

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

JASMINE AND DWIGHT EBRON,
INDIVIDUALLY AND AS PARENTS AND
NATURAL GUARDIANS OF KYRIE EBRON,
MINOR CHILD,

Case No. 21-2005N

Petitioners,

vs.

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

WAYNE COHEN, M.D., ANGELA V.
LENCHINSKY, C.N.M., SARASOTA OB/GYN
ASSOCIATES, P.A., AND SARASOTA COUNTY
PUBLIC HOSPITAL DISTRICT, D/B/A
SARASOTA MEMORIAL HOSPITAL,

Intervenors.

_____ /

FINAL ORDER

On November 17, 2021, Petitioners, Jasmine and Dwight Ebron (“Petitioners”), individually and as parents and natural guardians of Kyrie Ebron (“Kyrie”), a minor, Respondent, Florida Birth-Related Neurological Injury Compensation Association (“NICA”), and Intervenors, Wayne Cohen, M.D., Angela V. Lenchinsky, C.N.M., Sarasota OB/GYN Associates, P.A., and Sarasota County Public Hospital District d/b/a Sarasota Memorial Hospital, 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 the entry

of an order approving the resolution of the claim for benefits, consistent with the provisions of chapter 766, Florida Statutes.¹

FINDINGS OF FACT

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

1. Petitioners are the parents of Kyrie and are the “claimants,” as defined in section 766.302(3), Florida Statutes.
2. Kyrie suffered a “birth-related neurological injury” (“Injury”), as defined in section 766.302(2), on or about March 23, 2020.
3. At birth, Kyrie weighed in excess of 2,500 grams.
4. Angela Lenchinski, C.N.M. (“Midwife Lenchinski”), rendered obstetrical services in the delivery of Kyrie under the supervision of Wayne Cohen, M.D. Neither Midwife Lenchinski nor Dr. Cohen were participating physicians at the time of the delivery. However, Sarasota Memorial Hospital’s (“Hospital”) OB hospitalist, Francisco Battaglia, M.D., also provided obstetrical services in the delivery of Kyrie and was at all material times a “participating physician,” as defined in section 766.302(7).
5. The Hospital, located in Sarasota, Florida, is the “hospital,” as defined in section 766.302(6), where Kyrie was born.
6. On May 25, 2021, Petitioners filed a petition seeking compensation from NICA, pursuant to section 766.305. 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”).

¹ All references to the Florida Statutes are to the 2021 version.

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.

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:

9. The Stipulation and Joint Petition, filed on November 17, 2021, is approved and the parties are directed to comply with the provisions thereof.

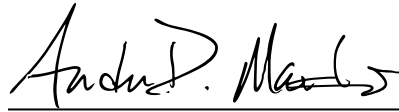
10. Petitioners are awarded Two Hundred Fifty Thousand Dollars (\$250,000.00), to be paid as a lump sum, pursuant to section 766.31(1)(d)1.a. Petitioners are also awarded payment of benefits as authorized in section 766.31(1)(a)-(c), subject to the provisions of paragraph 19 of the Stipulation and Joint Petition.

11. NICA will reimburse Armando T. Lauritano, Esquire, counsel for Petitioners, an agreed-upon attorney’s fee of Twelve Thousand Five Hundred Dollars (\$12,500.00) and expenses of Three Thousand Seven Hundred and Seventy-Eight Dollars and Sixty-One Cents (\$3,778.61), totaling Sixteen Thousand Two Hundred and Seventy-Eight Dollars and Sixty-One Cents (\$16,278.61) in full, for services rendered in the filing of this claim.

12. Upon the payment of the award of \$250,000.00, 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).

13. 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 22nd day of November, 2021, in Tallahassee, Leon County, Florida.



ANDREW D. MANKO
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
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Filed with the Clerk of the
Division of Administrative Hearings
this 22nd day of November, 2021.

COPIES FURNISHED:
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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).