

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

CICORRA CERVANTES, as Personal  
Representative of the Estate of  
CIMAYAH RAYVONNE ROSE THURSTON,  
a deceased minor,

Petitioner,

vs.

Case No. 13-3287N

FLORIDA BIRTH-RELATED  
NEUROLOGICAL INJURY COMPENSATION  
ASSOCIATION,

Respondent,

and

GREGORY A. DELONG, M.D., KEY  
WEST HMA PHYSICIAN MANAGEMENT,  
LLC, AND KEY WEST HMA, LLC,  
d/b/a LOWER KEYS MEDICAL CENTER,

Intervenors.

\_\_\_\_\_ /

FINAL ORDER APPROVING STIPULATION FOR ENTRY OF AWARD

This cause came on for consideration pursuant to sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation and Joint Petition for Compensation of Claim Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Stipulation and Joint Petition), filed with the Division of Administrative Hearings on February 23, 2016, for the entry of an order approving the resolution of a claim for compensation benefits filed in accordance with the

provisions of chapter 766 and a resolution of the exclusive remedy otherwise available as outlined in chapter 766.

By the terms of their stipulation, Petitioner, Circorra Cervantes, as parent and natural guardian of the Estate of Cimayah Rayvonne Rose Thurston, a deceased minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Circorra Cervantes, is the parent and legal guardian of the Estate of Cimayah Rayvonne Rose Thursday (Cimayah), deceased; that Cimayah was born a live infant on or about February 12, 2009, at Lower Keys Medical Center, a "hospital" as defined by section 766.302(6) located in Key West, Florida; and that Cimayah's birth weight exceeded 2,500 grams. The Parties have further agreed that Gregory DeLong, M.D., provided obstetrical services at Cimayah's delivery and was a "participating physician" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The Parties have agreed that Cimayah suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause of her injury and subsequent death.

It is ORDERED:

1. The Stipulation and Joint Petition filed on February 23, 2016, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioner, Cicorra Cervantes, as the parent and legal guardian of the Estate of Cimayah Rayvonne Rose Thurston, deceased, is awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as a lump sum; payment of benefits up to and including the effective date of the Stipulation and Joint Petition pursuant to section 766.31(1)(a), subject to the provisions of paragraph 20 of the Stipulation and Joint Petition; and payment of the \$10,000.00 death benefit pursuant to section 766.31(1)(b)1.

3. NICA will reimburse Robert C. Tilghman, Esquire, of Robert C. Tilghman, P.A., and Nathan E. Eden, Esquire, of Nathan E. Eden, P.A., attorneys for Petitioner, an agreed-upon attorney's fee of \$7,500.00 and expenses of \$8,718.59, totaling \$16,218.59 in full for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000.00, the death benefit of \$10,000.00, past benefit/expenses, and \$16,218.59 for attorney's fees and costs, the claim of Petitioner shall be deemed fully satisfied and extinguished.

5. 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 24th day of February, 2016, in  
Tallahassee, Leon County, Florida.



---

BARBARA J. STAROS  
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 24th day of February, 2016.

COPIES FURNISHED:  
(via certified mail)

Kenney Shipley, Executive Director  
Florida Birth Related Neurological  
Injury Compensation Association  
2360 Christopher Place, Suite 1  
Tallahassee, Florida 32308  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8543)

Nathan E. Eden, Esquire  
Law Office of Nathan E. Eden PA  
Suite 205  
302 Southard Street  
Key West, Florida 33040  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8550)

Robert C. Tilghman, Esquire  
Robert C. Tilghman, P.A.  
One Biscayne Tower, Suite 2670  
2 South Biscayne Boulevard  
Miami, Florida 33131  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8567)

David W. Black, Esquire  
Frank, Weinberg & Black, P.L.  
7805 Southwest 6th Court  
Plantation, Florida 33324  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8574)

Michael A. Petruccelli, Esquire  
Fann & Petruccelli, P.A.  
Suite 300B  
5100 North Federal Highway  
Fort Lauderdale, Florida 33308  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8581)

Denise L. Dawson, Esquire  
Hall Booth Smith, PC  
Second Floor, Suite H  
9250 Alternate A1A  
North Palm Beach, Florida 33403  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8598)

Michael R. D'Lugo, Esquire  
Wicker, Smith, O'Hara, McCoy, Ford, P.A.  
Post Office Box 2753  
Orlando, Florida 32802  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8604)

Amie Rice, Investigation Manager  
Consumer Services Unit  
Department of Health  
4052 Bald Cypress Way, Bin C-75  
Tallahassee, Florida 32399-3275  
(Certified Mail No. 7012 3050 0000 1249 8611)

Elizabeth Dudek, Secretary  
Health Quality Assurance  
Agency for Health Care Administration  
2727 Mahan Drive, Mail Stop 1  
Tallahassee, Florida 32308  
(eServed)  
(Certified Mail No. 7012 3050 0000 1249 8628)

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).