

# Personal Injury Law Podcast

by Rosenfeld Injury Lawyers

## Church Sexual Abuse Lawsuits: What is Sexual Abuse?

Jonathan Rosenfeld:

Hello, everybody. Welcome back to the Personal Injury Podcast. Today, I am joined by Marty Gould, a good friend and colleague, and we are here today to talk about sexual abuse lawsuits in the church and, what is sexual abuse? Marty, first off, thank you for joining me today. I appreciate it.

Marty Gould:

Happy to be on.

Jonathan Rosenfeld:

Marty, for those of us who don't really have a full understanding of the breadth of this issue, can you give us some background and give us a short explanation about what sexual abuse is at least in the eyes of the law?

Marty Gould:

Oftentimes when people talk about sexual abuse in a lawsuit context, it often refers to childhood sexual abuse. It includes many different types of abuse. It could be fondling, oral sex, penetration of any kind, but it can also be showing somebody pornography. John, you and I have a case out in California where a teacher was sending explicit text messages and photographs to a student. That is considered sexual abuse under the law, and it's a basis for a lawsuit. It can also include emotional abuse, so it includes the grooming aspect that happens before the actual physical contact. In lawsuits, it's a broad definition. Anything that can be considered sexual, or that happens to a child under the age of 18 years old.

Jonathan Rosenfeld:

Now, one of the emerging issues in the area of sexual abuse litigation is really cases involving the church. Can we talk a little bit about the cases that are involved, the church and sexual abuse involving clergy and the priest, what those cases typically involve?

Marty Gould:

Most of those lawsuits involve institutional negligence claims against the church. In every lawsuit, you can sue the perpetrator. But in a civil case, all you can get is financial compensation. So a large part of the case is against the institution for covering up abuse, for protecting pedophiles or suspected pedophiles, for failing to investigate allegations of abuse. The claims are

often brought in terms of negligent hiring, for not doing a proper investigation to a potential priest who's moving to your parish. So many times, a lot of these priests may have allegations against them in a different diocese or even in a different state.

Marty Gould:

Like in many of our cases, they came from California or Pennsylvania. Usually, they're being shipped out of there for a reason. The new diocese that's taking him in has an obligation to call the former employer and say, "Hey, why is this guy leaving? What happened? Then if they know of any allegations of abuse, they have an obligation to investigate and to warn the public if there's credible allegations. That's unfortunately, something that didn't happen for many, many decades. Priests were moved from one parish to another without warning the parishioners about this person's history, and they continued to abuse children time and time again.

Jonathan Rosenfeld:

Now, do church officials have an obligation to report episodes of abuse if they're a witness to something in their organization, in their church, in their school? Do they have some type of legal obligation to report the abuse to authorities?

Marty Gould:

In many states, they do. The laws have progressed over time, and every state's law can be a little bit different, but for the most part, clergy are now considered mandatory reporters. So whether they hear about abuse in a confessional, or whether a reported abuse from the survivor themselves, or from a parent, they have an obligation to report it. Typically, the law would require them to report it to the Department of Children and Family Services within that state, or even law enforcement. If the Department of Children and Family Services becomes aware of it, they do their own investigation. It's a separate investigation that's typically, also done by law enforcement. If the allegations are proven to be true, criminal charges are brought and ideally, there's criminal consequences.

Jonathan Rosenfeld:

Now, in the issue of a clergy sexual abuse lawsuit, we're generally talking about monetary damages. When we're talking about monetary damages, we're trying to put a value on the restitution to the individual and the harm to the individual. Can you talk a little bit about what the damages are in these cases, and how the church in general, in the past has valued these types of cases?

Marty Gould:

Childhood sexual abuse is probably the most heinous crime that can be committed. We're talking about children that are uniquely vulnerable. When it's a religious leader, like a priest, the child is taught to respect and to listen to that authority. That breach of that trust, coupled with physical and emotional abuse, can cause devastating consequences. Legally, you're allowed to recover for emotional distress, psychological trauma, and physical pain and suffering, or emotional pain and suffering. We articulate those injuries, the other side through the testimony of our clients, but also through counselors. Many times, a lot of survivors end up using drugs to cope with what happened. We get those records and explain to the church, because of what happened, they went

down a certain path. They became addicted to certain drugs to cope with what happened, and that's all part of the damages aspect that we seek compensation from the church.

Jonathan Rosenfeld:

The church in the past, can you give us an idea as to the payments that the church has made on some of these cases? Not necessarily on an individual basis, but in general. This has been a pretty substantial problem for the church. We're focusing right now on the Catholic Church, but the truth is, is that, this can be any religious institution. But the amount of payments that have gone on over the past several decades have been substantial. Do you have any idea about these payments and about the type of damages we're talking about here?

Marty Gould:

Legally, when somebody commits a harm against you, whether it's caused by the negligence of the religious institution, whether it's a Catholic church, a synagogue, a temple, or whomever, you can recover, what's called economic, non-economic damages. So we can get compensation for the psychological trauma and harm, the lost earning capacity, lost income that that person might have had had they finished school or done things in a different way when they weren't dealing with that abuse.

Marty Gould:

Recoveries have been significant, hundreds of millions of dollars have been paid in these cases across the country. That's why it's important to go find a lawyer who can assess your case, work up your case, and articulate to the other side how this has dramatically impacted your life. If you haven't done counseling yet, many people, because they don't come forward earlier because they're afraid they may not be believed, or it's a repressed memory and they haven't done counseling yet, that doesn't mean you didn't have an injury. And that doesn't mean that we can't articulate to the church, or whomever, how it's impacted you.

Jonathan Rosenfeld:

Now, one of the things that victims frequently come forward and ask is, "What type of help is out there for me to help me recover from this episode?" It's easy for us to sit here and say, "Hey, you know what? Do some treatment and move on." But the truth is, is that, these people really have lifelong issues. Can you just give out a few resources available for someone who's a victim of abuse?

Marty Gould:

There's many great networks out there in survivor groups that can help victims and survivors. One of the ones that I've worked with in the past, and I've had many clients be a part of, is called the Survivors Network of those Abused by Priests, also known as SNAP. It's a support group of survivors of clergy sexual abuse and their supporters throughout the country. If you reach out, you can engage in support groups. You can also try and find counseling through them. There's also an organization called Bishop Accountability, which documents a lot of allegations of abuse.

Marty Gould:

It's a good resource in terms of finding out more information about what went on in your specific parish or diocese, religious order. There's an organization called Drug Rehab, another one called the Addiction Center, Road to Recovery, Campus Safety, all great organizations that help people deal with some of the traumas, and deal with addictions that are often associated with traumas. Then of course, counseling with an attorney who can help direct you to possible counseling through the institution. We can sometimes get the institution to pay for your counseling if you don't have health insurance. So there's many different great networks out there and resources where you can get support to help move path this.

Jonathan Rosenfeld:

Well, certainly, there seems to be some light at the end of the tunnel for some of these people. Marty, I really appreciate you sharing with us today your insight on this important topic. I want to thank you for your time.

Marty Gould:

Happy to be on. Thanks for having me, John.