

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

FABIO FAGUNDES AND CINTYA FAGUNDES,
OBO FABIO HENRY CHAMULERA
FAGUNDES, A DECEASED MINOR,

Petitioners,

vs.

Case No. 21-2434N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

OBSTETRICS AND GYNECOLOGY
ASSOCIATES OF CENTRAL FLORIDA, LLC,

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 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 November 8, 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 the Stipulation and Joint Petition, Petitioners, Fabio Fagundes and Cintya Fagundes, as parents and natural guardians of Fabio

Henry Chamulera Fagundes (Fabio), a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Fabio Fagundes and Cintya Fagundes are the parents and legal guardians of Fabio; that Fabio suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), on or about June 5, 2021, which was the sole and proximate cause of Fabio’s injury and subsequent death on June 19, 2021. The parties have further agreed that Fabio was born at UCF Lake Nona Medical Center, a “hospital” as defined by section 766.302(6), located in Orlando, Florida; and that Fabio’s birth weight exceeded 2,500 grams. Finally, the parties have agreed that Renata Starr, M.D., and Douglas Winger, M.D., provided obstetrical services at Fabio’s delivery and were “participating physicians” in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). It is

ORDERED that:

1. The Stipulation and Joint Petition, filed on November 8, 2021, is hereby approved, and the parties are directed to comply with the provisions of the Stipulation and Joint Petition.

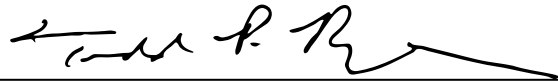
2. Petitioners, Fabio Fagundes and Cintya Fagundes, as the parents and legal guardians of Fabio, a minor, are awarded two hundred fifty thousand dollars (\$250,000.00), pursuant to section 766.31(1)(b)1., to be paid as a lump sum to Petitioners; and payment of all benefits, past and future, including the fifty thousand (\$50,000.00) death benefit, as authorized by section 766.31(1)(a), subject to the provisions of paragraph 18 of the Stipulation and Joint Petition.

3. NICA shall reimburse Brooke Charlan, Esquire, an agreed upon attorney’s fee of eleven thousand nine hundred twenty dollars (\$11,920.00), and expenses of five thousand three hundred forty dollars and fifty-eight cents (\$5,340.58); totaling seventeen thousand two hundred sixty dollars and fifty-eight cents (\$17,260.58) for services rendered in the filing of the claim.

4. Upon the payment of the award of \$250,000.00, the \$50,000.00 death benefit, past benefits/expenses, and attorney's fees and expenses of \$17,260.58, the claim of Petitioners shall be deemed fully satisfied.

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 12th day of November, 2021, in Tallahassee, Leon County, Florida.



TODD P. RESAVAGE
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 12th day of November, 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).