

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

YULEXI EXPOSITIO, on behalf of)
and as parent and natural)
guardian of STEPHANIE GONZALEZ,)
a minor,)
)
Petitioner,)
)
vs.) Case No. 10-10320N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
LESLIE CAROLINE MCLEOD, M.D.,)
NATHALIE DAUPHIN MCKENZIE,)
M.D., MARION FREDERIC COLAS-)
LACOMBE, M.D., JERRY M. GILLES,)
M.D., PUBLIC HEALTH TRUST OF)
MIAMI-DADE COUNTY, d/b/a)
JACKSON MEMORIAL HOSPITAL;)
UNIVERSITY OF MIAMI, d/b/a)
UNIVERSITY OF MIAMI SCHOOL OF)
MEDICINE; and HUGO GONZALEZ-)
QUINTERO, M.D.,)
)
Intervenors.)
)
_____)

FINAL ORDER ON FEES

Pursuant to notice, a final hearing was held in this case on February 4, 2013, by video teleconference with sites in Tallahassee and Miami, Florida, before Susan Belyeu Kirkland, an

Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Carlos Diez-Arguelles, Esquire
Maria D. Tejedor, Esquire
Diez-Arguelles and Tejedor, P.A.
505 North Mills Avenue
Orlando, Florida 32803

and

Barbara Green, Esquire
Barbara Green, P.A.
Suite 209
300 Sevilla Avenue
Coral Gables, Florida 33134

For Respondent: No appearance. Respondent was excused from appearance by Order dated August 21, 2012.

For Intervenors Leslie Caroline McLeod, M.D.; Nathalie Dauphin McKenzie, M.D.; Marion Frederic Colas-Lacombe, M.D.; Jerry M. Gilles, M.D.; and Public Health Trust of Miami-Dade County, d/b/a Jackson Memorial Hospital:

Eric K. Gressman, Esquire
Dade County Attorney's Office
Suite 2810
111 Northwest 1st Street
Miami, Florida 33128

For Intervenors University of Miami, d/b/a University of Miami School of Medicine and Hugo-Gonzalez-Quintero, M.D.:

June Hoffman, Esquire
Fowler, White, Burnett, P.A.
Espirito Santo Plaza, 14th Floor
1395 Brickell Avenue
Miami, Florida 33131-3302

STATEMENT OF THE ISSUE

The issue in this case is the amount of attorneys' fees to be awarded to Petitioner's Counsel pursuant to the Mandate of the Third District Court of Appeal entered on Case No. 3D11-1621, as well as the Order in that case granting Appellee's Motion for Attorneys' Fees as a Sanction Pursuant to Fla. R. App. P. 9.410(b) and § 57.105, Fla. Stat.

PRELIMINARY STATEMENT

A Summary Final Order of Dismissal was entered by Administrative Law Judge Ella Jane P. Davis on May 20, 2011, finding that Petitioner's claim was barred by section 766.313, because the claim was filed more than five years after the birth of the infant and finding that the claim was not compensable because the twin infant weighed less than 2,000 grams.

The University of Miami appealed the Summary Final Order of Dismissal to the Third District Court of Appeal. Intervenors, Leslie Caroline McLeod, M.D.; Nathalie Dauphine McKenzie, M.D.; Marion Frederic Colas-Lacombe, M.D.; Jerry M. Giles, M.D.; Public Health Trust of Miami-Dade County, d/b/a Jackson Memorial Hospital, and Hugo Gonzalez-Quintero, M.D., filed a Notice of Joinder of the Notice of Appeal of the Final Administrative Action. The Third District Court of Appeal affirmed Judge Davis' Summary Final Order of Dismissal. Univ. of Miami v. Expositio, 87 So. 3d 803 (Fla. 3rd DCA 2012).

Petitioner had filed Appellee's Motion for Attorney's Fees as a Sanction Pursuant to Fla. R. App. P. 9.410(B) and § 57.105, Fla. Stat. In her motion, Petitioner stated: "Appellants' use of this appeal as a vehicle to apply the NICA statute of limitations to bar a claim to which NICA does not, and never could, apply fits the criteria of § 57.105 and Rule 9.410." The Third District Court of Appeal granted the motion on April 27, 2012, stating:

Upon consideration of the motion for attorneys' fees and costs pursuant to Florida Statute § 57.105 ^[1/] and motion for attorney's fees as a sanction pursuant to Florida Rules of Appellate Procedure 9.410(b) and § 57.105 Florida Statutes both filed by appellee, it is ordered that said motions are granted and remanded to the trial court to fix the amount.

