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# A child's terms

*State to pay \$1.5M to settle lawsuit over boy abused while in foster care*

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Brandon turns 6 next week, and his mother is hoping to get him a new bedroom.

Right now, the severely brain-damaged boy lives in a hospital bed in the front room of his Southwest Baltimore home, being fed through a tube and undergoing daily dialysis — the result of abuse he suffered in foster care in July 2004, when a teen-age girl with a history of violence allegedly slammed his head into cement steps.

On Tuesday, the state settled his mother's lawsuit for about \$580,000 in cash and a lifetime annuity of \$80,000 a year, indexed annually, which cost the state \$908,000.

Attorneys Joseph B. Espo and Andrew D. Freeman say "with reasonable certainty" it is the most the state has ever paid to compensate a single individual.

That dubious distinction did not figure into the state's calculation, said Philip H.

Lohrey Jr., an assistant attorney general assigned to the **Department of Human Resources**.

"Our decisions were based on Brandon's needs, and we felt it compared very favorably with [the cost of] settlements in other cases," Lohrey said, citing a 2005 settlement in which New Jersey paid \$6.5 million to two brothers in a foster care case.

Generally, Maryland's liability on tort claims is capped at \$100,000, both sides noted.

Brandon's case, though, also included a civil rights claim against workers at the **Baltimore City Department of Social Services**, a division of the state DHR, for failing to protect his safety.

The agency had removed another child from the same foster home in 2003 because of abuse by the teen-ager, but the home was recertified that December.

"This was an instance of DSS dropping one ball after another that, had they caught



MAXIMILIAN FRANZ

Andrew D. Freeman (left), Joseph B. Espo (center) and Stuart Simms negotiated what most likely is the biggest settlement the state has ever paid to compensate a single individual.

any one of them, would have prevented the ultimate damage," Freeman said.

Brandon was placed in Chloe Jones' foster home in May 2004 after his mother, Martina Ford, suffered a sickle-cell anemia episode while in the state's witness protection program.

"Brandon had his arm broken several weeks before his head was smashed; DSS visited the home but failed to notice his arm was broken," Freeman said. "DSS never arranged for him to visit with his mother, although he was supposed to have weekly visits. ... His mom would have picked up on the fact that he was being abused."

The suit for \$34 million was filed by the law firm of **Brown, Goldstein & Levy** the same week that Brandon's abuser admitted her guilt in

juvenile court. The damage request included amounts for lifetime medical care, which will continue to be provided by the state, Espo said. (He served as lead counsel on the legal team that included Freeman and partner Stuart Simms.)

Settlement talks started in earnest this fall, after a judge rejected the state's pretrial motion for summary judgment.

The **Board of Public Works** approved the settlement at its regular meeting on Wednesday.

"The money will allow his mom to buy a more suitable house, where everything will be accessible for Brandon..." said Espo; a house "where Brandon can have a room of his own," Freeman added.

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