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COURTESY GALBREATH FAMILY

In this undated photo of the Galbreath family, Baby Galbreath is seen walking with his parents at age 3. Leg braces normally worn were removed for the photo.

Feds settle for \$15M over tot's brain damage

The Tripler case payout could grow to \$38 million over the child's lifetime

By Leila Fujimori
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Thirty minutes.

Had the hospital staff at Tripler Army Medical Center performed an emergency cesarean section just a half hour earlier on Feb. 17, 2018, Carolyn Galbreath would have given birth to a healthy, full-term baby boy, experts on behalf of the family contend.

Instead, Baby Galbreath, born blue and unresponsive, suffered severe, permanent brain damage due to a lack of oxygen during delivery, allegedly caused by negligent delays in ordering the C-section, including a shift change and a failure to inform an oncoming shift of the situation. The parents of the now 4-year-old boy, who ask his name be withheld, have reached a settlement agreement with the federal government for \$15 million, which is estimated to grow to \$38 million over the child's lifetime, pending final approval by the assistant

U.S. attorney general in Washington D.C. "It is a historic settlement in that the total amount, estimated to be \$38 million, is likely the highest amount that the federal government has ever paid for a negligence lawsuit in Hawaii," said attorney Richard Turbin of the Honolulu firm of Turbin Chu Heidt.

U.S. Magistrate Judge Kenneth Mansfield on June 14 approved the amount and terms of the settlement on behalf of the child, described in court documents as "LG," and his parents. The complaint was

filed Aug. 28, 2020, against the United States, since Tripler is a military hospital. The settlement, however, is not an admission of fault or liability on the part of the government or its employees, as stated in a stipulation by the parties.

The lawsuit, filed by parents Carolyn and Sean Galbreath, contends that hours before the 8:44 a.m. delivery, a fetal heart monitor showed an abnormal heart rate, and by 7:30 a.m. the baby was clearly in distress. Citing medical experts, Turbin said

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in an interview with the Honolulu Star-Advertiser that had a C-section been carried out a half hour before the delivery, "Baby Galbreath would have been born healthy with no brain damage and no impairments."

Regarding his firm's role, he said, "Our goal was to make sure that Baby Galbreath was taken care of as summing ... he would live beyond the life of his loving and caring parents." While half of the settlement is slated to be paid up front, the balance goes toward medical care and "life help" as experts expect LG's life could span seven decades.

Initially, Turbin said, the newborn's "treating doctors didn't think he would survive." But upon making strides, "they called him a miracle baby." Today, LG is described as severely brain damaged, with cerebral palsy. He has trouble speaking and wears leg braces. "As with other cerebral palsy patients, he's not going to get better," Turbin said. "He's going to get worse as he ages."

Baby Galbreath underwent two brain surgeries to limit the extent of the brain injury, and remained in the Tripler neonatal intensive care unit for the first two months of his life. During that time, the parents became close with the NICU staff, and were reluctant to file a lawsuit, said attorney Janice Heidt.

The couple said in a written statement: "When we first retained Turbin Chu Heidt, we were reluctant to

pursue any litigation, but we were looking for answers to what occurred during our son's delivery and if this could have been prevented."

THE GALBREATHS said while they appreciated the "dedicated and caring treatment of the NICU staff," by the time the child was a year and a half old "it was clear he was going to have physical and mental deficits and he would require care for the rest of his life."

Their statement continued: "Knowing that we did not have the financial resources to pay for the expensive medical and rehabilitation services that our son would need to stay healthy, learn to help care for himself and enjoy at least some quality of life, we then hired Turbin Chu Heidt."

At age 4, LG continues to improve, but has seizures, and he must be put under anesthesia before getting botox injections for his cerebral palsy. The botox prevents his muscles from becoming stiff, Heidt said. LG limps and often falls since "he's a little boy who has a lot of energy." Further, he must undergo physical, occupational and speech therapies.

As the lawsuit says, the child suffered and will continue to suffer numerous injuries, including severe permanent hypoxic brain injury and strokes. His physical and mental deficits will require 24-hour-a-day medical care and monitoring throughout his life.

The complaint alleges Tripler nurses and physicians failed to assess his condition documented on the fetal heart monitor. The



COURTESY GALBREATH FAMILY

Baby Galbreath suffered severe, permanent brain damage during delivery, allegedly caused by negligent delays at Tripler Army Medical Center.

staff negligently delayed his cesarean section birth, failed to inform an oncoming shift that the unborn child was in fetal distress and failed to properly diagnose and treat it.

When Carolyn Galbreath arrived at Tripler she was in active labor, experiencing painful contractions and elevated blood pressure. Over the next 11 hours her unborn child's heart rate would occasionally drop, but would come back to a normal reading, the complaint says.

Then, at 6 a.m. Feb. 17, 2018, the medical staff told the Galbreaths they would perform a cesarean section should the heart rate drop again. Carolyn Galbreath suggested immediately proceeding with the C-section.

As 7 a.m. approached, the baby had more frequent abnormal heart rate episodes, but because medical personnel were ending a work shift at 7 a.m., Carolyn Galbreath was told the next

C-section at 8:33 a.m., and the baby was delivered at 8:44 a.m.

While a non-jury trial had been set for July 5, a settlement was reached in May on all the claims arising from the acts or omissions raised in the complaint.

THE COURT approved an upfront cash amount of \$7.5 million, and the other half of the settlement, \$7.5 million, to be placed in an annuity to be paid to LG for the rest of his life.

The Honolulu law firm of Turbin Chu Heidt and Bostwick & Peterson in California handled the case.

Also, the judge ordered a trust fund to be established for the boy's benefit for the remainder of his life to be funded by \$500,000 of the upfront cash amount and the monthly payments from the annuity of about \$14,640. Any remaining funds after his death will be returned to the United States, the order says.

Turbin and Heidt said, rather than go through a lengthy trial, the settlement would provide the treatments the little boy needs now.

A Tripler spokesperson said the medical center is unable to give out any patient information. The U.S. Attorney's Office also

declined to comment.

Among other large medical malpractice settlements and verdicts against Tripler:

>> In 2018, a federal judge awarded Marites Campano, wife of a Navy officer, and her family \$24.7 million, the largest-ever verdict against Tripler and one of the largest medical malpractice awards in the state, her attorney, Rick Fried, said at that time.

Campano experienced infection and kidney failure after childbirth in 2013 at Tripler. The condition could have been treated early on with antibiotics, her lawyer said. She was severely and permanently injured as a result of sepsis caused by a bacterial infection.

>> In 2010, a former Navy family received an \$11 million settlement after their daughter suffered brain damage when she was delivered by young and inexperienced doctors.

>> In 2005, Izzy Peterson, who was given carbon dioxide instead of oxygen shortly after birth at Tripler, suffered severe brain damage. He and his family were awarded a \$16.5 million verdict in 2006.

>> In 1997, the family of a baby who suffered brain damage because of negligent care was awarded \$11.3 million.



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