

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

HOUDA CHARFI AND OMAR ELMOUKI,  
as parents and natural guardians  
of MUNDIR ELMOUKI (deceased), a  
minor,

Case No. 19-4599N

Petitioner,

vs.

FLORIDA BIRTH-RELATED  
NEUROLOGICAL INJURY COMPENSATION  
ASSOCIATION,

Respondent.

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FINAL ORDER

On December 11, 2019, the parties filed a 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). Petitioner and the Florida Birth-Related Neurological Injury Compensation Association (NICA) seek the entry of an order approving the resolution of the claim for benefits filed in accordance with the provisions of chapter 766, Florida Statutes.

FINDINGS OF FACT

Based upon the stipulation of the parties, the following facts are found:

1. Houda Charfi and Omar Elmouki (Petitioners) are the parents and legal guardians of Mundir Elmouki (Mundir), and are the "Claimants" as defined by section 766.302(3).

2. Mundir incurred a "birth-related neurological injury" as that term is defined in section 766.302(2), on or about May 11, 2018, which was the sole and proximate cause of Mundir's injury.

3. At birth, Mundir weighed 3,390 grams.

4. Luis Sanchez-Ramos, M.D., rendered obstetrical services in Mundir's delivery, and, at all material times, was a "participating physician" as defined in section 766.3012(7).

5. UF Health Jacksonville is a hospital located in Jacksonville, Florida, is the hospital where Mundir was born, and is the "hospital" as that term is defined in section 766.302(6).

6. Mundir died on May 11, 2018.

7. Petitioners filed a petition pursuant to section 766.305, seeking compensation from NICA, and that Petition is incorporated by reference in its entirety, including all attachments. Any reference made within this document to NICA encompasses, where appropriate, the Florida Birth-Related Neurological Injury Compensation Plan (the Plan).

CONCLUSIONS OF LAW

8. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties to this proceeding pursuant to section 766.301.

9. Section 766.305(7) requires the presiding administrative law judge to approve the settlement of any claim where NICA determines that the injury is compensable.

CONCLUSION

Based upon the Findings of Fact and Conclusions of Law, it is

ORDERED:

1. The Stipulation and Joint Petition filed December 11, 2019, is approved, and the parties are directed to comply with provisions of the Stipulation and Joint Petition.

2. Petitioners, Houdi Charfi and Omar Elmouki, as the parents and legal guardians of Mundir Elmouki, are awarded one hundred thousand dollars (\$100,000), to be paid as a lump sum to the parents, as authorized by section 766.31(1)(b).

3. Petitioners are also awarded past benefits and the Ten Thousand Dollars (\$10,000.00) death benefit authorized by section 766.31. Payment of past benefits under section 766.31(1)(a) shall be subject to the provisions of paragraph 20 of the Stipulation and Joint Petition.

4. NICA will reimburse Teresa A. Arnold-Simmons, Esquire, attorney for Petitioners, an agreed-upon attorney's fee of Ten Thousand Dollars (\$10,000.00) and expenses of Five Thousand Nine Hundred Eighty-Eight Dollars and Seventy-Two Cents (\$5,988.72), totaling Fifteen Thousand, Nine Hundred Eighty-Eight Dollars and Seventy-Two Cents (\$15,988.72) in full, for services rendered with respect to this proceeding.

5. Upon the payment of the award of \$100,000; the death benefit of \$10,000; past benefits/expenses; and payment of the attorney's fee awarded to Petitioners' counsel, Petitioners' claims shall be deemed fully satisfied and extinguished.

6. 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 23rd day of December, 2019, in Tallahassee, Leon County, Florida.



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LISA SHEARER NELSON  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 23rd day of December, 2019.

COPIES FURNISHED:  
(via certified mail)

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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).