

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

JOEL DAVIS LATON AND CHRISTINE ANNE
LATON, ON BEHALF OF AND AS PARENTS
AND NATURAL GUARDIANS OF ROSE
EVANGELINE LATON, DECEASED,

Petitioners,

vs.

Case No. 20-5580N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent

and

ST. VINCENT'S MEDICAL CENTER, INC.
D/B/A ST. VINCENT'S MEDICAL CENTER -
RIVERSIDE,

Intervenor.

_____ /

FINAL ORDER

On February 23, 2021, Petitioners and Respondent 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). Petitioners and the Florida Birth-Related Neurological Injury Compensation Association (NICA) seek entry of an order approving the resolution of the claim for benefits filed in accordance with the provisions of chapter 766. Intervenor, St. Vincent's Medical Center, Inc., d/b/a St. Vincent's Medical Center - Riverside (SVMCR), has not filed an objection to the Stipulation and Joint Petition, and the time for doing so pursuant to Florida Administrative Code Rule 28-106.204 has passed.

PRELIMINARY STATEMENT

On December 23, 2020, Petitioners, Joel Davis Laton and Christine Anne Laton, on behalf of and as parents and natural guardians of Rose Evangeline Laton, deceased, filed a Petition for Benefits Pursuant to Florida Statute Section 766.301, et seq. (Petition). The Petition named David Lynn Miller, M.D., as the physician providing obstetric services and SVMCR as the hospital where Rose Evangeline Laton (Rose) was born. On January 22, 2021, NICA, Dr. Miller, and SVMCR were served by certified mail with the Petition, and certified mail receipts filed with the Division of Administrative Hearings (DOAH) indicate that all three received the Petition.

On February 8, 2021, NICA filed a Response to Petition for Benefits, indicating that the injury was compensable, and offering benefits to Petitioners.

On February 19, 2021, SVMCR moved to intervene in these proceedings, and on March 1, 2021, the motion was granted. In the meantime, on February 23, 2021, Petitioners and Respondent filed the Stipulation and Joint Petition. Intervenors have not objected to the Stipulation and Joint Petition since being granted Intervenor status.

FINDINGS OF FACT

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

1. Joel Davis Laton and Christine Anne Laton are the parents and legal guardians of Rose, and are the “Claimants” as that term is defined in section 766.302(3).

2. On or about August 17, 2019, Rose incurred a “birth-related neurological injury” as that term is defined in section 766.302(2), which was the sole and proximate cause of Rose’s medical condition.

3. David Miller, M.D., rendered obstetrical services in the delivery of Rose and, at all material times, was a “participating physician” as defined in section 766.302(7).

4. SVMCR is a hospital located in Jacksonville, Florida, and is the “hospital” as that term is defined in section 766.302(6), where Rose was born.

5. At birth, Rose weighed 4,650 grams.

6. Rose died on August 17, 2019.

7. Petitioners filed a Petition pursuant to section 766.305, seeking compensation from NICA, and that Petition is incorporated herein 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. DOAH 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 February 23, 2021, is approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Joel Davis Laton and Christine Anne Laton, as the parents of Rose Evangeline Laton, are awarded One Hundred Thousand Dollars (\$100,000) to be paid as a lump sum, as authorized by section 766.31(1)(b).

3. Petitioners are also awarded a death benefit of Ten Thousand Dollars (\$10,000), authorized by section 766.31, and payment of past expenses under section 766.31(1)(a), subject to the provisions of paragraph 20 of the Stipulation and Joint Petition.

4. Upon payment of the award of \$100,000; the death benefit of \$10,000; and past benefits/expenses, Petitioners' claims shall be deemed fully satisfied and extinguished.

5. DOAH 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 17th day of March, 2021, in Tallahassee, Leon County, Florida.



LISA SHEARER NELSON
Administrative Law Judge
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 17th day of March, 2021.

COPIES FURNISHED:
(via certified mail)

Amie Rice, Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified No. 7020 2450 0002 1970 5367)

Simone Marstiller, Secretary
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 1
Tallahassee, Florida 32308
(Certified No. 7020 2450 0002 1970 5374)

Joel Davis Laton
Christine Anne Laton
4338 Ellipse Drive
Jacksonville, Florida 32246
(Certified No. 7020 2450 0002 1970 5381)

Megan R. Heiden, Esquire
Smith Hulsey & Busey
Suite 3300
One Independent Drive
Jacksonville, Florida 32202
(Certified No. 7020 2450 0002 1970 5404)

Kenney Shipley, Executive Director
Florida Birth-Related Neurological
Injury Compensation Association
Suite 1
2360 Christopher Place
Tallahassee, Florida 32308
(Certified No. 7020 2450 0002 1970 5398)

David Miller, M.D.
Suite 200
3 Shircliff Way
Jacksonville, Florida 32204
(Certified No. 7020 2450 0002 1970 5411)

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).