

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

CATHERINE CHRISTIN SILVA AND VICTOR
SILVA, INDIVIDUALLY AND AS PARENTS
AND NATURAL GUARDIANS OF SAVANNAH
SILVA, A MINOR CHILD,

Case No. 21-0482N

Petitioners,

vs.

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

SOUTH MIAMI HOSPITAL, INC.,

Intervenor.

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 Joint Stipulation and Motion for Entry of Award Pursuant to Chapter 766, Florida Statutes (Joint Stipulation), filed with the Division of Administrative Hearings (DOAH) on January 5, 2022, 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 the Joint Stipulation, Petitioners, Catherine Christin Silva and Victor Silva, as parents and natural guardians of Savannah Silva (Savannah), a minor, and Respondent, the Florida Birth-Related Neurological

Injury Compensation Association (NICA), have agreed that Savannah suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), on or about August 13, 2020. The parties have further agreed that Savannah was born at South Miami Hospital, a “hospital” as defined by section 766.302(6); and that Savannah was a single gestation with a birth weight that exceeded 2,500 grams. The parties have agreed that Ellen Joy Schwartzbard, M.D., provided obstetrical services at Savannah’s delivery and was a “participating physician” in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). Finally, the parties agree that South Miami Hospital and Dr. Schwartzbard provided notice of NICA participation to Petitioners. It is

ORDERED that:

1. The Joint Stipulation, filed on January 5, 2022, is hereby approved, and the parties are directed to comply with the provisions of the Joint Stipulation.

2. Petitioners, Catherine Christin Silva and Victor Silva, as the parents and natural guardians of Savannah, a minor, are awarded two hundred fifty thousand dollars (\$250,000.00), pursuant to section 766.31(1)(d)1.a., to be paid as a lump sum to Petitioners; and payment of all benefits, past and future, as authorized by section 766.31(1)(a), subject to the provisions of paragraph 19 of the Joint Stipulation.

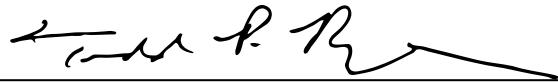
3. NICA shall reimburse Jackson F. McCoy, Esquire, and the Law Offices of Wicker, Smith, O’Hara, McCoy & Ford, P.A., an agreed upon attorney’s fee and expenses of eighteen thousand five hundred dollars (\$18,500.00) for services rendered in the filing of the claim.

4. Upon the payment of the award of \$250,000.00, and attorney’s fees and expenses of \$18,500.00, the claim of Petitioners shall be deemed fully

satisfied, except for Respondent's continuing obligation under section 766.31(2) to pay future expenses, as incurred.

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 11th day of January, 2022, 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 11th day of January, 2022.

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).