

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ROMINA SAWERESS AND ALYSSA SAWERESS
O/B/O DECLAN SAWERESS, A DECEASED
MINOR,

Petitioners,

vs.

Case No. 21-3124N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

HOLMES REGIONAL MEDICAL CENTER,
INC.,

Intervenor.

FINAL ORDER APPROVING STIPULATION FOR ENTRY OF ORDER

This cause came on for consideration pursuant to sections 766.304 and 766.305, Florida Statutes, upon the Stipulation and Joint Petition for Compensation of Claim Motion Arising Out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Joint Stipulation), filed with the Division of Administrative Hearings (DOAH) on December 22, 2021, requesting that the undersigned approve the instant claim for compensation under the Florida Birth-Related Neurological Injury Compensation Plan (the Plan).

By the terms of their Joint Stipulation, Petitioners, Romina Saweress and Alyssa Saweress, the parents and legal guardians of Declan Saweress, a deceased minor (Declan), and Respondent, the Florida Birth-Related

Neurological Injury Compensation Association (NICA), have agreed that Romina Saweress and Alyssa Saweress are the parents of Declan; that Declan incurred a “birth-related neurological injury” as that term is defined in section 766.302(2), Florida Statutes (2021), on April 6, 2021; and that Declan’s birth weight exceeded 2,500 grams. The parties have further agreed that Adam Close, M.D., provided obstetrical services at Declan’s delivery, and that Dr. Close was a “participating physician” in the Plan, as defined by section 766.302(7). The parties also agree that Intervenor, Holmes Regional Medical Center, is a hospital located in Melbourne, Florida, and was the “hospital,” as that term is defined in section 766.302(6), where Declan was born. The parties have agreed that Declan suffered a “birth-related neurological injury,” as that term is defined by section 766.302(2), which was the sole and proximate cause that led to Declan’s death on April 9, 2021.

It is ORDERED:

1. The Joint Stipulation filed on December 22, 2021, is hereby approved, and the parties are directed to comply with the provisions of the Joint Stipulation.
2. Petitioners, Romina Saweress and Alyssa Saweress, as the parents of Declan, a deceased minor, are awarded two hundred and fifty thousand dollars (\$250,000.00), pursuant to section 766.31(1)(b)1., to be paid as a lump sum to the parents.
3. Petitioners, Romina Saweress and Alyssa Saweress, as the parents of Declan, a deceased minor, are awarded a death benefit of fifty thousand dollars (\$50,000.00), pursuant to section 766.31(1)(b)2., to be paid as a lump sum to the parents.
4. NICA will reimburse Brooke Charlan, Esquire, attorney for Petitioners, an agreed-upon amount of nine thousand four hundred seventy-two dollars and fifty cents (\$9,472.50), for reasonable attorney’s fees in the filing of this claim, and four thousand five hundred forty-one dollars and nine cents

(\$4,541.09) for expenses, totaling fourteen thousand thirteen dollars and fifty-nine cents (\$14,013.59), pursuant to section 766.31(1)(c).

5. Upon the payment of the award of \$250,000.00 for past benefit/expenses, \$50,000.00 for the death benefit, and \$14,013.59 for attorney's fees and expenses, the claims of Petitioners shall be deemed fully satisfied and extinguished.

6. 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 10th day of January, 2022, in Tallahassee, Leon County, Florida.



ROBERT J. TELFER III
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 10th day of January, 2022.

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. 70211970000048609493)

Simone Marsteller, Secretary
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 1
Tallahassee, Florida 32308
(Certified No. 70211970000048609509)

Kim Kellum, Esquire
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
(Certified No. 7021197000048609516)

Thomas M. Hoeler, Esquire
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
(Certified No. 7021197000048609523)

Brooke India Charlan, Esquire
Morgan & Morgan, P.A.
20 North Orange Avenue, Suite 1600
Orlando, Florida 32801
(Certified No. 7021197000048609530)

Kenney Shipley, Executive Director
Florida Birth-Related Neurological
Injury Compensation Association
Post Office Box 14567
Tallahassee, Florida 32317
(Certified No. 7021197000048609547)

Jack Tobias Cook, Esquire
Morgan & Morgan, P.A.
9th Floor
20 North Orange Avenue
Orlando, Florida 32801
(Certified No. 7021197000048609554)

Scott Edward Solomon, Esquire
Falk, Waas, Hernandez, Solomon,
Mendlestein & Davis, PA
Suite 500
135 San Lorenzo Avenue
Coral Gables, Florida 33146
(Certified No. 7021197000048609561)

Adam M. Close, M.D.
#110
3425 Bayside Lakes Boulevard Southeast
Palm Bay, Florida 32909
(Certified No. 7021197000048609578)

Kathe Alexander, Claims Manager
Florida Birth-Related Neurological
Injury Compensation Association
2252 Killearn Center Boulevard
Tallahassee, Florida 32309
(Certified No. 7021197000048609585)

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).