

**IN THE CIRCUIT COURT FOR THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION**

JOSEPH BASEY and LISA BASEY,
as parents and natural guardians of
Samantha Basey, a minor, individually,
and on behalf of all those similarly situated;
MAGDALENA RODRIGUEZ, a single
woman, as parent and natural guardian of
Noemi Rodriguez, a minor, individually, and
on behalf of all those similarly situated; and
the STATE OF FLORIDA on the relation of
all such persons,

Plaintiffs,

CLASS REPRESENTATION

vs.

Case No. 06-CA-004603

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY
COMPENSATION ASSOCIATION,

Division E

Defendant.

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

TO: All parents or guardians of a child born with a birth-related neurological injury in the state of Florida between January 1, 1989 and June 6, 2002, who obtained a final order which imposed upon the Florida Birth-Related Neurological Injury Compensation Association ("NICA") the "continuing obligation under the provisions of Section 766.31, Florida Statutes, to pay future expenses as incurred," or other substantially similar words to that effect, and after issuance of the final order, provided any medically necessary and reasonable residential and custodial care and services to that child without receiving full payment from NICA for such medically necessary and reasonable care and services, and/or who intend to provide such medically necessary and reasonable care and services to that child in the future (the "**Class**").

**THIS IS A COURT AUTHORIZED NOTICE. THIS IS NOT A
SOLICITATION FROM A LAWYER. THIS NOTICE MAY
AFFECT YOUR RIGHTS. PLEASE READ THE COMPLETE
NOTICE CAREFULLY.**

BASIC INFORMATION

- A class action lawsuit has been filed which alleges that NICA did not fully pay medically necessary and reasonable residential and custodial care benefits to parents or guardians of children born with a birth-related neurological injury in the state of Florida between January 1, 1989 and June 6, 2002.
- A Florida court has preliminarily approved a proposed settlement of that class action.
- Under certain terms and conditions described in the settlement agreement, the proposed settlement will provide an opportunity for such parents and guardians to apply for and receive monetary payment from NICA. Your rights may be affected, and you may have a choice to make now.

Your legal rights and options in this class action lawsuit include:	
ASK TO BE EXCLUDED FROM THE CLASS	If you ask to be excluded (or to opt-out) from the class action, you will not be bound by the proposed settlement agreement and will not be eligible to submit a claim for monetary payment under the settlement agreement, and you will keep your rights, if any, to sue NICA on your own about the same legal claims in this lawsuit.
STAY IN THE CLASS AND REQUEST PAYMENT	If you do not ask to be excluded (or to opt-out) from the class action, you will automatically remain in the class, and you will be eligible to submit a claim for a monetary payment from NICA within the time frame allowed. By remaining in the class, you will give up any rights to sue NICA on your own about the same legal claims in this lawsuit.
STAY IN THE CLASS AND DO NOTHING	If you do not ask to be excluded (or to opt-out) from the class action, you will automatically remain in the class. If you fail to submit a claim within the time frame allowed, by doing nothing, you will not be eligible to receive any monetary payment from NICA for medically necessary and reasonable care and services rendered in the past, and you will give up any rights to sue NICA on your own about the same legal claims raised in this lawsuit. However, you will retain the right to prospectively seek monetary benefits from NICA for medically necessary and reasonable care and services to be rendered in the future, under the terms of the settlement agreement.

- Your rights and options – and the deadlines to exercise them – are explained in this notice. To ask to be excluded, you must act before **November 2, 2012**.

1. WHAT IS THE PURPOSE OF THIS NOTICE?

There is now pending in the Circuit Court for the Thirteenth Judicial Circuit, in and for Hillsborough County, Florida, a class action lawsuit titled *Joseph Basey and Lisa Basey, as parents and natural guardians of Samantha Basey, a minor, and on behalf of all those similarly situated, and Magdalena Rodriguez, a single woman, as parent and natural guardian of Noemi Rodriguez, a minor, and on behalf of all those similarly situated, and the State of Florida on the relation of all such persons v. Florida Birth-Related Neurological Injury Compensation Association*, Case No. 06-CA-004603 (the "**Class Action**").

