

Supreme Court of Florida

No. SC04-904

**FLORIDA BIRTH-RELATED NEUROLOGICAL INJURY
COMPENSATION ASSOCIATION,**
Petitioner,

vs.

DIVISION OF ADMINISTRATIVE HEARINGS, et al.,
Respondents.

[April 5, 2007]

PER CURIAM.

We have for review Florida Health Sciences Center, Inc. v. Division of Administrative Hearings, 871 So. 2d 1062 (Fla. 2d DCA 2004), in which the Second District Court of Appeal certified conflict with other district courts of appeal on the issue of whether an administrative law judge (“ALJ”) has the authority to determine issues related to notice in a Florida Neurological Injury Compensation Act (“NICA”) proceeding. We have jurisdiction. See art. V, § (3)(b)(4), Fla. Const.

We stayed this case pending disposition in Florida Birth-Related Neurological Injury Compensation Ass’n v. Florida Division of Administrative

Hearings, 948 So. 2d 705, 707 (Fla. 2007) (“NICA v. DOAH”), in which we ultimately held that “when notice is raised as part of a claim filed under NICA, an ALJ has jurisdiction to make findings regarding whether a health care provider has satisfied the ‘notice to obstetrical patients’ requirement of section 766.316, Florida Statutes (Supp. 1998).” We thus directed the respondents in the present case to show cause why we should not exercise our jurisdiction, summarily quash the decision under review, and remand for reconsideration in light of our decision in NICA v. DOAH. Upon consideration of the respondents’ responses and the petitioner’s reply thereto, we have determined to do just that.

We accordingly grant the petition for review in the present case, quash the decision under review, and remand this matter to the Second District Court of Appeal for reconsideration upon application of this Court's decision in NICA v. DOAH.

It is so ordered.

WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.
LEWIS, C.J., dissents.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND
IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of Appeal - Certified
Direct Conflict of Decisions

Second District - Case Nos. 2D01-3919 and 2D01-3970

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