On July 18, 2012, the Third District Court of Appeal, clarified its order, stating:

Upon consideration of Appellee's Motion for Clarification and Enforcement of Mandate and of Order Awarding Attorneys' Fees, the Court amends its order of April 27, 2012, to clarify that the matter is remanded to the administrative law judge to fix the amount of the fees.

After the granting of two continuances, the final hearing was held on February 4, 2013. At the final hearing, Petitioner called the following witnesses: Maria Tejedor, Esquire; Harry A. Shevin, Esquire; and Barbara Green, Esquire. Petitioner's Exhibits 1 through 7 were admitted in evidence.

Intervenor, University of Miami, called Betsy E. Gallagher, Esquire, as its witness.

At the final hearing, the parties reached an agreement as to the claim for fees for Ms. Green and the expert witness fee for Roy Wasson, Esquire.

The one-volume Transcript was filed on February 28, 2013. After having been granted three extensions of time in which to file proposed final orders, Petitioner filed her proposed final order on April 22, 2013, and Intervenors filed their proposed final order on April 23, 2013. The parties' proposed final orders have been given consideration in drafting this Final Order on Fees.

FINDINGS OF FACT

1. The parties stipulated to an agreed settlement of the fee claim of Barbara Green, Esquire, who was counsel for Petitioner in the appeal before the Third District Court of Appeal. The parties stipulated that Ms. Green should be paid \$58,650, representing 113.4 hours at a rate of \$500 per hour, payable within 15 days of the date of the final hearing.

2. The parties further stipulated to an agreed settlement of Ms. Green's claim for expert witness fees of Roy Wasson, Esquire, in the amount of \$3,900, representing 7.8 hours at a rate of \$500 per hour, payable within 15 days of the final hearing.

3. The parties also stipulated that Ms. Green and Mr. Wasson are entitled to daily interest at the current statutory post-judgment rate of 4.75 percent from the date of February 19, 2013.

4. Petitioner retained Ms. Tejedor's firm on a contingency basis for the medical malpractice action. Ms. Tejedor is seeking attorney's fees for 138.3 hours for her work in the administrative proceeding from which the appeal was taken, the malpractice action in the circuit court proceeding, the appellate proceeding, and for litigating the amount of fees in the instant proceeding. She contends that a reasonable hourly rate for her time is \$650 per hour. She is also seeking a multiplier of 1.5.^{2/}

5. For the reasons stated in the Conclusions of Law, Ms. Tejedor is not entitled to fees for the administrative proceeding and the circuit court action. The amount of time that Ms. Tejedor claims for the appellate proceeding and for litigating the amount of the fees is 55.3 hours.

6. Ms. Tejedor has been practicing law for 17 years and is board-certified in civil trial practice. She specializes in medical malpractice cases, predominantly birth-injury cases. At the final hearing, she was vague as to the amount of appellate work that she has done, but the evidence did establish that she represented Odette Acanda in an appeal of a case involving the

Intervenors in the instant case. Ms. Green was also counsel of record in that appeal.

7. When Ms. Tejedor was asked whether she provided briefs or appeared before the appellate court in the Acanda case, she evaded the question by stating that she was primary counsel on the case from beginning to end. From her testimony, it cannot be determined exactly what she did in the Acanda appeal.

8. Ms. Tejedor has not been awarded \$650 an hour by any tribunal, stating: "Never gone to a fee hearing."

9. Harry Shevin, Esquire, testified as Petitioner's expert witness on Ms. Tejedor's rate and hours. Mr. Shevin is a board-certified trial lawyer, not an appellate attorney. He has been practicing law since 1993. About half of his current practice is in medical malpractice. Mr. Shevin opined that a reasonable hourly rate for Ms. Tejedor's time is \$650 an hour. His opinion is based on his belief that medical malpractice litigation is the highest level of litigation, requiring the highest skill and involving the highest level of risk. He feels that medical malpractice lawyers are and must be intrinsically involved in appellate issues and that medical malpractice cases have significant monetary contingency risks. What Mr. Shevin failed to consider is that the Third District Court of Appeal was not awarding fees for a medical malpractice action but for an appeal of an administrative final order. Additionally, the appellate

attorney, which Ms. Tejedor hired to handle the appeal was asking only \$500 an hour and was more qualified by far than Ms. Tejedor to handle the appeal. Mr. Shevin's opinion that a reasonable rate for Ms. Tejedor is \$650 is not credited.

