

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ROCK POLLOCK, SR. and SHAWNA M.)
POLLOCK, Individually and as Parents)
and Natural Guardians of R.P., a minor,)
)
Appellants,)
)
v.)
)
LAURA DANNER, C.N.M.; GULF COAST)
OBSTETRICS & GYNECOLOGY, LTD.)
f/k/a CORCORAN, EASTERING &)
DOYLE-VALLERY, LTD.; and SARASOTA)
COUNTY PUBLIC HOSPITAL DISTRICT)
d/b/a SARASOTA MEMORIAL HOSPITAL,)
)
Appellees.)
_____)

Case No. 2D11-4012

Opinion filed September 19, 2012.

Appeal from the Circuit Court for Sarasota
County: Lee E. Haworth, Judge.

David M. Caldevilla and Michael R. Bray of
de la Parte & Gilbert, P.A., Tampa, for
Appellants.

David A. Wallace of Williams Parker
Harrison Dietz & Getzen, P.A., Sarasota,
for Appellee Sarasota County Public
Hospital District d/b/a Sarasota Memorial
Hospital.

Jason M. Azzarone, Louis J. La Cava and Justine D. Adamski of La Cava & Jacobson, P.A., Tampa, for Appellees Laura Danner, C.N.M., Gulf Coast Obstetrics & Gynecology, Ltd. f/k/a Corcoran, Eastering & Doyle-Vallery, Ltd.

CRENSHAW, Judge.

Rock Pollock, Sr. and Shawna M. Pollock appeal a final order adopting the recommendation of magistrate to dismiss their medical malpractice claims against appellees Laura Danner, C.N.M., Gulf Coast Obstetrics & Gynecology, LTD, and Sarasota Memorial Hospital. The Pollocks brought the medical malpractice action against the appellees based on injuries sustained by Mrs. Pollock and the Pollocks' child during childbirth. The trial court concluded that the Pollocks' claims should be dismissed because the Florida Birth-Related Neurological Injury Compensation Plan (NICA) provided the exclusive remedy for the claims under section 766.303(2), Florida Statutes (2010). Although we agree that the trial court erred by concluding that Mrs. Pollock's injuries were compensable under NICA, we conclude that dismissal was proper because the Pollocks' counsel failed to comply with the presuit requirements of sections 766.104 and 766.106.¹ And because the trial court reached the "right result, albeit for the wrong reasons," we affirm the trial court's dismissal of the Pollocks' action. See generally Johnson v. Allstate Ins. Co., 961 So. 2d 1113, 1115 (Fla. 2d DCA 2007) (applying the "tipsy coachman" doctrine).

Affirmed.

NORTHCUTT and WALLACE, JJ., Concur.

¹We note that appellate counsel did not serve as trial counsel below.