

\$12.1 million awarded to brain damaged East Bay boy — but he hasn't seen a cent



(Think Stock)

Despite winning a \$12.1 million judgment in a medical malpractice lawsuit, an East Bay family has yet to see any of the money awarded by a jury in a civil trial.

By **GARY PETERSON** | gpeterson@bayareanewsgroup.com | Bay Area News Group
PUBLISHED: September 3, 2017 at 7:00 a.m. | UPDATED: September 4, 2017 at 8:46 a.m.

In a perfect world, Brian C. would be a healthy, happy fourth grader. He also would have a healthy, happy twin brother.

Sadly, that best-case scenario began unraveling before his parents even knew there was a little Brian. See, Brian and his brother were twins sharing a single placenta inside their mother. (Brian's family, East Bay residents, requested anonymity.)

Go to the [Pittsburg News Facebook page](#) for neighborhood news and conversation from Pittsburg, Bay Point and beyond.

It's referred to as a 1-in-30,000 pregnancy, quite unusual and very concerning. Brian's mother was assigned a family practitioner by Contra Costa County Health Services. It was late in the pregnancy and during what should have been a routine exam at the Pittsburg Health Center that an emergency occurred. A C-section was performed on Brian's mother. Brian's twin died. And Brian was born with profound brain damage that left him with diminished speech and motor skills.

The family sued, alleging medical malpractice. On Sept. 18, 2014, it was awarded a \$12.1 million judgment by a Contra Costa jury: \$55,000 for past medical care; \$9.577 million for future medical care, \$2 million for loss of future earnings and \$500,000 in general damages with the money to be held in a trust supervised by a judge.

"It's a very large number," said attorney Michael Gatto, who represents Brian's family.

In a perfect world, the family of Brian C., now 9, would be availing themselves of that money for his care and treatment. But coming up on the third anniversary of the verdict, the family hasn't seen a cent. An appeals court ordered a retrial on the sole issue of Brian's future medical care cost, so that \$9.577 million is out of play for now. (A hearing to set a date for the retrial is scheduled for Sept. 21.) In addition, the county's insurer, AIG, is withholding \$2.3 million — Brian's past medical care costs, future earnings and general damages — even though AIG has acknowledged in court that it owes Brian the money.

Reading this on your phone? Stay up to date with our free mobile app. Get it from the [Apple app store](#) or the [Google Play store](#).

So what we have here is a story about ordinary people faced with a wrenching tragedy and who find themselves in the bewildering environments of the legal system, in which it seems the process will never get started, and then will never end; large and unwieldy governmental agencies; and big insurance, which seeks to maximize profits while limiting liability. Felonious conduct? Not necessarily. It's just how the system works.

Here's how it's working for Brian C.'s family, which is now dependant on two state agencies which currently are providing assistance to Brian.

“He’s getting the bare minimum,” Gatto said, who refers to Brian as “the sweetest little kid.” “If he was getting 10 percent of what he needs, I’d be surprised.”

There are a number of frustrations that eat at Gatto. One is the \$2.3 million AIG has refused to pay. “AIG’s refusal to pay is causing Brian continuing harm by depriving him of therapy and services that he needs,” the attorney said.

Another relates to the care Brian’s mom received leading up to and during the birth. Gatto doesn’t understand why the county didn’t assign an obstetrician or a perinatologist to Brian’s mother when it was clear she needed specialized care. He can’t understand why the county continues to employ the family practitioner, Dr. Teresa Madrigal, who at trial was proven to have falsified medical records and then lied about her actions. Finally, he wonders why as late as August 2016 the county was still assigning family practitioners to women with high-risk pregnancies.

In a perfect world, Brian C.’s family would have no bigger concerns beyond their two precocious twins outgrowing their shoes and complaining about homework. Those are issues a family can understand. The journey through the looking glass this family has had to endure?

Get top headlines in your inbox every afternoon.

[Sign up for the free PM Report newsletter.](#)

“I’m very sad to have to explain this to my clients,” Gatto said.

[Report an error](#)

[Policies and Standards](#)

[Contact Us](#)



Tags: [Courts](#), [News Columnists](#), [Regional](#)



Gary Peterson | East Bay metro columnist Gary Peterson is a sports content creator for the Bay Area News Group. His prior assignments included 31 years as a sports columnist, serving as a general assignment news reporter, covering courts and writing a metro column before finding his way back to sports.

gpeterson@bayareanewsgroup.com

Follow Gary Peterson [@garyscribe](https://twitter.com/garyscribe)

SUBSCRIBE TODAY!

ALL ACCESS DIGITAL OFFER FOR JUST 99 CENTS!



SPONSORED CONTENT

Planview Recognized as a Leader in 2020 [↗](#)

By **planview**

We're pleased to announce that Planview is a Leader in the Gartner 2020 Enterprise Agile Planning Tools Magic Quadrant. Here's the report.