The Honorable Sam Pendino, Circuit Court Judge, is currently overseeing the Class Action. Judge Pendino has entered an order which certified the dispute as a class action lawsuit, and that order was affirmed by the Florida Second District Court of Appeal. A copy of Judge Pendino's order certifying the class is available from any of the lawyers identified in Section 19 below.

The parties have reached a proposed settlement of the Class Action, and the Court authorized them to send you this notice to inform you about the proposed settlement and your options. The Court has not yet decided whether to approve the settlement as final. If the Court finally approves the settlement, after objections and appeals (if any) are resolved, qualifying class members will be eligible to submit a claim for monetary payment from NICA, in accordance with certain terms and conditions described in the proposed settlement agreement.

This notice explains the lawsuit, the proposed settlement, what payments may be available, who is eligible for them, and how to make a claim for a payment under the settlement.

2. WHAT IS THE CLASS ACTION ABOUT?

NICA is an association created by the Florida Legislature in 1988 to administer the Florida Birth-Related Neurological Injury Compensation Plan "for the purpose of providing compensation, irrespective of fault, for birth-related neurological injury claims." *See*, §766.303(1), Fla. Stat. The Plan applies "to births occurring on or after January 1, 1989...." *Id.* The statutes governing NICA are found in Sections 766.301 through 766.316, Florida Statutes.

Between January 1, 1989 and June 6, 2002, Section 766.31(1)(a), Florida Statutes (Supp. 1988-2001) stated that NICA is required to compensate eligible recipients for "[a]ctual expenses for medically necessary and reasonable ... residential, and custodial care and service." On June 7, 2002, the NICA statutes were amended, and the amendments provide that a "family member" can be reimbursed for providing "family residential or custodial care" of up to 10 hours per day and certain specified hourly rates.

Joseph Basey, Lisa Basey, and Magdalena Rodriguez ("**Plaintiffs**") filed a class action lawsuit against NICA on behalf of the Class described above. Plaintiffs allege that NICA has in

the past and on an ongoing and continuing basis refused to pay and/or has underpaid benefits to parents and guardians who provide medically necessary and reasonable "residential and custodial care and services" to a child born with a birth-related neurological injury from January 1, 1989 through June 6, 2002 (a "**NICA Child**"). Plaintiffs allege that NICA has refused to pay or has underpaid benefits either by misconstruing Section 766.31(1)(a), Florida Statutes (Supp. 1988-2001), or by retroactively applying new limitations adopted in the 2002 amendments to children born before those amendments became law. Plaintiffs contend that NICA's conduct violates prior final orders issued by the Division of Administrative Hearings ("**DOAH**") which imposed upon NICA the "continuing obligation under the provisions of Section 766.31, Florida Statutes, to pay future expenses as incurred," or other substantially similar words to that effect.

NICA denies the Plaintiffs' allegations and denies that it has acted improperly.

The Court has not decided whether Plaintiffs are right or whether NICA is right.

3. WHAT IS A CLASS ACTION?

In a class action, one or more people called Class Representatives (in this case, Joseph Basey, Lisa Basey, and Magdalena Rodriguez) sue on behalf of people who may have similar claims. All people with similar claims may be a Class or Class members. A single court oversees the Class Action and resolves the dispute for all persons who are Class members. The Class Action does not resolve the claims of those persons who decide to opt out of the Class.

4. WHY IS THERE A SETTLEMENT?

The Court has not decided in favor of the Plaintiffs or NICA, and NICA has not admitted any wrongdoing or legal liability. Instead, the parties agreed to a proposed settlement. That way, they avoid the risk and expense of continued litigation. Class Members who follow the procedures outlined in this Notice and who qualify under the terms of the proposed settlement may apply for and receive monetary payment for medically necessary and reasonable residential and custodial care and services they provided to their injured child. The Class Representative and the attorneys for the proposed Class believe the settlement is in the best interest of the Class Members.

