

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

NICHOLAS RYDER AND CASSIE MCCARTER,  
INDIVIDUALLY AND AS PARENTS OF SILAS  
RYDER, DECEASED,

Petitioners,

vs.

Case No. 20-1905N

FLORIDA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

UNIVERSITY OF SOUTH FLORIDA BOARD OF  
TRUSTEES,

Intervenor.

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FINAL ORDER APPROVING STIPULATION

On May 29, 2020, the parties 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). Petitioners and the Florida Birth-Related Neurology Injury Compensation Association (NICA) seek entry of an order approving the resolution of the claim for benefits filed in accordance with the provisions of chapter 766, Florida Statutes. Intervenor, University of South Florida Board of Trustees, has not filed an objection to the Stipulation and Petition.

PRELIMINARY STATEMENT

On April 8, 2020, Petitioners, Nicholas Ryder and Cassie McCarter, Individually and as Parents of Silas Ryder (Silas), deceased, filed a Petition

for NICA Benefits. The Petition named Alyssa J. Brown, M.D., as the attending physician, and Tampa General Hospital as the hospital where Silas was born. On April 23, 2020, NICA, Dr. Brown, and Tampa General Hospital were served by certified mail with the Petition for NICA Benefits, and certified return receipts indicate that NICA, Dr. Brown, and Tampa General Hospital received copies of the Petition for NICA Benefits on April 24, April 27, and April 29, 2020, respectively.

On May 8, 2020, the University of South Florida Board of Trustees, who is Dr. Brown's employer, moved for leave to Intervene. Neither Petitioners nor NICA objected to the intervention, and the Motion to Intervene was granted by Order dated May 14, 2020.

On May 4, 2020, NICA filed a copy of a letter to Petitioners, which serves as a response to the Petition for NICA Benefits, stating that NICA agreed that Silas suffered a birth-related neurological injury as defined in section 766.302(2), and was prepared to offer the benefits authorized by statute. On May 14, 2020, an Order Requiring Status Report was issued, directing the parties to file a Joint Response no later than June 15, 2020, advising whether a hearing would be necessary. Petitioners and Respondent filed the Stipulation and Joint Petition on May 29, 2020, that is the basis for this Final Order Approving Stipulation. Because of an inadvertent omission in the original Stipulation and Joint Petition, the parties filed an Amended Stipulation and Joint Petition for Compensation of Claim Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Amended Stipulation and Joint Petition), which is amended as to paragraph 12 only.

### FINDINGS OF FACT

Based upon the stipulation of the parties, the following facts are found:

1. Nicholas Ryder and Cassie McCarter are the parents of Silas and are the “Claimants” as defined in section 766.302(3).
2. Silas incurred a “birth-related neurological injury” (the “injury”) as that term is defined in section 766.302(2), on or about April 27, 2018, which caused his death the following day.
3. At birth, Silas weighed 3,209 grams.
4. Alyssa J. Brown, M.D., rendered obstetrical services in the delivery of Silas and, at all times material to this proceeding, was a “participating physician” as defined in section 766.302(7).
5. Tampa General Hospital is a hospital located in Tampa, Hillsborough County, Florida, and is the “hospital” as defined in section 766.302(6), where Silas was born.
6. Petitioners filed a Petition for NICA Benefits pursuant to section 766.305, seeking compensation from NICA and that Petition for NICA Benefits is incorporated herein by reference in its entirety, including all attachments. Any reference made within this document to NICA encompasses, where appropriate, the Florida Birth-Related Injury Compensation Plan (the Plan).

### CONCLUSIONS OF LAW

7. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties to this proceeding pursuant to section 766.301.
8. Section 766.305(7) requires the presiding administrative law judge to approve the settlement of any claim where NICA determines that the injury is compensable.

## CONCLUSION

Based upon the Findings of Fact and Conclusions of Law, it is  
ORDERED:

1. The Stipulation and Joint Petition filed May 29, 2020, is approved, and the parties are directed to comply with the provisions of the Amended Stipulation and Joint Petition.

2. Petitioners, Nicholas Ryder and Cassie McCarter, as the parents of Silas Ryder, are awarded One Hundred Thousand Dollars (\$100,000), to be paid as a lump sum to the parents, as authorized by section 766.31(1)(b).

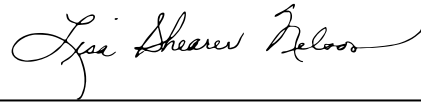
3. Petitioners are also awarded a death benefit of Ten Thousand Dollars (\$10,000), authorized by section 766.31, and payment of past expenses under section 766.31(1)(a), subject to the provisions of paragraph 19 of the Amended Stipulation and Joint Petition.

4. NICA will reimburse McMillen Law Firm, a Professional Association, an agreed-upon attorney's fee of Twelve Thousand Five Hundred Dollars (\$12,500.00), and expenses of Fifty-Three Dollars and Sixty-One Cents (\$53.61), in full, for services rendered in the filing of this claim.

5. Upon the payment of the award of \$100,000; the death benefit of \$10,000; past benefits/expenses; and payment of the attorney's fee and costs awarded to Petitioners' counsel, Petitioners' claims shall be deemed fully satisfied and extinguished.

6. 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 25th day of June, 2020, in Tallahassee, Leon  
County, Florida.



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LISA SHEARER NELSON  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 25th 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).