10. Mr. Shevin is also claiming a rate of \$650 per hour for eight hours as his expert witness fee. Mr. Shevin came up with the rate of \$650 per hour because one time he served as an arbitrator in a one-week nursing home case and was paid \$15,000. He admitted, however, that he has never been awarded \$650 an hour by a court or administrative tribunal in a fee proceeding. Based on Mr. Shevin's experience and expertise, a reasonable hourly rate for his time in this case is \$350 an hour.

11. No evidence was presented by Mr. Shevin as to what work was included in the eight hours other than reviewing various pleadings, reading the Third District Court's opinion, and reviewing the time sheets and attending the hearing for two hours. He did not review the initial brief or the reply briefs. He did not specify the amount of time for each task he performed. Mr. Shevin indicated that he had done other work while waiting to testify at the hearing. Given the lack of specificity by Mr. Shevin on how he spent the time preparing for the final hearing, a reasonable amount of time for preparation of the hearing is four hours and the time for attending the hearing is two hours for a total of six hours.

12. Betsy Gallagher, Esquire, testified on behalf of the Intervenor as an expert in appellate attorney's fees. Ms. Gallagher has been practicing law since 1977. For many years 50 percent of her practice has involved litigation over appellate attorney fees. Ms. Gallagher opined that a reasonable fee for Ms. Tejedor's work in the appeal in the instant case was \$300 to \$350 per hour. Her opinion is based on her experience, her review of the file and Ms. Tejedor's work, and knowing what people charge and command around the state. She also based her opinion on the fact that Ms. Tejedor is not an appellate attorney, and stated: "I have never seen time records like this by a trial lawyer who is attempting to collect appellate fees at \$650 an hour, hourly rate, especially when she is not an appellate attorney." Based on Ms. Tejedor's knowledge and experience in appellate practice, Ms. Gallagher felt that Ms. Tejedor's services would be comparable to a those of a new appellate associate. Ms. Gallagher's opinion that a reasonable rate for Ms. Tejedor ranges from \$300 to \$350 an hour is credited.

13. Based on the evidence presented, a reasonable hourly rate for Ms. Tejedor is \$350 per hour.

14. Ms. Tejedor uses a software system that tracks her time on cases. Ms. Tejedor's time sheet for the appellate

proceeding and for litigating the amount of the fees in this proceeding states:

6/16/2011 Receipt and review of UM's Notice of Appeal 0.4

6/16/2011 Receipt and review of UM's Motion for Stay Pending Appeal 1

6/17/2011 Research & Review: Case law cited by UM in motion for stay pending appeal 2

6/20/2011 Receipt and review of Public Health Trust's Notice of Joinder in Appeal 0.4

6/21/2011 Preparation for Hearing on Defendant's Motion for Stay Pending Appeal 4

6/22/2011 Hearing on Defendant's Motion for Stay Pending Appeal in Miami, Fl (8 hours total travel time) 9

6/22/2011 Drafting and filing for motion for Attorney's Fees & Costs (Appellate Court)^[3/] 2

6/29/2011 Confer with Yulexi Expositio re: NICA Appeal 1

6/29/2011 Confer with Jorge Gonzalez re: NICA Appeal 1

6/29/2011 Confer with Appellate Counsel re: NICA Appeal 2

6/29/2011 Copy materials for Appellate Court & Ship to Miami 3

8/11/2011 Letter to Appellate Counsel encl. Signed Contracts and other materials 0.5

10/24/2011 Receipt and review of Initial Brief by UM and Notice of Adoption by Public Health Trust 3

12/28/2011 Receipt and review of draft Answer Brief from Appellate Counsel 3

12/28/2011 through 1/04/2012--Confer with Appellate Counsel re: Answer Brief 2

1/24/2012 Receipt and review of NICA Answer Brief 1

2/16/2012 Receipt and review of Reply Brief by UM 1

Apr-12 Confer with Appellate Counsel on various dates prior to Oral Argument 1

4/9/2012 Preparation for Oral Arguments 3

4/10/2012 Attend Oral Argument 1

4/30/2012 Receipt and review of Third DCA Opinion awarding fees and costs 1

6/18/2012 Preparation for Case Status Hearing 1

6/18/2012 Case Status Hearing before ALJ 1

6/27/2012 Motion for Clarification 1

7/16/2012 Receipt and review of UM's Response to Motion in Opposition for Clarification 1

1/9/2013 Preparation for Hearing scheduled for February (compiling hours and exhibits)
10

15. It's not clear that Ms. Tejedor kept contemporaneous time records or recreated them. Based on the entry for

January 9, 2013, it appears that Ms. Tejedor recreated her hours.

