

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MICHELLE AND VICTOR PEREZ, ON
BEHALF OF AND AS PARENTS AND
NATURAL GUARDIANS OF JACE PEREZ, A
MINOR,

Case No. 19-6152N

Petitioners,

vs.

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

WINNIE PALMER HOSPITAL, TULLIE
RAMIREZ, M.D., AND APRIL HERBST,
M.D.,

Intervenors.

_____ /

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 June 12, 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, Michelle and Victor Perez, as parents and natural guardians of Jace Perez, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Michelle and Victor Perez are the parents of Jace Perez (Jace), a minor; that Jace was born a live infant on or about July 26, 2019, at Winnie Palmer Hospital, a “hospital,” as defined by section 766.302(6), located in Orlando, Florida; and that Jace’s birth weight exceeded 2,500 grams. The parties have further agreed that Tullie Ramirez, M.D., and April Herbst, M.D., provided obstetrical services at Jace’s delivery and were “participating physicians” in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The parties have agreed that Jace suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), which was the sole and proximate cause of Jace’s current medical condition. Based thereon, it is

ORDERED:

1. The Stipulation and Joint Petition filed on June 12, 2020, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Michelle and Victor Perez, as the parents and legal guardians of Jace, 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; 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 19 of the Stipulation and Joint Petition; and payments of future expenses, as incurred.


3. NICA will reimburse Robin Treto, Esquire, of the firm Paul Knopf Bigger, as attorneys for Petitioners, an agreed-upon attorney’s fee of

\$10,000.00 and expenses of \$3,100.51, totaling \$13,100.51 in full, for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000.00, for past benefits/expenses as agreed upon, and \$13,100.51 for attorney's fees and costs, 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.

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 19th day of June, 2020, in Tallahassee, Leon County, Florida.



TODD P. RESAVAGE
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 19th day of June, 2020.

COPIES FURNISHED:
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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).