5. WHO IS ELIGIBLE TO SUBMIT A CLAIM FOR MONETARY PAYMENT?

The proposed settlement provides the opportunity for all eligible Class Members to submit a claim for monetary payment for medically necessary and reasonable residential and custodial care and services provided to a Class Member's NICA Child in the past or to be provided in the future. To be eligible to receive a monetary payment, the Class Member must timely submit a properly completed claim form (see attached form), and satisfy all of the following criteria:

- (a) The Class Member provided residential and custodial care and services which are medically necessary and reasonable;
- (b) The residential and custodial care and services were/are actually provided by the Class Member to a NICA Child;
- (c) The residential and custodial care and services are of the type normally rendered by a trained professional attendant which is beyond the scope of child care and services normally and gratuitously provided by family members or guardians; and
- (d) The residential and custodial care and services were/are performed at the direction and control of a physician.

6. ARE THERE ANY EXCEPTIONS OR LIMITATIONS?

Yes, there are exceptions and limitations that may affect your eligibility to apply for a monetary payment under the proposed settlement. Even if the eligibility criteria listed in Section 5 above are satisfied, NICA will not be required to make a monetary payment to a Class Member for medically necessary and reasonable residential and custodial care and services which: (a) have been reimbursed or are reimbursable from any other source, or (b) have been provided or will be provided by any third-party that is not a Class Member.

7. IF I AM ELIGIBLE, HOW WILL THE MONETARY PAYMENTS BE CALCULATED?

If a Class Member satisfies the applicable criteria and properly submits a claim form, the following amounts and limitations will be used to calculate to the amount of monetary payment that a Class Member can recover from NICA under the proposed settlement agreement:

- (a) Hours Per Day:
 - (i) For Class Members who are professional health care providers, payment for medically necessary and reasonable residential and custodial care and service is limited to a maximum of 24 hours per day (including any respite care the Class Member may require) for any one NICA Child, regardless of whether more than one Class Member is providing medically necessary and reasonable care and service to such NICA Child.
 - (ii) For all other Class Members who are not professional health care providers, payment for medically necessary and reasonable residential and custodial care and services is limited to a maximum of 20 hours per day (including any respite care the Class Member may require) for any one NICA Child, regardless of whether more than one Class Member is providing medically necessary and reasonable care and service to such NICA Child.

(b) Payment Rates:

- (i) If the Class Member is not employed prior to providing medically necessary and reasonable residential and custodial care and services to the NICA Child, the per-hour rate of pay equals the federal minimum hourly wage in effect at the time the medically necessary and reasonable care and services are provided.
- (ii) If the Class Member is employed and elects to leave employment to provide medically necessary and reasonable residential and custodial care and services to the NICA Child, the per-hour rate of pay shall be equal to the rate established by Medicaid in Florida for private duty services provided by a "home health aide" at the time that the medically necessary and reasonable care and services are provided. The current rate is \$15 per hour, but that rate could change from time-to-time.
- (iii) Notwithstanding the foregoing, if the Class Member is a professional health care provider, the per-hour rate of pay shall be no greater than the Medicaid rate in Florida in effect at the time the services are rendered, for the level of medically necessary and reasonable care needed by the NICA Child, not to exceed the Medicaid rate in Florida for the Class Member's license level. For example purposes only, assuming all other terms and conditions of this Agreement are satisfied, the following current Medicaid rates in Florida would be the maximum rates payable to a Class Member who is a professional health care provider, for reimbursable services rendered while those rates are in effect:
 - A. For providing medically necessary RN level care: \$29.10 per hour.
 - B. For providing medically necessary LPN level care: \$23.28 per hour.
 - C. For providing medically necessary CNA, or EMT, or OTA level care, the rate is the Home Health Aide rate: \$15.00 per hour.

