

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

SHEINA CARABALLO AND LUIS GOTAY, AS  
PARENTS AND NATURAL GUARDIANS OF  
LEINA GOTAY, A MINOR,

Petitioners,

vs.

Case No. 20-3361N

FLORIDA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

SOUTHERN BAPTIST HOSPITAL OF FLORIDA,  
INC., D/B/A BAPTIST MEDICAL CENTER-  
SOUTH,

Intervenor.

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FINAL ORDER

On September 24, 2020, the Parties filed a Stipulation and Joint Petition for Compensation of Claims Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Stipulation and Joint Petition). Sheina Caraballo and Luis Gotay (Petitioners), the Florida Birth-Related Neurological Injury Compensation Association (NICA), and Southern Baptist Hospital of Florida, Inc., d/b/a Baptist Medical Center-South (Baptist Medical Center South)(collectively, the Parties), seek entry of an order approving the resolution of the claim for benefits filed pursuant to chapter 766, Florida Statutes.

### FINDINGS OF FACT

Based on the Stipulation of the Parties, the following facts are found:

1. Petitioners are the parents and legal guardians of Leina Gotay (Leina), and are the “Claimants” as defined by section 766.302(3).

2. Leina incurred a “birth-related neurological injury” as that term is defined in section 766.302(2).

3. At birth, Leina weighed 2,750 grams.

4. B. Vereen Chithriki, M.D., rendered obstetrical services in the delivery of Leina and, at all times material to this proceeding, was a “participating physician” as defined in section 766.302(7).

5. Baptist Medical Center South is a hospital located in Jacksonville, Florida, and is the “hospital” as that term is defined in section 766.302(6), where Leina was born.

6. Petitioners filed a Petition for Benefits pursuant to section 766.305, seeking compensation from NICA, and that Petition for Benefits is incorporated by reference in its entirety, including all attachments. Any reference made within this document to NICA encompasses, where appropriate, the Florida Birth-Related Neurological 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.

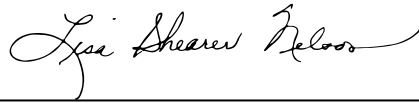
## CONCLUSION

Based on the Findings of Fact and Conclusions of Law, it is

### ORDERED:

1. The Stipulation and Joint Petition filed September 24, 2020, is approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.
2. Petitioners, Sheina Caraballo and Luis Gotay, as the parents and legal guardians of Leina Gotay, are awarded one hundred thousand dollars (\$100,000), to be paid to the parents as periodic payments, as authorized by section 766.31(1)(b).
3. Payment of benefits up to and including the effective date of this Final Order, authorized pursuant to section 766.31(1)(a), shall be subject to the provisions of paragraph 19 of the Stipulation and Joint Petition.
4. NICA will reimburse Hardesty, Tyde, Green & Ashton, P.A., an agreed-upon attorney's fee of Ten Thousand Dollars (\$10,000) and expenses of Five Hundred Dollars (\$500), totaling Ten Thousand Five Hundred Dollars (\$10,500) in full, for services rendered with respect to this proceeding.
5. Upon the payment of the payments outlined in the Stipulation and Joint Petition and approved in this Final Order, Petitioners' claims shall be deemed fully satisfied and extinguished.
6. NICA will pay Petitioners future expenses as incurred, pursuant to section 766.31(2). Any dispute with respect to payment of future expenses will be resolved as agreed in paragraph 22 of the Stipulation and Joint Petition.
7. 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 Final Order.

DONE AND ORDERED this 13th day of October, 2020, in Tallahassee, Leon County, Florida.



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LISA SHEARER NELSON  
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Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 13th day of October, 2020.

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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).