

Part 15 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at 360 Adams Street, Brooklyn, New York on the ____ day of _____, 2018.

PRESENT: HONORABLE MARSHA STEINHARDT
JUSTICE

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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A.A., an infant under the age of 14 years, by his Father and Natural Guardian, MOHAMMED MIAH, and MOHAMMED MIAH, Individually,

Plaintiffs,

**ORDER OF
COMPROMISE**

-against-

Index No.: 504198/2016

CARLYLE DE CASTRO, M.D., ANA SOTO, M.D.,
ANDREA FEHER, M.D., RICCARDO RICCIARDI, M.D.,
and JAMAICA HOSPITAL MEDICAL CENTER,

Defendants.

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Upon reading and filing the Affidavit of MOHAMMED MIAH, duly sworn to on the 15th day of October, 2018, the Attorney’s Affirmation of John Bonina, Esq. dated the 15th day of October, 2018, the Affirmation in Support by the infant plaintiff, the medical records of Dr. Eric Krauss of Interboro Pediatrics and an examination of the infant plaintiff and plaintiff having been waived by the Court and upon all of the pleadings and proceedings heretofore had herein, and due deliberation having been had thereon, and it appearing to my satisfaction that the best interest of the infant plaintiff will be served.

{00144521}

NOW, on the motion of John Bonina, Esq., of Bonina & Bonina, P.C., attorneys for the plaintiffs, it is

ORDERED, that the above-captioned matter is settled for the sum of Two hundred and fifty thousand and 00/100 Dollars (\$250,000.00), to be paid in five annual installments of fifty thousand and 00/100 Dollars (\$50,000.00) each; and it is further

ORDERED, that the defendant Jamaica Hospital Medical Center and/or its representative is to make the initial \$50,000.00 payment as follows:

- a. The sum of \$4,007.54 to be paid to Bonina & Bonina, P.C., attorneys for the plaintiffs, as and for reimbursement for the costs and disbursements regarding the prosecution of this action;
- b. The sum of \$13,797.74 to be paid to Bonina & Bonina, P.C., attorneys for the plaintiffs, as and for attorney's fees;
- c. The sum of \$32,143.14 to be paid to Mohammed Miah, as Parent and Natural Guardian of A.A., an infant over the age of 14 for the sole use and benefit of A.A., jointly with an officer of _____ to be held for the sole use and benefit of said infant, to be deposited in said bank, in a high yield interest-bearing bank account in the name of said guardian jointly with an officer of the bank; and it is further

ORDERED, that the defendant Jamaica Hospital Medical Center and/or its representative is to make each of the four remaining payments of \$50,000.00 payment as follows:

- a. The sum of \$15,000.00 to be paid to Bonina & Bonina, P.C., attorneys for the plaintiffs, as and for attorney's fees;

d. The sum of \$35,000.00 to be paid to Mohammed Miah, as Parent and Natural Guardian of A.A., an infant over the age of 14 for the sole use and benefit of A.A., jointly with an officer of _____ to be held for the sole use and benefit of said infant, to be deposited in said bank, in a high yield interest-bearing bank account in the name of said guardian jointly with an officer of the bank; and it is further

ORDERED, that all sums set forth herein constitute damages on account of personal physical injuries or physical sickness, within the meaning of Section 104(a)(2) of the Internal Revenue Code; and it is further

ORDERED, that no withdrawals shall be made from said savings bank account before the infant reaches of the age of eighteen (18) years, except by further order of this Court. The date of the maturity of the account shall not be extended beyond the infant plaintiff's eighteenth (18th) birthday, and shall be continuously renewed and when no such account is available due to the infant's age, the accumulated funds shall then be placed in an insured savings interest-bearing account to be held until the infant plaintiff reaches the age of eighteen (18) years of age and makes a demand for the monies. When the infant plaintiff reaches the age of eighteen (18) years of age, the said depository is directed to pay over, without further order of this court or any other proceedings, to said infant plaintiff, upon prior proof of age and identification, upon demand, all of the monies in aforesaid account, and it is further

ORDERED, that the said Savings Bank, upon presentation of the passbook and the infant's completed tax returns, issue drafts payable to the Internal Revenue Service and/or the New York State Tax Commission, for payment of taxes owed by the infant, as a result of interest accrued on the guardian accounts, and it is further

ORDERED, that the loss of services claim of Mohammed Miah is discontinued with prejudice and without payment, and it is further

ORDERED, that upon compliance with the terms of this Order, Mohammed Miah, as Parent and Natural Guardian of the infant plaintiff, A.A., be and is hereby authorized and empowered to execute and deliver a Settlement Agreement & Release as his Parent and Natural Guardian and any other papers required in order to effectuate such compromise; and it is further

ORDERED, that upon making and receipt of all of the payments above directed in compliance with this order, the defendant and his representative shall then be discharged from any and all responsibility as to the causes of action set forth in this action, and it is further

ORDERED, that the filing of a bond pursuant to CPLR 1210 is dispensed with.

ENTER,

J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

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A.A., an infant under the age of 14 years, by his Father
and Natural Guardian, MOHAMMED MIAH, and
MOHAMMED MIAH, Individually,

PETITION

Plaintiff,

Index No.: 504198/16

-against-

CARLYLE DE CASTRO, M.D., ANA SOTO, M.D.,
ANDREA FEHER, M.D., RICCARDO RICCIARDI, M.D.
and JAMAICA HOSPITAL MEDICAL CENTER,

Defendants.

-----X

STATE OF NEW YORK)
 ss:
COUNTY OF KINGS)

Mohammed Miah, having first been duly sworn, deposes and says as follows:

1. Petitioner is the Father and Natural Guardian of A.A., the infant plaintiff herein.
2. A.A., is an infant over the age of 14 years having been born in 2001. The infant resides with me.
3. On May 16, 2015, my son woke up in severe pain. Shortly thereafter, he was taken via ambulance to Jamaica Hospital Medical Center. He complained of vomiting and having pain in his lower stomach and testicle. After being examined by a physician, he was diagnosed with a viral infection and placed on IV medication.
4. Six hours later, a surgeon examined my son and ordered a sonogram which revealed testicular torsion. My son thereafter underwent an operation during which his left testicle was removed due to severe damage resulting from lack of blood circulation to his left testicle.

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