

**Matter of Villegas v Charles Landscaping & Maintenance, LLC**

2020 NY Slip Op 30713(U)

January 17, 2020

Supreme Court, Queens County

Docket Number: 706853/2018

Judge: Carmen R. Velasquez

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This opinion is uncorrected and not selected for official publication.

supreme Court, held in and for the  
County of Queens at the courthouse  
located at 88-11 Sutphin Boulevard,  
Queens, New York on the 17<sup>th</sup> day of

JANUARY, 2020

PRESENT:

Hon. CARMEN R. VELASQUEZ  
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X

In the Matter of the Application

Index No.: 706853/2018

-of-

ANAIS VILLEGAS, as Parent and Legal  
Guardian of Infant Plaintiff DARIAN URENA

ORDER

To settle and compromise a claim

-against-

CHARLES LANDSCAPING & MAINTENANCE, LLC  
AND MOISES MOLINA SANTOS

Defendants.

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FILED  
JAN 25 2020  
COUNTY CLERK  
QUEENS COUNTY

**The court herein addresses the fact that un-redacted Confidential Personal Informaiothn is included in this order and is based upon this Court's express finding that good cause exists pursuant to Rule 202.5[c][2] in that the inclusion of the full name and date of birth of the minor, as well as related information, is material and necessary to effectuate the order of the Court.**

Upon reading and filing the Petition of ANAIS VILLEGAS, mother and natural guardian of infant DARIAN URENA, herein, duly verified the 14<sup>th</sup> day of Oct, 2019 and the Affirmation of Rocco G. Avallone, Esq. duly affirmed the 23 day of Oct, 2019, the Physician's Affirmation of Dr. Rasheda Prescott, MD, and Affidavit of the Petitioner, and the Affidavit of the Infant, and infant claimant having appeared personally and been examined by the Court on

the 17<sup>th</sup> day of JANUARY, 2020 and it appearing that the infant plaintiff is now sixteen (16) years of age, having been born on April 25, 2003, and that the best interests of the said infant will be served by the approval of the proposed compromise, and the full term of the settlement being set forth in detail in the supporting papers herein.

ORDERED, that ANAIS VILLEGAS, parent of the infant plaintiff DARIAN URENA, be and hereby us authorized to compromise and settle the cause of action of the infant plaintiff herein upon the following terms to wit:

The defendants in this action have offered to settle the claims of ANAIS VILLEGAS, as parent and legal guardian of infant plaintiff DARIAN URENA, for the sum of ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000). The proposed distribution of the settlement will be as follows:

To AVALLONE & BELLISTRI, LLP, attorneys for the plaintiff herein, ANAIS VILLEGAS, as parent and legal guardian of infant plaintiff DARIAN URENA, as and for their legal fee, the sum of FORTY-NINE THOUSAND, EIGHT HUNDRED TWENTY-TWO DOLLARS AND 47/100 (\$49,822.47), FIVE HUNDRED THIRY-TWO DOLLARS and 60/100 (\$532.60) for costs and disbursements and the remainder of NINETY-NINE THOUSAND SIX HUNDRED FORTY-FOUR DOLLARS and 93/100 (\$99,644.93) to be paid to ANAIS

VILLEGAS, as parent and legal guardian of DARIAN URENA, jointly with an officer of ~~Queens County Savings Bank~~ <sup>Queens County Savings Bank</sup>, 247-53 Jericho Turnpike, Bellerose, Ny. ~~Bank located at 247-20 Jericho Turnpike, Floral Park, NY 11001~~

The funds shall be for the sole benefit of said infant in an account upon the following conditions:

- a) Said account shall be fully insured at all times;

- b) Said funds shall be deposited in the account having the highest interest yield available irrespective of whether it be a savings account, a certificate of deposit or other form of time deposit subject to the limitations contained herein; and
- c) If all or part of said funds are deposited in savings certificates or other form of time deposit, the date when the said infant attains the age of eighteen (18) years, and upon maturity of said deposit, said funds shall continue to draw interest at the highest available yield; and it is further

ORDERED that the account is subject to renewal upon maturity, not to extend beyond the infant's 18<sup>th</sup> birthday and there shall be no withdrawal from said account before the infant attains the age of eighteen (18) years except upon further Order of this Court; and it is further

ORDERED that Parent and/or legal guardian's actions, if any, for loss of services and/or mental expenses are waived and dismissed along with any such expense to be paid from proceeds of the parent's suit; and it is further

ORDERED that all disbursements in this action will be recovered out of the proceeds of the causes of action for physical injuries sustained by DARAIN URENA; and it is further

ORDERED, that a bond or other undertaking be dispensed with pursuant to the provisions of Rule 1210 of the Civil Practice Law and Rules; and it is further

ORDERED, that upon full compliance with terms of this Order, ANAIS VILLEGAS, parent of the infant plaintiff DARAIN URENA shall execute and deliver to the defendants a General Release of the infant's cause of action, together with all other paper necessary or proper to effectuate said settlement; and it is further

ORDERED, that upon presentation of a General Release and a copy of the Order to the representatives of the defendants shall issue settlement drafts to claimant's attorneys in accordance herewith; and it is further

ORDERED, that the above depository shall turn over all funds in the infant's account upon demand when the child attains his eighteenth (18<sup>th</sup>) birthday and furnishes proof of age; and it is further

ORDERED, that upon the presentation of future estimated State and Federal Tax forms and upon presentation of the pass book, the above bank will issue drafts payable to the I.R.S. and N.Y. State Tax Commission for payment of future taxes on behalf of the infant claimant only.

JAN 17 2020

ENTER:

*Carmen R. Velasquez*  
I.S.C.  
HON. CARMEN R. VELASQUEZ

FILED  
JAN 25 2020  
COUNTY CLERK  
QUEENS COUNTY