Case No. 19-3200N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

TRUSTEES OF MEASE HOSPITAL, INC., d/b/a
MEASE COUNTRYSIDE HOSPITAL,

Intervenors.

_____ /

FINAL ORDER APPROVING STIPULATION FOR ENTRY OF AWARD

This cause came on for consideration pursuant to sections 766.304 and 766.305, 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 (Division) on

March 16, 2020, 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, Sally and Joseph Dawood, as parents and guardians of Daniel Dawood, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Sally and Joseph Dawood are the parents and legal guardians of Daniel Dawood (Daniel); that Daniel was born a live infant on or about March 7, 2015, at Intervenor Mease Countryside Hospital, a “hospital,” as defined by section 766.302(6), located in Safety Harbor, Florida; and that Daniel’s birth weight exceeded 2,500 grams. The parties have further agreed that Anjana Patel, M.D., and Mary Kay Miller, C.N.M., provided obstetrical services at Daniel’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 Daniel suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), which was the sole and proximate cause that led to Daniel’s current medical condition.

It is ORDERED:

1. The Stipulation and Joint Petition filed on March 16, 2020, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Sally and Joseph Dawood, as the parents and legal guardians of Daniel, a minor, are awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as a lump sum to the parents.

3. Petitioners, Sally and Joseph Dawood, as the parents and legal guardians of Daniel, a minor, and NICA, agree that NICA will pay future expenses as incurred, pursuant to section 766.31(2).

4. NICA will reimburse Andrew Wozniak, Esq., attorney for Petitioners, reasonable attorney's fees and expenses for services rendered in the filing of this claim, pursuant to section 766.31(1)(c). The amount of reasonable expenses shall be decided by a separate hearing before the undersigned, unless the parties agree on the amount.

5. Upon the payment of the award of \$100,000.00 past benefit/expenses, and the yet-to-be determined amount for attorney's fees and expenses, the claims of Petitioners shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under section 766.31(2) to pay future expenses, as incurred.

6. The Division 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 19th day of March, 2020, in Tallahassee, Leon County, Florida.



ROBERT J. TELFER III
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 19th day of March, 2020.

COPIES FURNISHED:
(via certified mail)

Kenney Shipley, Executive Director
Florida Birth-Related Neurological
Injury Compensation Association
Suite 1
2360 Christopher Place
Tallahassee, Florida 32308
(eServed)
(Certified No. 7018 3090 0002 1880 7950)

Andrew J. Wozniak, Esquire
Greco & Wozniak, P.A.
Suite 200
501 North Morgan Street
Tampa, Florida 33602
(eServed)
(Certified No. 7018 3090 0002 1880 7967)

Gabrielle Osborne, Esquire
Beytin, McLaughlin, McLaughlin,
O'Hara, Kinman & Bocchino, P.A.
1706 East Eleventh Avenue
Tampa, Florida 33605
(eServed)
(Certified No. 7018 3090 0002 1880 7974)

Todd A. Jennings, Esquire
Macfarlane, Ferguson & McMullen
Suite 200
625 Court Street
Clearwater, Florida 33756
(eServed)
(Certified No. 7018 3090 0002 1880 7981)

James A. Martin, Jr., Esquire
Macfarlane Ferguson & McMullen
Suite 200
625 Court Street
Clearwater, Florida 33756
(eServed)
(Certified No. 7018 3090 0002 1880 7998)

Amie Rice, Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(eServed)
(Certified No. 7018 3090 0002 1880 7943)

Mary C. Mayhew, Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 1
Tallahassee, Florida 32308
(eServed)
(Certified No. 7018 3090 0002 1880 7936)

Mary Miller, CNM
Women Care of Florida
2665 State Road 580
Clearwater, Florida 33761
(Certified No. 7018 3090 0000 2189 3720)

Jeffrey J. Marks, M.D.
Women Care of Florida
2665 State Road 580
Clearwater, Florida 33761
(Certified No. 7018 3090 0000 2189 3737)

Mease Countryside Hospital
Attention: Risk Management
3231 McMullen Booth Road
Safety Harbor, Florida 34695
(Certified No. 7018 3090 0002 1880 7929)

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).