

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DAYANIS OLVERA, ON BEHALF OF AND AS
PARENT AND NATURAL GUARDIAN OF
ADELA V. QUILES, A DECEASED MINOR,

Petitioner,

vs.

Case No. 22-0899N

FLORIDA BIRTH-RELATED NEUROLOGICAL
INJURY COMPENSATION ASSOCIATION,

Respondent,

and

FARIS HANNA, M.D.,

Intervenor.

FINAL ORDER APPROVING STIPULATION

On August 29, 2022, Dayanis Olvera, as parent and natural guardian of Adela V. Quiles, a deceased minor (Petitioner), and the Florida Birth-Related Neurological Injury Compensation Association (NICA), 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). Petitioner and NICA seek entry of a final order approving resolution of Petitioner's claim for benefits filed in accordance with the provisions of chapter 766, Florida Statutes.

PRELIMINARY STATEMENT

On February 22, 2022, Petitioner, Dayanis Olvera, as parent and natural guardian of Adela V. Quiles (Adela), a deceased minor, filed a Petition for

Benefits Pursuant to Florida Statute Section 766.301, et seq. (the Petition). The Petition named Faris Hanna, M.D., as the physician providing obstetrical services, and Memorial Regional Medical Center, as the hospital where Adela was born. The filing fee was filed on March 21, 2022, and on March 24, 2022, NICA, Dr. Hanna, and Memorial Regional Medical Center were served by certified mail. On April 4, 2022, Dr. Hanna's Motion to Intervene, filed on March 31, 2022, was granted.

On May 5, 2022, NICA responded to the Petition, asserting that based on its review of the provided documentation, the claim was compensable. On July 1, 2022, an Order was issued directing the parties to confer and provide mutually acceptable dates for a hearing. NICA's response to the Order stated that the parties agreed that a hearing was not necessary, and were in the process of resolving the issue of attorney's fees and costs.

A telephonic status conference was held on August 10, 2022, where the parties indicated they were in the process of finalizing a Stipulation and Joint Petition for filing with the Division of Administrative Hearings (DOAH). Consistent with their representation, the Stipulation and Joint Petition was filed on August 29, 2022, and is signed by Petitioner, counsel for Petitioner, NICA, and counsel for NICA.

FINDINGS OF FACT

Based on the Stipulation and Joint Petition of the parties and the allegations in the Petition, the following facts are found:

1. Dayanis Olvera is the parent of Adela and is the Claimant as that term is defined in section 766.302(3).
2. Adela incurred a birth-related neurological injury as that term is defined in section 766.302(2), which was the sole and proximate cause of Adela's death.

3. At birth, Adela weighed in excess of 2,500 grams.

4. Faris Hanna, M.D., rendered obstetrical services in the delivery of Adela, and at all times material to this proceeding, was a "participating physician" as defined in section 766.302(7).

5. Adela was delivered at Memorial Regional Medical Center on October 7, 2019, which is located in Hollywood, Florida, and is a "hospital" as defined in section 766.302(6).

6. Adela died on October 17, 2019.

7. Petitioner filed the Petition seeking compensation from NICA. The Petition is incorporated 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 sections 120.569, 120.57(1), and 766.301, Florida Statutes.

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 on the Findings of Fact and the Conclusions of Law, it is

ORDERED:

1. The Stipulation and Joint Petition filed on August 29, 2022, is approved. The parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioner is awarded Three Hundred Seven Thousand Five Hundred Dollars (\$307,500) to be paid as a lump sum. The payment is authorized under section 766.31(1)(b).

3. Petitioner is awarded payment of benefits up to and including the effective date of the Stipulation and Joint Petition under section 766.31(1)(a). This payment is subject to the provisions of paragraph 18 of the Stipulation and Joint Petition.

4. NICA will reimburse Lee Friedland, Esquire, of Friedland & Associates, P.A., attorney for Petitioner, an agreed-upon attorney's fee of Ten Thousand Dollars (\$10,000), and expenses of One Thousand Fifteen Dollars (\$1,015) for a total of Eleven Thousand Fifteen Dollars (\$11,015) in full, for services rendered in the filing of this claim.

5. Upon payment of the award described in paragraphs two through four of the final section of this Final Order, Petitioner's claims 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 Final Order.

DONE AND ORDERED this 6th day of September, 2022, in Tallahassee, Leon County, Florida.



FRANCINE M. FOLKES
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 6th day of September, 2022.

COPIES FURNISHED:
(via certified mail)

Amie Rice, Investigation Manager
(Address of Record)
(Certified No. 7021 2720 0000 3801 0463)

Simone Marsteller, Secretary
(eServed)
(Certified No. 7021 2720 0000 3801 0500)

Kim Kellum, Esquire
(eServed)
(Certified No. 7021 2720 0000 3801 0470)

Thomas M. Hoeler, Esquire
(eServed)
(Certified No. 7021 2720 0000 3801 0517)

Lee Friedland, Esquire
(eServed)
(Certified No. 7021 2720 0000 3801 0487)

Julia M. Ingle, Esquire
(eServed)
(Certified No. 7021 2720 0000 3801 0524)

Kathe Alexander, Claims Manager
(eServed)
(Certified No. 7021 2720 0000 3801 0494)

David W. Black, Esquire
(eServed)
(Certified No. 7021 2720 0000 3801 0531)

Memorial Regional Medical Center
(Address of Record)
(Certified No. 7021 1970 0000 4860 5082)

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).