

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ANGEL DONATO PEREZ, a minor, by)
and through his parents and)
natural guardians, ELVIRA)
TORRES AND CARLOS L. PEREZ, AND)
ELVIRA TORRES AND CARLOS L.)
PEREZ, individually,)
)
Petitioners,)
)
vs.) Case No. 09-1005N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
VICTOR HUGO GONZALEZ-QUINTERO,)
M.D., M.P.H., AND THE PUBLIC)
HEALTH TRUST,)
)
Intervenors.)
)

FINAL ORDER CANCELLING HEARING
AND APPROVING STIPULATION AS TO BENEFITS/EXPENSES

This cause came on for consideration pursuant to Sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation as to Benefits/Expenses, filed July 14, 2010, for entry of an order approving the resolution of a formal claim for compensation benefits heretofore filed in this cause in accordance with the provisions of Chapter 766, Florida Statutes,

and a resolution of the exclusive remedy otherwise available as outlined in Chapter 766, Florida Statutes.

On September 22, 2009, an Order was entered, approving Respondent's proposal to accept Petitioners' claim for compensation.

By an Order entered May 13, 2010, it was determined that all notice requirements had been met.

Ultimately, a final hearing on benefits was scheduled, but on July 14, 2010, Petitioners and Respondent NICA filed a Stipulation as to Benefits/Expenses, which acknowledged that "by Order entered September 22, 2009, the Administrative Law Judge approved the Respondent's proposal to accept Petitioners' claim for compensation" and "by Order entered May 13, 2010, the ALJ noted that the Petitioners waived litigation of whether Intervenors complied with the Notice requirements of Fla. Stat. 766.316, and that no party has challenged that waiver." By further terms of their Stipulation as to Benefits and Expenses, Petitioners and Respondent have agreed that the only remaining issue is a determination as to the benefits/expenses to be awarded from Respondent to Petitioners and addresses amounts of the award of benefits/expenses.

On July 29, 2010, Intervenor Victor Hugo Gonzalez-Quintero, M.D., filed a letter of "no opposition" to the Stipulation. On

August 9, 2010, Intervenor Public Health Trust filed a letter of "no opposition" to the Stipulation.

After due consideration of the interests of all parties, and being otherwise fully advised in the premises, it is

ORDERED:

1. The final hearing now scheduled for September 17, 2010, is hereby cancelled.

2. The Stipulation as to Benefits/Expenses filed July 14, 2010, is hereby approved, and the parties are directed to comply with the provisions thereof.

3. Petitioners Elvira Torres and Carlos L. Perez, as the parents and natural guardians of Angel Donato Perez, a minor, are awarded One hundred thousand dollars (\$100,000.00), pursuant to Section 766.31(1)(b)1., Florida Statutes, to be paid as a lump sum within 15 days of this Order.

4. The law firm of Rossman, Reboso, Spier & Connolly, P.A., inclusive of Lincoln J. Connolly, Esquire, is awarded an agreed attorney's fee of Eight thousand dollars (\$8,000.00) and expenses of One thousand, seventy-two dollars and fifty-six cents (\$1,072.56), payable by NICA within 15 days of this Order.

5. Upon payment of the award of One hundred thousand dollars (\$100,000.00), attorney's fees and other expenses, and past benefits/expenses, the claim of Petitioners (Claimants) shall be deemed fully satisfied and extinguished except for

Respondent's continuing obligation under Section 766.31(2), Florida Statutes, to pay future expenses as incurred.

6. With regard to any dispute regarding past benefits/expenses, not resolved administratively by the parties, a hearing will be scheduled by a separate notice of hearing. As for the date of such hearing, the parties shall advise the undersigned Administrative Law Judge, with specificity, of the matters remaining in dispute, of several mutually available dates for hearing, and of the amount of time required for such hearing.

7. The Division of Administrative Hearings 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 19th day of August, 2010, in Tallahassee, Leon County, Florida.



ELLA JANE P. DAVIS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 19th day of August, 2010.

COPIES FURNISHED:

(Via Certified Mail)

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Sections 120.68 and 766.311, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original of a notice of appeal with the Agency Clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the appropriate District Court of Appeal. See Section 766.311, Florida Statutes, and Florida Birth-Related Neurological Injury Compensation Association v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992). The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.