

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

JEREMY LEE POSEY AND MADISON
O`BRIEN, O/B/O KOLTON POSEY, A MINOR,

Petitioners,

vs.

Case No. 21-2806N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

MICHAEL J. STROUP, M.D., AND ORLANDO
HEALTH, INC. D/B/A WINNIE PALMER
HOSPITAL,

Intervenors.

FINAL ORDER APPROVING STIPULATION FOR ENTRY OF AWARD

This cause comes before the undersigned pursuant to sections 766.304 and 766.305(7), Florida Statutes (2021), upon the parties' Stipulation and Joint Petition for Compensation of Claim Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes¹ (Stipulation), filed February 9, 2022, for entry of an order approving the resolution of a claim for compensation filed in accordance with the provisions of Chapter 766, Florida Statutes, and resolving the exclusive remedy available as outlined in Chapter 766. Intervenors have not filed a pleading in opposition to the Stipulation.

1. Mr. Posey and Ms. O'Brien are the parents and legal guardians of Kolton Posey. All references to Mr. Posey and Ms. O'Brien are to them in

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

their individual capacities and as parents and legal guardians of Kolton Posey.

2. Kolton Posey incurred a "birth-related neurological injury" as that term is defined in section 766.302(2), Florida Statutes (2021), on or about December 22, 2021. Colton Posey's birth weight exceeded 2,500 grams.

3. Michael J. Stroup, M.D., provided obstetrical services in the delivery of Kolton Posey. At all relevant times, Dr. Stroup was a "participating physician" as defined in Section 766.302(7), Florida Statutes.

4. Orlando Health, Inc., d/b/a Winnie Palmer Hospital (Hospital) is located in Orlando, Florida and is a "hospital" as the term is defined in section 766.302(6), Florida Statutes. Kolton Posey was born at Hospital.

It is ORDERED:

A. The Division of Administrative Hearings has jurisdiction over this matter.

B. The Stipulation and Joint Petition filed on February 9, 2022, is approved and incorporated by reference. The parties must comply with the provisions of the Joint Stipulation.

C. NICA must pay Mr. Posey and Ms. O'Brien \$257,500.00 as a lump sum. Section 766.31(1)(b), Florida Statutes, authorizes this payment.

D. NICA must pay all benefits, past and future, as authorized by section 766.31, Florida Statutes.

E. NICA must reimburse Brooke Charlan, attorney for Mr. Posey and Ms. O'Brien, an attorney's fee of \$10,360 and expenses of \$1,906.94, totaling \$12,266.94, as payment in full for services rendered in the filing of this claim.

F. Upon payment of the above amounts, Petitioners' claims are fully satisfied.

G. Within 30 days of the entering of this Order, Petitioners must provide NICA (a) a complete list (with copies of invoices and names and addresses of providers) of all known past expenses under section 766.31(1), Florida Statutes, for which Petitioners seek reimbursement, in accordance with the

terms of their Stipulation and (b) a complete list, under oath, of any source of funds or payments of any kind or nature, whether from state or federal government, pre-paid health plan, health maintenance organizations, or other providers of insurance.

H. The Division of Administrative Hearings retains jurisdiction over this matter to resolve any dispute about the parties' compliance with the terms of this Order, including the incorporated Stipulation and Joint Petition.

DONE AND ORDERED this 24th day of February, 2022, in Tallahassee, Leon County, Florida.



JOHN D. C. NEWTON, II
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
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Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of February, 2022.

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).