

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

KASSIE SPIVEY AND FRANK BRANTLEY,
INDIVIDUALLY AND AS NATURAL PARENTS
OF FARON BRANTLEY, A MINOR,

Petitioners,

Case No. 19-6621N

vs.

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent.

_____ /

FINAL ORDER

On December 23, 2020, Petitioners Kassie Spivey and Frank Brantley, Individually and as Natural Parents of Faron Brantley (“Faron”), a Minor (“Petitioners”), and Respondent Florida Birth-Related Neurological Injury Compensation Association (“NICA”), 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 Parties seek an order approving the resolution of the claim for benefits, consistent with the provisions of chapter 766, Florida Statutes.¹

FINDINGS OF FACT

Based upon the Stipulation and Joint Petition, the undersigned makes the following Findings of Fact:

1. Petitioners are the parents and legal guardians of Faron and are the “claimants,” as defined in section 766.302(3), Florida Statutes.

¹ All references to the Florida Statutes are to the 2017 version, none of which have materially changed since 2017.

2. Faron suffered a “birth-related neurological injury” (“Injury”), as defined in section 766.302(2), on or about November 17, 2017. The Injury solely and proximately caused Faron’s current medical condition.

3. At birth, Faron weighed 3,520 grams.²

4. Sherrie-Lee T. Brown, M.D., Vartika Bhardwaj, M.D., and Jessica Monique Covington, M.D., rendered obstetrical services in the delivery of Faron and, at all material times, were “participating physicians,” as defined in section 766.302(7).

5. U.F. Health Jacksonville, located in Jacksonville, Florida, is the “hospital,” as defined in section 766.302(6), where Faron was born.

6. On December 13, 2019, Petitioners filed a Petition seeking compensation from NICA, pursuant to section 766.305, Florida Statutes. The Petition is incorporated herein by reference in its entirety, including all attachments. Any reference to NICA made within that document encompasses, where appropriate, the Florida Birth-Related Neurological Injury Compensation Plan (“Plan”).

CONCLUSIONS OF LAW

7. The Division of Administrative Hearings (“DOAH”) has jurisdiction over the parties and exclusive jurisdiction over the subject matter of these proceedings pursuant to section 766.304, Florida Statutes.

8. Pursuant to section 766.305, the presiding administrative law judge may approve the settlement of any claim where NICA determines that the injury is compensable. This is such a case.

CONCLUSION

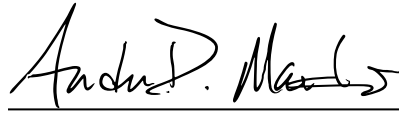
Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby

² Although the parties stipulated that Faron’s birth weight was 3,515.34 grams, the reports of both of NICA’s medical experts noted that Faron weighed 3,520 grams at birth.

ORDERED:

1. The Stipulation and Joint Petition, filed on December 23, 2020, is approved and the parties are directed to comply with the provisions thereof.
2. Petitioners are awarded One Hundred Thousand Dollars (\$100,000.00), to be paid in a lump sum payment, pursuant to section 766.31(1)(b), Florida Statutes. Petitioners are also awarded payment of benefits as authorized in section 766.31(1)(a), subject to the provisions of paragraph 19 of the Stipulation and Joint Petition.
3. NICA will reimburse Ronald S. Gilbert, Esquire, counsel for Petitioners, an agreed-upon attorney's fee of Twelve Thousand Five Hundred Dollars (\$12,500.00) and expenses of Five Hundred Dollars (\$500.00), totaling Thirteen Thousand Dollars (\$13,000.00) in full, for services rendered in the filing of this claim.
4. Upon the payment of the award of \$100,000.00, past benefits/expenses, and the total attorney's fees and expenses awarded to Petitioners' counsel, Petitioners' claims alleged in their Petition shall be deemed fully satisfied and extinguished, except for NICA's continuing obligation to pay future expenses as incurred, as required by section 766.31(2).
5. DOAH retains jurisdiction over this matter to resolve any disputes, should they arise, regarding the compliance with the terms of this Order.

DONE AND ORDERED this 5th day of January, 2021, in Tallahassee, Leon County, Florida.



ANDREW D. MANKO
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 5th day of January, 2021.

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).