

**Rosado v Immaculate Conception Sch.**

2014 NY Slip Op 31560(U)

June 16, 2014

Supreme Court, New York County

Docket Number: 151383/2014

Judge: Debra A. James

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including the exhibits attached thereto, and it appearing that Ariana Rosado is an infant, having been born on June 26, 2004, and the infant, the guardian and their attorney having appeared before the Court and it appearing that the best interest of the said infant will be served,

Now on motion of Michael Benenati, Esq., of the Law Office of Michael Benenati, P.C., counsel for the petitioners, it is

ORDERED, that the guardian, Danielle Moran be and hereby is authorized to enter into a compromise of the infant's claim herein upon the following terms:

ORDERED, that the defendants pay the sum of TWENTY-THREE THOUSAND DOLLARS (\$23,000.00) in settlement of the infant's claim herein as follows:

That out of said sum there to be paid to the Law Office of Michael Benenati, P.C., counsel for the infant, the sum of SEVEN THOUSAND NINE HUNDRED AND FORTY FIVE DOLLARS AND TWENTY-SIX CENTS (\$7,945.26) for legal services rendered, inclusive of disbursements [\$7,527.36 for attorneys' fees and reimbursement of \$417.90 for disbursements]; and it is further

ORDERED that the sum of FIFTEEN THOUSAND FIFTY FOUR DOLLARS AND SEVENTY FOUR CENTS (\$15,054.74) be paid for the benefit of the infant, Ariana Rosado, to the mother and natural guardian, Danielle Moran, ~~jointly with an officer of the~~ JP Morgan Chase, <sup>Bank</sup> located 109 Delancey Street, New York, NY, 1002 (the "Bank"), <sup>to be deposited</sup> in a time deposit or certificate of deposit account, paying the highest rate of interest available, in the said Bank, in the name of the said parent, Danielle Moran, as mother and natural guardian and held for the sole use and benefit of the infant in an account paying the highest rate of interest available, subject to further Order of this Court until the infant reaches the age of eighteen (18) years, and ~~it is~~

Further

ORDERED, that the aforementioned time deposit or certificate of deposit shall be of a duration of no longer than three (3) years until renewal and shall continuously be renewed upon maturity at the highest rate of interest then available for a period no longer than three (3) years until renewal, except that said maturity shall not exceed the infant petitioner's eighteenth (18th) birthday, and when no such time deposit or certificate of deposit is available, the accumulated funds shall then be placed in the Bank's Insured Money Market Account, and it is further

ORDERED, that there shall be no right of withdrawal from any of the aforesaid bank accounts, including and Insured Money Market Account, until the infant petitioner's eighteenth (18<sup>th</sup>) birthday, except upon further order of this Court, which shall be certified by the Clerk of the Court; and it is further

ORDERED, that counsel for the infant petitioner shall serve a copy of this Order upon said Bank and shall arrange for the deposit of said funds as expeditiously as is reasonably possible; and it is further

ORDERED, that within thirty (30) days of the deposit of said funds in the above designated Bank, the mother and natural guardian, Danielle Moran, shall submit to the Clerk's Office Room 141B a copy of the certificate of deposit issued by the Bank and there shall be no right of withdrawal from any of the account and certificates of deposit until the infant petitioner's eighteenth (18<sup>th</sup>) birthday, except upon further order of this Court, which said Order shall be certified Clerk of this Court; and it is further

ORDERED, that upon the infant petitioner, Ariana Rosado, reaching majority at the age of eighteen (18) years, and upon her presentation of the proper proof thereof, the Bank shall,

without further Order of this Court, and upon the infant's petitioner's demand, pay over to her all the monies so held; and it is further

ORDERED, that in the event of the death of the infant petitioner prior to her eighteenth (18<sup>th</sup>) birthday, all of the aforesaid funds in said Bank shall be paid to the estate of the infant petitioner, or to the designated beneficiary of said estate in the same amount and in the same manner hereinbefore set forth; and it is further

ORDERED, that the cause of action for loss of services and /or medical expenses of the guardian be and same hereby dismissed without costs and with prejudice; and it is further

ORDERED, that conditioned upon compliance with the terms of this Order, the aforesaid parent and natural guardian of the infant petitioner, be and hereby is authorized and empowered to execute and deliver a general release and all other instruments necessary to effectuate the settlement herein; and it is further

ORDERED, that if it appears that any governmental agency may attach a lien to the infant petitioner's payment, this Order may be amended to allow the creation of a Supplemental Needs Trust for the benefit of the infant petition, and the Supplemental Needs Trust will be substituted as the payee of the payment; and it is further

ORDERED, that the filing of a bond be dispensed with in accordance with the applicable provisions of the Civil Practice Law and Rules.

JUN 16 2014

ENTER

  
J.S.C.

**HON. DEBRA A. JAMES**