8. WILL THE MONETARY PAYMENT APPLY TO MEDICALLY NECESSARY AND REASONABLE CARE AND SERVICES THAT I PROVIDED TO MY CHILD IN THE PAST?

Yes, eligible Class Members can submit a claim for monetary payment for medically necessary and reasonable residential and custodial care and services provided to a NICA Child in the past, as explained in this Section.

- (1) **From May 25, 2001 through May 24, 2005** - If an eligible Class Member satisfies the terms of the proposed settlement agreement, and seeks monetary payment for medically necessary and reasonable residential and custodial care and services provided on or after May 25, 2001 through May 24, 2005, the Class Member must send NICA written evidence that the Class Member requested such payment from NICA before May 25, 2005 (the "**Written Evidence of Request**"). Examples of such Written Evidence of Request are letters, memoranda, faxes, or e-mails actually submitted to NICA before May 25, 2005 that requested that NICA pay the Class Member for providing medically

necessary and reasonable residential and custodial care and services to his or her NICA Child. If the Class Member seeking payment for medically necessary and reasonable residential and custodial care and services provided before May 25, 2005, submits Written Evidence of Request to NICA, and otherwise satisfies the terms of the proposed settlement agreement, the Class Member is eligible to recover payments for medically necessary and reasonable residential and custodial care and services as of the date the Written Evidence of Request was originally submitted to NICA, but in no event will NICA be required to pay any Class Member for medically necessary and reasonable residential and custodial care and services provided before May 25, 2001.

- (2) **On or after May 25, 2005** – A Class Member who does not have Written Evidence of Request, can still seek monetary payment for medically necessary and reasonable residential and custodial care and services provided on or after May 25, 2005. If the Class Member seeking payment for medically necessary and reasonable residential and custodial care and services provided before May 25, 2005, does not have Written Evidence of Request, or if the Class Member seeks payment only for medically necessary and reasonable residential and custodial care and services provided on or after May 25, 2005, the Class Member is eligible to recover only payment for medically necessary and reasonable residential and custodial care and services under the proposed settlement agreement from May 25, 2005, forward, provided such Class Member otherwise satisfies the terms of the settlement agreement.

9. WILL THE MONETARY PAYMENT APPLY TO MEDICALLY NECESSARY AND REASONABLE CARE AND SERVICES THAT I WILL PROVIDE TO MY CHILD IN THE FUTURE?

Yes, in addition to, or in the alternative to, receiving a monetary payment for medically necessary and reasonable residential and custodial care and services provided to a Class Member's NICA Child in the past, a Class Member may also be eligible to seek prospective monetary payments for medically necessary and reasonable care and services to be provided in the future, using the same criteria summarized in Sections 5, 6, and 7 above.

10. WHAT IS THE PROCESS FOR SUBMITTING A CLAIM FOR MONETARY PAYMENT?

The claims process will not begin unless and until the Court issues a Final Judgment approving the proposed settlement agreement and any deadlines to appeal expire.

If and when the Court ultimately approves the proposed settlement agreement, NICA will mail you a copy of the Court's Final Judgment and written instructions on how and when to submit a claim form. The same information will be posted on NICA's website at www.nica.com.

Generally speaking, if you are seeking reimbursement for medically necessary and reasonable residential and custodial care and services provided in the past, you must submit your

claim form no later than 120 days after the date of the Court's Final Judgment and all deadlines to seek available appellate remedies have expired. If you are seeking to be paid for medically necessary and reasonable residential and custodial care and services to be provided in the future, you must submit your claim form no later than 30 days after the date on which you begin providing that medically necessary and reasonable residential and custodial care and services for which you expect to receive monetary benefits from NICA going forward. Failure to timely submit a signed and properly completed form will result in your monetary payment claim being denied.

