

Stop abuse claims from being exploited

Allegations of fraudulent claims in child sexual abuse cases highlight the importance of ethical safeguards and experienced legal representation to protect survivors and maintain trust in the justice system.

By Thomas A. Cifarelli

1995 — That was the year I handled my first childhood sexual abuse case. It quickly became apparent that these matters demand not only dedication but also careful attention to the survivor's individual experiences and the long-term impact of the abuse. I was fortunate to work with an attorney who allowed the case to receive the time and resources it required. The case concluded with a seven-figure jury verdict, providing meaningful compensation to the survivor and marking the beginning of many years devoted to advocating for survivors of childhood sexual abuse.

Back then, plaintiff's lawyers who handled child sexual abuse cases were as rare as clear footprints in a blizzard. In fact, in those days, I had to seek out lawyers from other states simply to obtain sample motions and trial transcripts to study the arguments. I will always remember a conversation from more than two decades ago with an old friend and partner at one of L.A.'s prominent plaintiff's firms who informed me that he had never handled a childhood sexual abuse case and was *"leaving them to those who do."*

As a 30-year advocate for survivors of sexual abuse, it would be hard not to have opinions about the recent publicly reported allegations that a handful of plaintiffs in mass sexual abuse settlements were paid to sue. I express those opinions here, prefaced by two caveats: first, the re-



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ported allegations of misconduct are serious, and anyone accused of legal or ethical wrongdoing deserves the opportunity to defend themselves fully — these opinions are not directed at any particular attorney or law firm, but generally toward our profession as a whole; second, even if the allegations are proven, they relate to a tiny fraction of the thousands of legitimate child sexual abuse claims. In fact, child sexual abuse remains among the most underreported crimes in the country, according to law enforcement data.

Over the decades, legislative reform, along with hard fought courtroom victories, have reshaped the landscape of child sexual abuse lawsuits. California's legislature has led the nation in enacting multiple survivor-friendly amendments to the statute of limitations, recognizing the

unique emotional obstacles survivors face. As a result, older survivors have finally gained the right to bring bona fide claims against culpable parties. In addition, the dedicated work of a select handful of skilled attorneys working mostly on child sexual abuse cases over the years has established the enormous, life-long value of such harm.

Together, these changes have drawn both the profession's excellence and its inexperience into the arena. Plenty of outstanding attorneys — including my old friend's firm — have joined the battle on behalf of survivors, helping elevate the practice. Unfortunately, not all those newly entering the field bring the same level of experience, skill or care. Some have reportedly arrived with professional backgrounds inapposite to child sexual abuse litigation. One can barely open social media

these days without seeing lawyer ads for sex abuse cases. Indeed, lawyers from seemingly all corners of the profession have exuberantly waded into the area — as have private equity interests — apparently motivated at least in part by the prospect of enormous recoveries.

Nowadays, child sexual abuse litigation can at times resemble a numbers game, where collecting as many claimants as possible can be a fast track to the front of the line in mass sexual abuse cases. However, no marketing campaign, irrespective of its budget, can replace experience, or a lack thereof.

This is why safeguards are needed now more than ever. If unqualified or unethical players were to insinuate themselves into child sexual abuse litigation, public faith in the legal system would suffer. Civil lawsuits give survivors a critical voice, a path to accountability and at the most profound and evolved level, a measure of healing. Legislative reforms extended statutes of limitations and created revival windows with one purpose: to open courthouse doors for people who had been silenced for too long. These reforms were never meant to invite fabricated or corner-cut claims. I believe generally that any allegations of unethical conduct within mass settlements would, if proven, represent not merely an ethical failure but a betrayal of survivors. In my opinion, there should be no place in our profession for pettifoggers, particularly not in such a sensitive area of practice.

Media accounts that perhaps *thousands of sexual abuse survivors' claims* may have been entrusted to lawyers with reportedly little to no prior experience in child sexual abuse litigation or even personal injury law are, if true, also concerning. Imagine a medical center assigning the care of its critical cardiac patients to physicians from, say, the psychiatry department. No one would tolerate such behavior in medicine, least of all the psychiatrists. Should those of us in the legal profession accept it?

The allegations of wrongdoing merit investigation and, if proven, serious consequences. The Plaintiff's bar has responded swiftly to the reports, asking the State Bar to investigate the reported allegations. Governor Newsom has signed SB 37 into law, allowing consumers to sue attorneys who engage in misleading and deceptive advertising. Even individual plaintiff lawyers have offered their own suggestions to weed out allegedly fraudulent claims. Whatever the answer might be, our profession has an obligation to welcome and encourage the investigation of alleged barratry, particularly following recent unrelated, well-publicized criminal prosecutions of high-profile lawyers for misappropriating millions from, among others, widows and orphans.

The human cost of bogus claims

If true, the allegation that some plaintiffs were told to make up claims of abuse would not merely be a scandal, it would be a betrayal of all survivors, a distortion of justice and a stain on our profession, in my opinion.

False claims are not victimless. Any fraudulent filing in the sex abuse setting would potentially diminish the credibility of legitimate survivors who are often barely able to summon the extraordinary courage required to come forward and prosecute their abusers. A fabricated allegation filed in court would make it easier for institutions and defense lawyers to cast doubt on legitimate victims. If bad actors were to weaponize false claims, they would create fertile ground for skepticism which defense lawyers could easily exploit. In turn, this skepticism can poison jury pools, embolden already cynical judges and discourage genuine survivors from seeking justice.

The profession's duty

The legal profession has long recognized its duty to protect the integrity of the courts. Our ethical rules prohibit frivolous lawsuits and proscribe lawyers from providing financial inducements to clients. These are not abstract guardrails;

they form a foundation of trust among the bar, the bench and the public that confer an imprimatur of legitimacy on our justice system. If we allow survivors to be treated as pawns in a game of profit, it will do more than breach ethical rules, it will corrode the bedrock of our legal system.

In my opinion, anyone who would peddle the sort of hollow easy-money results alleged in recent reports would, if true, betray not only individual clients but every survivor whose truth would suddenly be viewed with increasing doubt. Simply put, fraudulent claims make legitimate cases harder to win—ask anyone who has conducted voir dire in a tort trial.

California's extended statute of limitations for survivors and the well-established value of such cases were achieved through decades of painstaking advocacy; we should never allow a few allegedly meretricious claims to jeopardize the validity of bona fide child sexual abuse lawsuits.

Conclusion

Survivors of childhood sexual abuse are among the most shattered of plaintiffs, suffering enormous harm. They should have competent and ex-

perienced counsel capable of adroitly representing them. They deserve a system unsullied by greed and uncorrupted by deceit. If we fail to investigate alleged misconduct and stop proven transgressions, we risk jeopardizing the very progress that has finally given survivors a chance to be heard. That which has been gained over decades can be lost overnight. Our profession must stand firm: The fight for survivors' justice is too important to be left to anyone who would trade it for profit.

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