16. In addition to the time sheet submitted as an exhibit, Ms. Tejedor is claiming five hours preparing for the hearing, eight hours for travel time, and eight hours for the hearing. The final hearing commenced at 9:40 a.m., and concluded at 2:00 p.m., on February 4, 2013.

17. Ms. Gallagher opined that the time for reviewing the notice of appeal and joinder in appeal was excessive, and that a reasonable amount of time for those tasks would be 0.1 hours each. Ms. Gallagher's testimony is credited.

18. Ms. Tejedor is claiming 8 hours of travel time to attend a hearing on the motion for stay on June 22, 2011, and one hour for the hearing. In order to recover travel time, Petitioner must demonstrate that the Petitioner could not find a competent local attorney to handle the appeal. Obviously, Petitioner did find a competent local attorney to handle the appeal because Ms. Green, whose business is in Coral Gables, was hired to do the appeal. Additionally, Petitioner has failed to establish that no competent local attorney could be found to handle the medical malpractice action or the administrative hearing. There was no evidence presented by Petitioner that she had even tried to find local counsel. Ms. Tejedor concluded that Petitioner could not find local counsel because she

retained Ms. Tejedor's firm. Such conclusion is sheer speculation. Travel time for the hearing on the motion for stay is not to be awarded.

19. Ms. Tejedor's time sheet shows that she prepared a motion for attorney's fees and costs and filed it on June 22, 2011. Because the docket of the Third District Court of Appeal does not show that the motion was filed on June 22, 2011, Ms. Tejedor must have made a mistake in her time sheet and is referring to the motion for attorney's fees and costs which was filed on November 3, 2011, and which was later withdrawn by Ms. Green on November 29, 2011. Because the motion was withdrawn, Ms. Tejedor should not be awarded fees for the motion.

20. On June 29, 2011, Ms. Tejedor listed a one-hour conference with Jorge Gonzalez. At the final hearing, she conceded that that entry was an error.

21. On June 29, 2011, Ms. Tejedor listed three hours for copying materials and sending them to Ms. Green. That work is clerical and should not be awarded.

22. On "Apr-12," Ms. Tejedor listed an hour for conferring with appellate counsel on various dates prior to the oral argument. The entry is vague, and it cannot be determined exactly what Ms. Tejedor was doing for that hour. This time should not be awarded.

23. On April 9, 2011, Ms. Tejedor listed three hours for preparation for oral argument. Ms. Tejedor did not make the oral argument, Ms. Green did. Additionally, Ms. Green's time sheet, which was filed on February 26, 2013, with the Stipulation as to Appellate Attorney's Fees of Barbara Green, Esq. and Appellate Fee Expert Roy Wasson, Esq. Only, showed that Ms. Green spent nine hours for preparation for the oral argument. It was not necessary for Ms. Tejedor to prepare for an oral argument that she was not going to make.

24. On April 10, 2011, Ms. Tejedor listed one hour for attending oral argument. Ms. Tejedor did not actually go to the oral argument but observed it by video transmission. This time is duplicative of Ms. Green's time. Ms. Green actually made the oral argument and not Ms. Tejedor. Additionally, the oral argument did not last an hour. Ms. Tejedor's time for attending the oral argument should not be included in the award of fees.

25. On her time sheet, Ms. Tejedor listed an hour for a telephonic case status hearing in front of the undersigned on June 18, 2012. The hearing lasted 15 minutes; therefore, Ms. Tejedor is not entitled to 45 minutes of the hour listed.

26. On January 9, 2013, Ms. Tejedor listed ten hours for hearing preparation, which apparently consisted of compiling her hours and gathering exhibits. The time is excessive in light of Ms. Tejedor's claim for an additional five hours for case

preparation for the fee hearing. A reasonable amount of time to compile hours and gather exhibits is two hours.

27. Ms. Tejedor is seeking eight hours of travel time for the fee hearing. There was no demonstration that a competent local attorney could not be obtained to handle the fee hearing. Thus, travel time should not be awarded.

28. Ms. Tejedor is seeking eight hours for attendance at the fee hearing because she had to block out eight hours on her calendar. The fee hearing lasted approximately four and one-half hours. Thus, a claim for eight hours to attend the fee hearing is not reasonable.

