

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MEAGAN SOWELL AND MICHAEL BELL, ON
BEHALF OF AND AS PARENTS AND
NATURAL GUARDIANS OF THEO BELL, A
DECEASED MINOR,

Petitioners,

vs.

Case No. 19-5916N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

CRISTINA MCCLURE, D.O., AND INDIAN
RIVER MEMORIAL HOSPITAL, INC., D/B/A
PARTNERS IN WOMEN'S HEALTH,

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 May 26, 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 and Joint Petition, Petitioners, Meagan Sowell and Michael Bell, as parents and guardians of Theo Bell, a deceased minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Meagan Sowell and Michael Bell are the parents and legal guardians of Theo Bell (Theo); that Theo was born a live infant on or about March 9, 2018, at Cleveland Clinic Indian River, a “hospital,” as defined by section 766.302(6), located in Vero Beach, Florida; that Theo’s birth weight exceeded 2,500 grams; and that Theo died on March 17, 2018. The parties have further agreed that Cristina McClure, O.S., provided obstetrical services at Theo’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 Theo suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), which was the sole and proximate cause of Theo’s death.

It is ORDERED:

1. The Stipulation and Joint Petition filed on May 26, 2020, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Meagan Sowell and Michael Bell, as the parents and legal guardians of Theo, a deceased 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, Meagan Sowell and Michael Bell, as the parents and legal guardians of Theo, a deceased minor, are awarded a death benefit of ten thousand dollars (\$10,000.00), pursuant to section 766.31(1)(a), to be paid as a lump sum to the parents.

4. NICA will reimburse Deborah Gallagher Warner, Esq., attorney for Petitioners, pursuant to agreement, ten thousand dollars (\$10,000.00) for attorney's fees, and one thousand nine hundred eighty-four dollars and twenty-one cents (\$1,984.21) for expenses, for services rendered in the filing of this claim, pursuant to section 766.31(1)(c).

5. Upon the payment of the award of \$100,000.00 for past benefit/expenses, \$10,000.00 death benefit, and \$11,984.21 for attorney's fees and expenses, the claims of Petitioners shall be deemed fully satisfied and extinguished.

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 2nd day of June, 2020, in Tallahassee, Leon County, Florida.



ROBERT J. TELFER III
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 2nd day of June, 2020.

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).