

US government settles allegations Navy doctor mishandled child birth for \$11.5 million

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The Walter E. Hoffman United States Courthouse. (Thé Pham)

A sailor gave birth five years ago to a baby boy at a Navy hospital. Things went wrong and the child suffered severe and permanent brain damage.

If the delivery happened in Virginia, any possible malpractice award would be capped at \$2.15 million.

But Petty Officer 1st Class Deardre Bebeau gave birth in Guam, where local law doesn't cap malpractice claims. The difference meant millions of dollars for her family.

The federal government agreed Friday to pay \$11.5 million to settle a lawsuit brought by Bebeau and her husband, Petty Officer 1st Class Daniel Bebeau Sr., both of Virginia Beach.

"Thankfully the law applicable here didn't include a cap," said one of the couple's attorneys, Michael Imprevento. He said the family was "exceedingly happy" with the settlement.

"I believe the United States has been very reasonable in how they handled this case," he added.

Joshua Stueve, a spokesman for the U.S. Attorney for the Eastern District of Virginia, declined to comment.

In court documents, defense attorneys stressed the settlement came with no admission of wrongdoing. The defense was prepared to argue at trial the child's injuries occurred prior to delivery, the documents said.

The lawsuit stemmed from the birth of a boy, identified in court documents only by the initials D.B., in late 2014 at the U.S. Naval Hospital in Guam. The couple was stationed there at the time.

According to the lawsuit, which initially sought \$150 million, Deardre Bebeau arrived at the hospital experiencing contractions that started around midnight. Her water broke about 6 a.m. and she was admitted about 7 a.m.

At admission, the baby's fetal heart rate "reflected a well oxygenated fetus," the lawsuit said. Shortly thereafter, however, a doctor examined Bebeau and determined fetal stool was present in the amniotic fluid.

Over the next several hours, doctors and nurses administered various drugs to the mother in the hopes of encouraging active labor and lessening her pain. By 12:01 a.m. the next morning, medical staff determined the baby was ready and urged Bebeau to push.

The child, was born at 1:56 a.m. almost 20 hours after the mother's water broke. He was noted to be "floppy and nonvigorous," the lawsuit said.

Dr. John McDonnell, an onsite pediatrician, stepped in to resuscitate the child. A tool he would typically use to suck out the fetal stool "had fallen behind the bed and was not readily available." Rather than seek another "meconium aspirator," he simply performed a more cursory "bulb suctioning," the lawsuit said.

Several other medical staff members became involved over the next few minutes, trying to get the child to breath properly. After 11 minutes, McDonnell noted that the anesthesia provider suctioned the endotracheal tube and breath sounds immediately improved.

The child was later transferred to Guam Memorial Hospital and then Tripler Army Medical Center in Honolulu. There, an MRI revealed "a profound brain injury compatible with hypoxic ischemic encephalopathy." Such an injury is generally caused by oxygen deprivation to the brain.

"Had D.B. been timely and properly evaluated, treated, and resuscitated ... he would not have suffered permanent neurological damage, cerebral palsy, and its numerous and lifelong sequelae," the lawsuit said.

The family's attorneys will receive a little more than 20-percent of the total settlement — about \$2.35 million. Another \$1 million will be split between the two parents, with the rest going into a trust for the child.

The boy might not receive all of the money, though. The settlement was structured in a way that half of the total — \$5.75 million — will be placed in

an annuity that will pay him at least \$9,682 a month for the rest of his life. There is a two-percent annual increase.

When the boy dies, the money stops, documents said.

Dov Apfel, another attorney for the family, stressed the structure of the agreement guarantees the boy is cared for the rest of his life regardless of how long he lives.

"It's a compromise that's designed to provide additional funds to the child for all of his future care and needs," he said.



Scott Daugherty covers courts for The Virginian-Pilot.

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