

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

LISA M. CUTLEY AND ROBERT CUTLEY,  
INDIVIDUALLY AND AS NATURAL PARENTS  
OF ONAZJAH CUTLEY, A MINOR,  
(DECEASED)

Case No. 20-4359N

Petitioners,

vs.

FLORIDA BIRTH-RELATED NEUROLOGICAL  
INJURY COMPENSATION ASSOCIATION,

Respondent.

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FINAL ORDER

On December 11, 2020, Petitioners Lisa M. Cutley and Robert Cutley, Individually and as Natural Parents of Onazjah Cutley, 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.<sup>1</sup>

FINDINGS OF FACT

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

1. Petitioners are the natural parents of Onazjah Cutley (“Onazjah”) and are the “claimants,” as defined in section 766.302(3), Florida Statutes.

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<sup>1</sup> All references to the Florida Statutes are to the 2019 versions, none of which have materially changed since 2019.

2. Onazjah suffered a “birth-related neurological injury” (“Injury”), as defined in section 766.302(2), on or about December 2, 2019. The Injury solely and proximately caused Onazjah’s medical condition, which resulted in her death on December 14, 2019.

3. At birth, Onazjah weighed 3,165 grams.

4. Stephen W. Tobia, M.D., rendered obstetrical services in the delivery of Onazjah and, at all material times, was a “participating physician,” as defined in section 766.302(7).

5. Health First’s Holmes Regional Medical Center, in Melbourne, Florida, is the “hospital,” as defined in section 766.302(6), where Onazjah was born.

6. On September 22, 2020, 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.

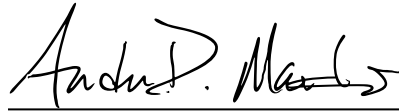
#### CONCLUSION

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

ORDERED:

1. The Stipulation and Joint Petition, filed on December 11, 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)1., Florida Statutes, payment of a death benefit in the amount of Ten Thousand Dollars (\$10,000.00), as authorized in section 766.31(1)(b)2; and payment of past 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 Ten Thousand Dollars (\$10,000.00) and expenses of Five Hundred Dollars (\$500.00), totaling Ten Thousand Five Hundred Dollars (\$10,500.00) in full, for services rendered in the filing of this claim.
4. Upon the payment of the award of \$100,000.00, the death benefit, 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.



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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.

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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).