

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ALEXANDRA N. GRATCHEV AND JUSTIN
SHERRARD, ON BEHALF OF AND AS
PARENTS AND NATURAL GUARDIANS OF
ANASTASIA SHERRARD, A MINOR,
DECEASED,

Petitioners,

vs.

Case No. 20-1793N

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 (DOAH) on May 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, Petitioners, Alexandra N. Gratchev and Justin Sherrard, as parents and natural guardians of Anastasia Sherrard, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Alexandra N. Gratchev and Justin Sherrard are the parents of Anastasia Sherrard (Anastasia), a

minor; that Anastasia was born a live infant on or about January 17, 2019, at UF Health Jacksonville, a “hospital,” as defined by section 766.302(6), located in Jacksonville, Florida; and that Anastasia’s birth weight exceeded 2,500 grams. Anastasia died shortly after birth on January 17, 2019. The parties have further agreed that Gregory Kainz, M.D., provided obstetrical services at Anastasia’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 Anastasia suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), which was the sole and proximate cause of her death. It is

ORDERED:

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

2. Petitioners, Alexandra N. Gratchev and Justin Sherrard, as the parents and legal guardians of Anastasia, 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 and consistent with paragraph 13(a) of the Stipulation and Joint Petition; a death benefit of ten thousand dollars (\$10,000.00), pursuant to section 766.31(1)(b)2., and consistent with paragraph 13(b) of the Stipulation and Joint Petition; 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 20 of the Stipulation and Joint Petition; and payments of future expenses, as incurred.

3. NICA shall reimburse Grant Kuvin, Esquire, an agreed upon attorney’s fee of fourteen thousand dollars (\$14,000.00), and expenses of one thousand four hundred one dollars and twenty-seven cents (\$1401.27); totaling fifteen

thousand four hundred one dollars and twenty-seven cents (\$15,401.27) for services rendered in the filing the claim.

4. Upon the payment of the award of \$100,000.00, \$10,000.00 death benefit, past benefits/expenses, and attorney's fees and expenses of \$15,401.27, 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 1st day of June, 2020, in Tallahassee, Leon County, Florida.



TODD P. RESAVAGE
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 1st day of June, 2020.

COPIES FURNISHED:
(via certified mail)

Grant A. Kuvin, Esquire
Morgan & Morgan
Suite 1100
76 South Laura Street
Jacksonville, Florida 32202
(eServed)
(Certified No. 7019 2280 0001 7689 4767)

Kenney Shipley, Executive Director
Florida Birth-Related Neurological
Injury Compensation Association
Suite 1
2360 Christopher Place
Tallahassee, Florida 32308
(eServed)
(Certified No. 7019 2280 0001 7689 4774)

Amie Rice, Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified No. 7019 1640 0000 2306 3514)

Mary C. Mayhew, Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 1
Tallahassee, Florida 32308
(eServed)
(Certified No. 7019 1640 0000 2306 3521)

Gregory Kainz, D.O.
UF Health Womens Specialists – N
Suite 4400
15255 Max Leggett Parkway
Jacksonville, Florida 32218
(Certified No. 7019 1640 0000 2306 3538)

UF Health Shands Jacksonville
Attention: Risk Management
655 8th Street West
Jacksonville, Florida 32209
(Certified No. 7019 1640 0000 2306 3545)

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).