29. A reasonable amount of time for the appeal is 24.7 hours, which includes the motion for clarification which was filed in the Third District Court of Appeal.

30. A reasonable amount of time for the fees proceeding is 12.75 hours.

CONCLUSIONS OF LAW

31. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. The Third District Court of Appeal awarded attorney's fees to Petitioner and remanded the case to the Division of Administrative Hearings to determine the amount of fees to be awarded.

32. Based on the parties' stipulation, Ms. Green is entitled to an hourly rate of \$500 per hour for 113.4 hours, totaling \$58,650.

33. Based on the parties' stipulation, Mr. Wasson is entitled to an expert witness fee of \$3,900, representing 7.8 hours at \$500 per hour.

34. In Florida Patient's Compensation Fund v. Rowe, 472 So. 2d 1145 (Fla. 1985), the Florida Supreme Court set forth guidelines in determining reasonable attorney's fees. There are criteria set forth in Rules Regulating the Florida Bar, Rule 4-1.5 (b) (1), which provides:

(1) Factors to be considered as guides in determining a reasonable fee include:

(A) the time and labor required, the novelty, complexity, and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(B) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;

(C) the fee, or rate of fee, customarily charged in the locality for legal services of a comparable or similar nature;

(D) the significance of, or amount involved in, the subject matter of the representation, the responsibility involved in the representation, and the results obtained;

(E) the time limitations imposed by the client or by the circumstances and, as between attorney and client, any additional

or special time demands or requests of the attorney by the client;

(F) the nature and length of the professional relationship with the client;

(G) the experience, reputation, diligence, and ability of the lawyer or lawyers performing the service and the skill, expertise, or efficiency of effort reflected in the actual providing of such services,

and

(H) whether the fee is fixed or contingent, and, if fixed as to the amount or rate, then whether the client's ability to pay rested to any significant degree on the outcome of the representation.

35. Although Ms. Tejedor claims that Ms. Green could not have won the appeal without Ms. Tejedor's assistance, Ms. Green did the majority of the work on the appeal, and the parties have agreed to the amount claimed for Ms. Green. The appeal was not complex. It dealt with whether the Administrative Law Judge had jurisdiction to determine compensability when the administrative proceeding was barred by the statute of limitations.

36. Ms. Tejedor claims that the acceptance of the work precluded other employment; however, it is hard to see how approximately 25 hours of work over two years for the appeal would preclude other employment or how approximately 13 hours over an eight-month period would preclude other employment.

37. The evidence demonstrated that a reasonable hourly rate in the community for the work done by Ms. Tejedor was

between \$300 and \$350 an hour. The evidence did not demonstrate that Ms. Tejedor had a large amount of experience in appellate practice, and certainly not to the extent of Ms. Green.

38. The medical malpractice case was taken on a contingency basis; however, given the other factors considered in determining a reasonable hourly rate, the contingency nature of the contract between Petitioner and Ms. Tejedor's firm does not warrant an hourly rate of \$650 per hour.

39. A reasonable fee for Ms. Tejedor's services in the appeal is \$8,645, representing 24.7 hours at an hourly rate of \$350.

40. Petitioner seeks a multiplier of the lodestar. The use of a multiplier in an award which is a sanction is improper. See J.P. Morgan Mortg. Acquisition Corp. v. Golden, 98 So. 3d 220, 224 n.3 (Fla. 3rd DCA 2012); Nationwide Mut. Fire Ins. Co. v. Robinson, 915 So. 2d 262 (Fla. 4th DCA 2005); and Swortz v. So. Rainbow Corp., 603 So 2d 107 (Fla. 3rd DCA 1992). Thus, Petitioner is not entitled to have a multiplier used.

41. Petitioner is claiming fees for travel time for Ms. Tejedor, but is not entitled to fees for travel time because Petitioner has failed to demonstrate that no competent local attorney could be found. See DISH Network Servs. LLC v. Myers, 87 So. 3d 72 (Fla. 2d DCA 2012); Stanton v. Stanton, 50 So. 3d

688 (Fla. 2d DCA 2012); and Mandel v. Decorator's Mart, Inc. of Deerfield Beach, 965 So. 2d 311 (Fla. 4th DCA 2007).

