

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DIAMOND FIELDS AND IVAN GIBSON,)
JR., on behalf of and as)
parents and natural guardians)
of ISAAC GIBSON, a deceased)
minor,)
)
Petitioners,)
)
vs.) Case No. 11-4525N
)
FLORIDA BIRTH-RELATED)
NEUROLOGICAL INJURY)
COMPENSATION ASSOCIATION,)
)
Respondent,)
)
and)
)
GLORIA CHEN HAKKARAINEN, M.D.,)
AND TENET GOOD SAMARITAN, INC.,)
d/b/a GOOD SAMARITAN MEDICAL)
CENTER,)
)
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 Petitioners' and Respondent's Stipulation and Joint Petition, filed December 29, 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, Petitioners and Respondent NICA have agreed that Petitioners, Diamond Fields and Ivan Gibson, Jr., are the parents and legal guardians of Isaac Gibson (Isaac), a deceased minor; that Isaac was born a live infant on January 12, 2010, at Good Samaritan Medical Center, a hospital in West Palm Beach, Florida, which is a "hospital," as defined by section 766.302(6); and that Isaac's birth weight was in excess 2,500 grams (i.e., 7 pounds, 13 ounces). The parties have further agreed that the physician delivering obstetrical services at Isaac's birth was Gloria Hakkarainen, M.D., who, 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 Isaac suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), and died on January 12, 2010.

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

ORDERED that:

1. Petitioners and Respondent NICA's Stipulation and Joint Petition, filed December 29, 2011, is hereby approved, and the parties are directed to comply with the provisions thereof.

2. Petitioners, Diamond Fields and Ivan Gibson, as the parents and natural guardians of Isaac Gibson, a deceased minor, are awarded One hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., and a death benefit of Ten thousand dollars (\$10,000.00), pursuant to section 766.31(1)(b)2., to be paid in lump sum.

3. Respondent NICA shall forthwith pay to Somera & Silva, LLP (Peter J. Somera, Jr., Esquire, and Paul M. Silva, Esquire), attorneys for Petitioners, an agreed-upon attorney's fee of Eight thousand dollars and no cents (\$8,000.00) and expenses (costs) of One thousand, six hundred, sixty-five dollars and ninety-six cents (\$1,665.96), totaling Nine thousand, six hundred, sixty-five dollars and ninety-six cents (\$9,665.96), in full, for services rendered to date in connection with this claim.

4. Upon payment of the award of One hundred thousand dollars (\$100,000.00), a death benefit of Ten thousand dollars (\$10,000.00), and payment of past benefits under section 766.31(1)(a), the claims of Petitioners (claimants) shall be deemed fully satisfied and extinguished.

5. No provision is made under section 766.31(2), to pay future benefits/expenses because the child, Isaac, is deceased.

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

DONE AND ORDERED this 11th day of January, 2012, in Tallahassee, Leon County, Florida.



ELLA JANE P. DAVIS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 11th day of January, 2012.

COPIES FURNISHED:
(Via Certified Mail)

Paul M. Silva, Esquire
Somera and Silva, LLP
2255 Glades Road, Suite 232W
Boca Raton, Florida 33431
(Certified Mail No. 7010 3090 0000 0717 2458)

Eugene L. Ciotoli, Esquire
Bobo, Ciotoli, Bocchino,
White, and Buigas, P.A.
1240 U.S. Highway 1
North Palm Beach, Florida 33408
(Certified Mail No. 7010 3090 0000 0717 2465)

Matthew K. Schwencke, Esquire
Billing, Cochran, Lyles,
Mauro and Ramsey, P.A.
1601 Forum Place, Suite 400
West Palm Beach, Florida 33401
(Certified Mail No. 7010 3090 0000 0717 2472)

Karissa L. Owens, Esquire
Rissman, Barrett, Hurt,
Donahue and McLain, P.A.
201 East Pine Street, Suite 1500
Orlando, Florida 32801
(Certified Mail No. 7011 1570 0001 1540 5598)

David W. Black, Esquire
Frank, Weinberg and Black, P.L.
7805 Southwest 6th Court
Plantation, Florida 33324
(Certified Mail No. 7011 1570 0001 1540 5604)

Kenney Shipley, Executive Director
Florida Birth Related Neurological
Injury Compensation Association
2360 Christopher Place, Suite 1
Tallahassee, Florida 32308
(Certified Mail No. 7011 1570 0001 1540 5611)

Peter J. Somera, Jr., Esquire
Somera and Silva, LLP
212 North Federal Highway
Deerfield Beach, Florida 33441
(Certified Mail No. 7011 1570 0001 1540 5628)

Amie Rice, Investigation Manager
Consumer Services Unit
Department of Health
4052 Bald Cypress Way, Bin C-75
Tallahassee, Florida 32399-3275
(Certified Mail No. 7011 1570 0001 1540 5635)

Elizabeth Dudek, Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
(Certified Mail No. 7011 1570 0001 1540 5642)

NOTICE OF RIGHT TO JUDICIAL REVIEW

Review of a final order of an administrative law judge shall be by appeal to the District Court of Appeal pursuant to section 766.311(1), Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy, accompanied by filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal. See § 766.311(1), Fla. Stat., and Fla. Birth-Related Neurological Injury Comp. Ass'n v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992).