

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

NADINE JOBORAM AND RALPH MOISE,)
as parents and natural)
guardians of KHARISSA MARIE)
MOISE, a minor,)
)
Petitioners,)
)
vs.) Case No. 10-3195N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
HOLY CROSS HOSPITAL, INC., HOLY)
CROSS HOSPITAL, INC., d/b/a)
HOLY CROSS MEDICAL GROUP, AND)
GHEA ADEBOYEJO, M.D.,)
)
Intervenors.)
_____)

FINAL ORDER APPROVING STIPULATION AND JOINT PETITION
FOR COMPENSATION OF CLAIM ARISING OUT OF FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY PURSUANT TO CHAPTER 766, FLORIDA STATUTES

This cause came on for consideration pursuant to sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation and Joint Petition of the parties, filed April 15, 2011, for the entry of an order approving the resolution of a formal claim for compensation benefits heretofore filed in this cause in accordance with the provisions of chapter 766, Florida Statutes,

and a resolution of the exclusive remedy otherwise available as outlined in chapter 766.

By the terms of their stipulation, the parties have agreed that Nadine Joboram and Ralph Moise, are the parents and natural guardians of Kharissa Marie Joboram-Moise, f/k/a Kharissa Marie Moise (Kharissa), a minor; that Kharissa was born a live infant on November 12, 2009, at Holy Cross Hospital, a "hospital" as defined by section 766.302(6), located in Fort Lauderdale, Florida; and that Kharissa's birth weight exceeded 2,500 grams. The parties have further agreed that Ghea Adeboyejo, M.D., delivered obstetrical services at Kharissa's birth, and at all times material hereto, was a "participating physician" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). Finally, by their stipulation, the parties have agreed that Kharissa suffered a "birth-related neurological injury," as that term is defined by section 766.302(2).

After due consideration of the interest of all parties, and being otherwise fully advised in the premises, it is

ORDERED:

1. The Stipulation and Joint Petition, filed April 15, 2011, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners Nadine Joboram and Ralph Moise, as the parents and natural guardians of Kharissa Marie Joboram-Moise, a minor, are awarded One hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid forthwith by Respondent NICA in lump sum.

3. Petitioners' and Respondent's stipulation for Respondent to pay Jeffrey M. Fenster, Esquire, attorney for Petitioners, an agreed-upon attorney's fee of Ten thousand dollars (\$10,000.00) and expenses of Five hundred dollars (\$500.00), totaling Ten thousand, five hundred dollars (\$10,500.00), in full, for services rendered in the filing of this claim is hereby approved and shall be paid forthwith.

4. Upon payment of the award of One hundred thousand dollars (\$100,000.00), attorney's fees and other expenses, and past benefits/expenses, the claim of Petitioners (claimants) shall be deemed fully satisfied and extinguished, except for the issues reserved, including Respondent's continuing obligation under section 766.31(2), to pay future expenses as incurred.

5. With regard to any dispute as to past benefits/expenses, a hearing will be scheduled by a separate notice of hearing to address those issues. As for the date of hearing, the parties shall, within 45 days of the date of this Order, advise the undersigned Administrative Law Judge, with specificity, of the matters remaining in dispute, of several

mutually agreeable dates for hearing, and of the time required for such hearing.

6. The Division of Administrative Hearings retains jurisdiction over this matter to resolve any disputes, should they arise, regarding the parties' compliance with the terms of this Order, including but not limited to past expenses, should they arise.

DONE AND ORDERED this 21st day of April, 2011, in Tallahassee, Leon County, Florida.



ELLA JANE P. DAVIS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 21st day of April, 2011.

COPIES FURNISHED:
(Via Certified Mail)

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Sections 120.68 and 766.311, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original of a notice of appeal with the Agency Clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the appropriate District Court of Appeal. See Section 766.311, Florida Statutes, and Florida Birth-Related Neurological Injury Compensation Association v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992). The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.