

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

YOLANDA DELVA, ON BEHALF OF AND AS
PARENT AND NATURAL GUARDIAN OF
ANGELINA DELVA, A MINOR,

Petitioner,

Case No. 20-2018N

vs.

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent.

_____ /

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 (DOAH) on March 22, 2021, 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, Yolanda Delva, as parent and natural guardian of Angelina Delva (Angelina), a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Yolanda Delva is the parent and legal guardian of Angelina; that Angelina was born a live infant on or about April 21, 2015, at Broward Health Coral Springs, a “hospital,” as defined by section 766.302(6), located in Rockledge, Florida; and that Angelina’s birth weight exceeded 2,500

grams. The parties have further agreed that Jessenia Magua, M.D., provided obstetrical services at Angelina'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 Angelina 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. It is

ORDERED:

1. The Stipulation and Joint Petition filed on March 22, 2021, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.


2. Petitioner, Yolanda Delva, as the parent and legal guardian of Angelina, a minor, is awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as periodic payments to the parent; 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 19 of the Stipulation and Joint Petition; and payments of future expenses, as incurred.

3. NICA shall reimburse Lee Friedland, Esquire, an agreed upon attorney's fee of thirteen thousand eight hundred sixty-five dollars (\$13,865.00), and expenses of four hundred fifty-eight dollars and ninety cents (\$458.90); totaling fourteen thousand three hundred twenty-three dollars and ninety cents (\$14,323.90) for services rendered in the filing the claim.

4. Upon the payment of the award of \$100,000.00, past benefits/expenses, and attorney's fees and expenses of \$14,323.90, the claims of Petitioner shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under section 766.31(2) to pay future expenses, as incurred.

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 26th day of March, 2021, in Tallahassee, Leon County, Florida.



TODD P. RESAVAGE
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
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Filed with the Clerk of the
Division of Administrative Hearings
this 26th day of March, 2021.

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).