

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SHELBY ARBER AND BRIAN ARBER,
INDIVIDUALLY AND AS PARENTS AND NEXT
FRIENDS OF LENA ARBER, A MINOR,

Petitioners,

vs.

Case No. 19-6159N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent.

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 March 17, 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, Shelby Arber and Brian Arber, as parents and natural guardians of Lena Arber, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Shelby Arber and Brian Arber are the parents and legal guardians of Lena Arber (Lena), a minor; that Lena was born a live infant on or about December 26, 2018, at UF Health Shands

Hospital, a “hospital” as defined by section 766.302(6) located in Gainesville, Alachua County, Florida; and that Lena’s birth weight exceeded 2,500 grams. The Parties have further agreed that Kathleen Green, M.D., provided obstetrical services at Lena'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 Lena suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), which was the sole and proximate cause of Lena's current medical condition.

It is ORDERED:

1. The Stipulation and Joint Petition filed on March 17, 2020, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Shelby Arber and Brian Arber, as the parents and legal guardians of Lena Arber, 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; 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 McMillen Law Firm, attorneys for Petitioners, an agreed-upon attorney’s fee of \$12,500.00 and expenses of \$16.95, totaling \$12,516.95 in full for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000.00, past benefit/expenses, and \$12,516.95 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 24th day of March, 2020, in Tallahassee, Leon
County, Florida.



W. DAVID WATKINS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of March, 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).