

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ANTHONY AVALLE AND SHANTE AVALLE,
AS PARENTS AND NATURAL GUARDIANS OF
ABIGAIL ELIZABETH AVALLE, A MINOR,

Petitioners,

vs.

Case No. 20-4630N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

ANETTE MARIE SANDOVAL, C.N.M.,
HIBISCUS WOMEN'S CENTER, P.A., AND
THOMAS TOUSSAINT, M.D., AND HOLMES
REGINAL MEDICAL CENTER, INC.,

Intervenors.

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FINAL ORDER APPROVING STIPULATION FOR ENTRY OF AWARD

This cause came on for consideration pursuant to sections 766.304 and 766.305, 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 (Division) on February 23, 2021, 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 and Joint Petition, Petitioners, Anthony Avalle and Shante Avalle, as parents and guardians of Abigail-Elizabeth Avalle, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Anthony Avalle and Shante Avalle are the parents and legal guardians of Abigail-Elizabeth Avalle (Abigail); that Abigail was born a live infant on or about October 26, 2018; and that Abigail's birth weight exceeded 2,500 grams. The parties have further agreed that Intervenors Annette Marie-Sandoval, C.N.M, and Thomas Toussaint, M.D., provided obstetrical services at Abigail's delivery, and that Dr. Toussaint 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 Abigail suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause that led to Abigail's current medical condition.

It is ORDERED:

1. The Stipulation and Joint Petition filed on February 23, 2021, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Anthony Avalle and Shante Avalle, as the parents and legal guardians of Abigail, 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.

3. Petitioners, Anthony Avalle and Shante Avalle, as the parents and legal guardians of Abigail, a minor, and NICA, agree that NICA will pay future expenses as incurred, pursuant to section 766.31(2).

4. NICA will reimburse Bounds Law Group, attorneys for Petitioners, an agreed-upon amount of \$12,500 for reasonable attorney's fees and \$929.55

for expenses for services rendered in the filing of this claim, pursuant to section 766.31(1)(c).

5. Upon the payment of the award of \$100,000.00 for past benefit/expenses, and \$13,429.55 for attorney's fees and expenses, 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.

6. The Division 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 26th day of February, 2021, in Tallahassee, Leon County, Florida.



ROBERT J. TELFER III
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 26th day of February, 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).