42. Petitioner is claiming fees for litigating the amount of the fees. Based on Bennett v. Berges, 50 So. 3d 1154 (Fla. 4th DCA 2010), it is within the discretion of the tribunal to award fees for fees when the award is a sanction. It is clear that the award in the instant case is a sanction. Petitioner is entitled to fees for litigating the amount of fees. A reasonable fee for litigating the amount of fees is \$4,462.50, which represents 12.7 hours at an hourly rate of \$350.

43. Based on his testimony concerning his hourly rate and the number of hours that he worked, it is apparent that Mr. Shevin expected to be compensated for the time spent as an expert witness in the instant case. Therefore, based on Straus v. Morton F. Plant Hospital Foundation, Inc., 478 So. 2d 472 (Fla. 2d DCA 1985), it is within the court's discretion to award him an expert witness fee. In the instant case, Mr. Shevin is awarded a witness fee of \$2,100, which represents six hours at \$350 an hour.

44. Petitioner contends that fees should be awarded for the original administrative proceeding from which the appeal was taken and for the circuit court proceeding. It is clear that the Third District Court of Appeal was awarding fees based on the appeal that was filed by the Intervenors and not on the

administrative proceeding below or the circuit court proceeding, from which there had been no appeal. If Petitioner wished to seek fees for the administrative action pursuant to section 57.105, Petitioner's remedy would have been to file a motion in the original administrative proceeding. The same is true for the malpractice action. If Petitioner seeks fees in the malpractice action the appropriate remedy would be to file a motion with the trial court.

45. Based on section 57.105, Petitioner is entitled to the statutory prejudgment interest rate of 4.75 percent on Ms. Tejedor's fees for the appellate work from April 27, 2012, the date the Third District Court of Appeal granted the motion for attorney's fees. See Bremshey v. Morrison, 621 So. 2d 717 (Fla. 5th DCA 1993).

CONCLUSION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED:

Intervenors and counsel for the Intervenors are to pay the following fees:

1. \$58,650 to Barbara Green, P.A., representing an hourly rate of \$500 per hour for 113.4 hours.
2. \$3,900 to Roy Wasson, Esquire, representing an hourly rate of \$500 for 7.8 hours.

3. Prejudgment interest at the statutory rate as 4.75 percent for the fees of Ms. Green and Mr. Wasson from February 19, 2013.

4. \$8,645 to Diez-Arguelles and Tejedor, P.A., representing 24.7 hours at an hourly rate of \$350 for the appellate work.

5. \$4,462.50 to Diez-Arguelles and Tejedor, P.A., which represents 12.7 hours at an hourly rate of \$350 for litigating the amount of fees.

6. Prejudgment interest for Ms. Tejedor's fees for the appellate work at the statutory rate of 4.75 percent from April 27, 2012.

7. \$2,100 to Harry Shevin, Esquire, representing six hours at \$350 an hour.

DONE AND ORDERED this 23rd day of May, 2013, in Tallahassee, Leon County, Florida.

Susan Belyeu Kirklund

SUSAN BELYEU KIRKLAND
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 23rd day of May, 2013.

ENDNOTES

^{1/} Petitioner, by Ms. Tejedor, had filed a motion for fees and cost on November 3, 2011, but that motion was withdrawn by Petitioner on November 29, 2011.

^{2/} In the Joint Prehearing Statement of Petitioner and Intervenors, which was filed by the parties on January 25, 2013, Petitioner took the position that Ms. Tejedor was entitled to a 1.5 multiplier. At the final hearing, Ms. Tejedor claimed that she was entitled to a multiplier of 2.

^{3/} The docket in the appellate proceeding does not show that any motion for attorney's fees and costs was filed on June 22, 2011.

COPIES FURNISHED:

Eric K. Gressman, Esquire
Dade County Attorney's Office
Suite 2810
111 Northwest 1st Street
Miami, Florida 33128

Maria D. Tejedor, Esquire
Diez-Arguelles and Tejedor, P.A.
505 North Mills Avenue
Orlando, Florida 32803

Marc J. Schleier, Esquire
Fowler, White, Burnett, P.A.
Espirito Santo Plaza, 14th Floor
1395 Brickell Avenue
Miami, Florida 33131-3302

David W. Black, Esquire
Frank, Weinberg and Black, P.L.
7805 Southwest 6th Court
Plantation, Florida 33324

Barbara Green, Esquire
Barbara Green, P.A.
Suite 209
300 Sevilla Avenue
Coral Gables, Florida 33134

Kenney Shipley, Executive Director
Florida Birth Related Neurological
Injury Compensation Association
2360 Christopher Place, Suite 1
Tallahassee, Florida 32308

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).