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Federal Government Drops Appeal, Agrees to Pay \$42M in Pa. Birth Injury Case Tort

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Of the Legal staff

In withdrawing its appeal of an approximately \$41.6 million bench verdict against it, the U.S. government has agreed to pay the parents of a child who was injured at birth due to a doctor's botched use of forceps.

In her findings of fact and conclusions of law issued April 20, 2017, U.S. District Judge Sylvia H. Rambo of the Middle District of Pennsylvania ordered the government to compensate Christina Late and Nathan Armolt, parents of D.A., for the brain damage their child suffered as a result of a cracked skull and destruction of parts of his brain during delivery.

In a statement released Thursday afternoon by **Kline & Specter**, the firm representing D.A.'s parents, attorney **Regan Safier** said, "The government recognized that their issues on appeal were without merit and that the verdict was just and appropriate. The judge recognized the catastrophic injuries suffered by this child and awarded the money necessary to care for him over his lifetime."

Assistant U.S. Attorney George Michael Thiel of the Middle District of Pennsylvania declined to comment.

As to fault, Rambo laid blame on obstetrician Dr. Thomas Orndorf, who worked at the federally funded Keystone Women's Care.

"Dr. Orndorf's negligence was a direct and substantial factor in causing D.A.'s injuries," Rambo said. "D.A. suffered harm and resultant damages from the injuries inflicted upon him by Dr. Orndorf."

The damages broke down into \$32.9 million in future care costs—which include surgeries, therapy and placement in full-time care facilities—\$5 million for non-economic damages and \$2.7 million in future economic damages due to lost earnings. The court based the lost wages estimate on D.A. attaining an associate's degree and subsequent employment.

"D.A. has endured past pain and suffering, and will suffer from pain, embarrassment, humiliation, and loss of life's pleasures in the future. D.A.'s injuries occurred at birth and will cause him to suffer for the entirety of his life," Rambo said. "The brain injuries are severe, permanent, and will prevent D.A. from performing life's basic functions and caring for himself."

Rambo was presented with three estimates for future economic losses in which D.A. attained different levels of education, according to a previous interview with Safier; a high school diploma, an associate's de-

gree, and a bachelor's degree. It was up to Rambo to decide which compensation model made the most sense, although she did not explain her reasoning.

She said simply that "D.A. has lost his ability to earn wages from gainful employment in the future, and has lost the opportunity to receive the fringe benefits that would have been associated with his future employment."