After NICA receives a Class Member's claim form and Written Evidence of Request (if any), NICA will have 45 days to make a written determination either to (1) pay the requested amount; (2) pay less than all of the requested amount; or (3) refuse payment. Within that 45-day period, NICA shall provide written notice of that determination, and the reasons for such determination, to the Class Member.

If the Class Member disagrees with NICA's determination, the Class Member may file a claim with the Division of Administrative Hearings ("DOAH") within the Class Member's pre-existing DOAH case against NICA, using a petition to modify benefits form that will be posted on NICA's website at www.nica.com, within 45 days of receiving NICA's written notification of its decision. The petition will be resolved by an Administrative Law Judge ("ALJ") pursuant to Chapter 120, Florida Statutes, and the provisions of §766.301, et. seq. (Supp. 1988-2001), Florida Statutes, consistent with the terms of the settlement agreement. Any final order will be subject to appeal in accordance with Section 120.68, Florida Statutes. In the DOAH proceedings, in no event shall the Class Member be entitled to payment for medically necessary and reasonable residential and custodial care and services that is above or beyond the limits of the disputed amount, or inconsistent with any of the terms set forth in the proposed settlement agreement. Pending the outcome of the DOAH proceedings, NICA must pay that portion, if any, of the Class Member's claim which is not in dispute.

11. WHAT IF I ALREADY HAVE A PRE-EXISTING STIPULATION OR SETTLEMENT AGREEMENT WITH NICA, OR A PRIOR ORDER?

You may already have a pre-existing stipulation or settlement agreement with NICA, or a prior order issued by DOAH or a court, involving the issue of medically necessary and reasonable residential and custodial care and services. If so, the proposed settlement agreement will not affect the validity or binding nature of any previous stipulation, settlement agreement, or order, to the extent that stipulation, settlement agreement or order provides for any higher level of benefits than contemplated by the proposed settlement agreement. In other words, any terms of such a stipulation, settlement agreement, or order which are more favorable to you will be preserved.

On the other hand, to the extent, if any, that any previous stipulation, settlement agreement, or order provides for any lower level of benefits than contemplated by the proposed settlement agreement, the Class Member will be bound by the terms of the previous stipulation, settlement agreement, or order, unless there has been a material change in the NICA Child's condition.

12. HOW DO I JOIN THE CLASS?

To join the Class, you do not have to do anything. You will automatically remain a member of the Class unless you exclude yourself from (or "opt out" of) the Class as described below.

13. WHAT HAPPENS IF I STAY IN THE CLASS AND DO NOTHING AT ALL?

If you do not ask to be excluded (or to opt-out) from the class action, you will automatically remain in the Class, and if the proposed settlement agreement is approved by the Court, you will be bound by that agreement and entitled to all rights and benefits conferred on Class Members under that agreement.

If you fail to submit a claim form within the time frame allowed, by doing nothing, you will not be eligible to receive any monetary payment from NICA for medically necessary and reasonable care and services rendered in the past, and you will give up any rights to sue NICA on your own about the same legal claims raised in this lawsuit. However, you will retain the right to prospectively seek monetary benefits from NICA for medically necessary and reasonable care and services to be rendered in the future, under the terms of the Settlement Agreement.

14. WHAT HAPPENS IF I EXCLUDE MYSELF FROM (OR "OPT OUT" OF) THE CLASS?

If you exclude yourself from (or "opt out" of) the Class, you will not be eligible to receive any monetary payment as a result of the proposed settlement. If you do pursue your own administrative proceeding or lawsuit after you exclude yourself, you will have to hire your own lawyer for that case, and you will have to prove your claims, without the benefit of the work performed by the lawyers in this Class Action.

15. HOW DO I ASK TO BE EXCLUDED FROM (OR "OPT OUT" OF) THE CLASS?

Any Class Member may choose to be excluded from (i.e., opt out of) the Class. To opt out of the Class, the Class Member must (1) fill out and sign the "Opt Out of the Class Form," attached to this notice, and (2) return it, postmarked by no later than **November 2, 2012**, to the lawyers identified on the form.

Any person who timely and validly opts out of the Class shall have no rights or obligations under the proposed settlement agreement, and NICA shall have no rights or obligation under the settlement agreement with respect to such persons.

16. HOW DO I TELL THE COURT THAT I DON'T LIKE THE SETTLEMENT?

A Class Member who does not opt out, is allowed to object to the proposed settlement. To do this, you must give reasons in writing as to why you think the Court should not approve it. The Court will consider your views. To object, you must send your written objections to the lawyers listed in Sections 18 and 19 below, with your specific reasons in writing, no later than **November 2, 2012**. Class Members may object on their own or through an attorney retained at their own expense. If you retain an attorney to represent you, the attorney must file a notice of appearance with the Clerk of the Court, George Edgecomb Courthouse, 800 E. Twiggs St., Room 530, Tampa, Florida 33602, and serve copies of same on to the lawyers listed in Sections 18 and 19 below, with your specific reasons in writing, no later than **November 2, 2012**, otherwise your attorney will not be allowed to make any objections at the Final Fairness hearing.

17. WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND EXCLUDING?

Objecting is telling the Court that you don't like something about the proposed settlement. Excluding yourself is telling the Court that you don't want to be part of the proposed settlement. If you exclude yourself, you have no basis to object to the proposed settlement because the settlement will not affect your legal rights.

18. WHO ARE THE LAWYERS REPRESENTING NICA?

NICA is being represented by the following lawyers:

- Guy W. Spicola, Esquire, Law Offices of Guy W. Spicola, 3030 North Rocky Point West, Suite 150, Tampa, FL 33607; Telephone: (813) 350-7959; Website: www.guyspicolalaw.com;
- Stephen A. Ecenia, Esquire, Rutledge, Ecenia & Purnell, P.A., 119 South Monroe Street, Suite 202, Tallahassee, FL 32302; Telephone: (850)681-6788; Website: www.reuphlaw.com; and
- Gregg D. Thomas, Esquire and James J. McGuire, Esquire, Thomas & Locicero PL, Ashley Drive, Suite 1100, Tampa, FL 33602; Telephone: (813) 984-3060; Website: www.tlolawfirm.com.

19. WHO ARE THE LAWYERS REPRESENTING THE CLASS, AND HOW WILL THEY BE PAID?

The Court has decided that the law firms of de la Parte & Gilbert, P.A. and Clark & Martino, P.A., are qualified to represent all Class Members as "**Class Counsel**." The Class

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Counsel are the following lawyers:

- Richard A. Gilbert, Esquire and David M. Caldevilla, Esquire, de la Parte & Gilbert, P.A., 101 E. Kennedy Blvd., Suite 2000, Tampa, FL 33602; Telephone: (813)229-2775; Website: www.dgfirm.com; and
- J. Daniel Clark, Esquire, Clark & Martino, P.A., 3407 W. Kennedy Blvd., Tampa, FL 33609; Telephone: (813) 879-0700; Website: www.clarkmartino.com.

You do not need to hire your own lawyer because Class Counsel is working on your behalf, free of charge. As part of the proposed settlement agreement, Class Counsel is seeking an award of their reasonable attorneys' fees and costs from NICA. Judge Pendino will decide on and approve the amount to be paid to Class Counsel at the Fairness Hearing. In any event, you will not have to pay their attorneys' fees and costs. Any attorneys' fees and costs awarded to Class Counsel will not affect the amount of monetary benefits payable to any eligible Class Members.

20. ARE THE CLASS REPRESENTATIVES BEING PAID BY NICA UNDER THE SETTLEMENT?

Yes. The Plaintiffs, Joseph Basey, Lisa Basey, and Magdalena Rodriguez, filed the Class Action lawsuit against NICA on behalf of the Class. They are members of the Class, and the Court has authorized them to serve as the "Class Representatives." As part of the ongoing litigation, the Class Representatives have already asserted their claims for monetary payments, and the proposed settlement agreement requires their claims to be determined based on the exact same terms, conditions, and limitations that will apply to all other Class Members. NICA has reviewed and approved their claims, contingent upon the Court's review and approval. The monetary payments to the Class Representative for their claims will not affect the amount of monetary benefits payable to any eligible Class Members.

21. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE PROPOSED SETTLEMENT?

The Court will hold a Fairness Hearing on **November 26, 2012, at 1:00 p.m.**, at the courthouse of the Circuit Court of the Thirteenth Judicial Circuit, 800 E. Twiggs Street, Tampa, Florida 33602. At this hearing, the Court will consider whether the proposed settlement agreement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have timely requested to speak at the hearing. The Court will also decide how much NICA must pay Class Counsel for reasonable attorney's fees and costs, which will not affect the amount of monetary benefits payable to any eligible Class Members. At or after the hearing, the Court will decide whether to finally approve the settlement, and whether to enter a Final Judgment directing the settlement to be implemented. We do not know how long these decisions will take.

22. DO I HAVE TO ATTEND THE FAIRNESS HEARING?

No. Class Counsel will answer any questions the Court may have. However, if you wish, you may attend the hearing at your own expense. If you send a timely written objection and a notice of your intent to appear at the Fairness Hearing, you may come in person to the Court for the Fairness Hearing or retain your own attorney to appear for you. Even if you submit a written objection, you are not required to attend the Fairness Hearing. The Court will consider your objection if it was timely submitted, regardless of whether you actually attend the hearing in person.

If you attend, you may ask the Court for permission to speak at the Fairness Hearing. To do so, you must mail to the lawyers listed in Sections 18 and 19, and file with the Court, a notice of intention to appear at the Fairness Hearing by sending a letter stating that it is your “Notice of Intention to Appear.” Be sure to include your name, address, telephone number, claim information, and your signature. Your Notice of Intention to Appear must be postmarked no later than **November 2, 2012**, otherwise you will not be permitted to speak or make any objection at the Final Fairness hearing.

23. ARE MORE DETAILS AND INFORMATION AVAILABLE?

A copy of the proposed settlement agreement and related documents are posted at www.nica.com. If there are any differences between this notice and the settlement agreement, the terms of the settlement agreement shall control and supersede the terms of this notice.

In addition, the entire court file can be reviewed at the Office of the Clerk of the Circuit Court of Hillsborough County, George E. Edgecomb Courthouse, 800 Twiggs Street, Fifth Floor, Tampa, FL 33602 Monday - Friday (9 a.m. - 4 p.m.).

If you want additional information or have questions, you may contact Class Counsel listed in Section 19 above, or you can retain your own lawyer at your own expense. Please do not call or write the Court or the Clerk of Court with your questions. Neither can provide legal advice regarding this Class Action to you.

"OPT OUT OF THE CLASS" FORM

OPT OUT OF THE CLASS

I want to exclude myself from (opt out of) the Class in the case of *Basey, et al. v. Florida Birth-Related Neurological Injury Compensation Association*, Circuit Court Case No. 06-CA-004603 (Hillsborough County, FL). I understand that by opting out, I will have no rights or obligations under the proposed settlement agreement, and NICA will have no rights or obligation under the settlement agreement with respect to me. I do, however, reserve my right to bring a proceeding against NICA about the claims in this matter, as part of any other legal proceeding.

Print and Sign Father's Name

Print and Sign Mother's Name

Print and Sign Other Legal Guardian's Name

Print Child's Initials

Address, City, State, Zip

Telephone Number(s)

Date

If you want to opt out of the Class, you must mail copies of this form, postmarked no later than November 2, 2012, to the following lawyer:

NICA's Counsel—Gregg D. Thomas, Esquire and James J. McGuire, Esquire, Thomas & LoCicero PL,
400 N. Ashley Dr., Suite 1100, Tampa, FL 33602