

# Personal Injury Law Podcast

by Rosenfeld Injury Lawyers

## Orphanage Abuse: Legal Rights of Abuse Victims

Jonathan Rosenfeld:

Good afternoon. I am Jonathan Rosenfeld. And today on the Personal Injury Podcast, I am joined by my colleague, Attorney Martin Gould. And Marty, I am going to talk with you a little bit about an emerging area of litigation involving abuse in an orphanage setting. Now, orphanages in today's world are... they're not really a commonplace occurrence. This was not the case decades ago. And unfortunately, one of the things that we're seeing today is that there was a lot of abuse carried on at these institutions behind closed doors over the past 20, 30, 40 years. Can you share a little bit of background about these cases and about some of the cases that you're seeing today?

Martin Gould:

No, John, the orphanage cases, I think, are some of the worst cases out there because you're dealing with children that are the most vulnerable. They're at an orphanage for a reason. You got no parents that are looking out for them. And I would argue that there's even a higher level, higher duty that's owed to these children to make sure that they're safe. And unfortunately, it has been a breeding ground for a lot of abuse for decades. Now, orphanages aren't as common now. The Department of Children and Family Services has now made a preference for foster care facilities so all orphans aren't in one location, but there's many cases such as Maryville Academy in the Chicago land area, Angel and Guardian Orphanage, where they had clergy that were abusing children, volunteers or other staff that were abusing young children. And it has been the basis for many of the cases that you and I have, in terms of filing lawsuits and seeking other types of recovery.

Jonathan Rosenfeld:

So, in some of these cases, we're talking about the orphanage itself, but we're also talking, in a lot of situations, about a religious organization that may be sponsoring the orphanage, or may be sponsoring the foster care. In those situations where you have a religious organization who may be providing the funding and may be providing some of the staffing, they may be overseeing the placement of some of these children, do those religious organizations hold some responsibility when there is abuse that's carried out at these institutions?

Martin Gould:

Yes. So, ultimately, a lot of these religious organizations were being paid by the state to run the orphanages and they were the ones responsible for the orphanages. So, if you're looking at, for example, like Angel and Guardian Orphanage, it might have been run by the archdiocese. They're owned and operated by the archdiocese or different diocese. But then they were staffed

by nuns from a certain religious order. There could have been an association with a religious order that provided priests for a period of time. And then there could have been a different entity that hired the janitorial staff or the teachers. So, in those cases, it's important to speak with a lawyer who can tell you who the potential defendants are, because there may be many different entities that were responsible for the safety of the children within one institution.

Jonathan Rosenfeld:

When we're talking about abuses perpetrated in an orphanage or in a foster care setting, ultimately, these victims are really entitled to damages and compensation from the perpetrators involved and from the organizations that supervised these organizations. When it comes to damages in these cases, what exactly are these victims entitled to under the law? We're here in Illinois, but in general, can you talk about the damages in these cases?

Martin Gould:

So, in a sexual abuse case, it's not always so easy to quantify our damages, but it can be the most significant type of damage you can recover in a case. And that's the psychological trauma, emotional distress, psychological and physical pain and suffering. These are all things that you legally can seek compensation for, and they can be very significant when it comes to childhood abuse. The public knows that. People understand that abuse when you're a child can cause lifelong traumas. You can also recover money for counseling, treatment, struggles you've had with addictions. These are all things that you can seek compensation for legally in most states.

Jonathan Rosenfeld:

In a situation where someone is an adult and the abuse may have been perpetrated at an orphanage, in a foster care home, in another institutional setting, is there a way that they can move forward in terms of pursuing a civil claim today when that abuse may have occurred decades ago?

Martin Gould:

So, Jon, we always encourage survivors to come forward and find out what the rights are. Even in states where the statute of limitations may have expired and there's no revival statute, we still try and find a way to get resolution for the client, but every state is different and the statute limitations laws in every state are different. And it's also important to understand whether or not your state has a potential bill by the state legislature that might change the laws that allow you to bring your claims that may have already been expired years ago. You can also bring a claim even if the perpetrators are deceased. That doesn't necessarily prevent you from bringing your case and proving your case. And you should still speak with a lawyer.

Jonathan Rosenfeld:

Now, for a lot of these people, reliving these episodes of abuse is traumatic, as an understatement, but can you give us a little flavor for how these cases can play out? Having spoken to a lot of victims out there, I know there's a lot of hesitation and a lot of anxiety around the fact that they may have to confront the perpetrator. In your experience, how are these cases typically play out? Are they going to be forced to be in a room alone with a perpetrator? That's a

concern that comes up frequently. Can you just sort of give us a little bit of how this process works?

Martin Gould:

So, at the outset, we speak with our client, we go through a questionnaire, get as much information as we can. Then we reach out to the potential defendants, whether it's the religious institution, a public school, a private school, a former employer. And we tell them about what happened. And then we start discussing what the next steps are. Whether we can engage in a pre-suit discovery, mediation process where we can exchange information. Our client can give a statement, if they're okay with that, to let the other side know kind of what happened and how it's impacted them. Or we file a lawsuit. But it's the client and what their preferences are always control how we go about trying to seek some type of resolution settlement for them. So, it's a lot of communication back and forth regarding how they want to litigate this case and what they feel comfortable with in terms of next steps.

Jonathan Rosenfeld:

And so, there's an element of control, just so people out there know, there's an element of control out there for the victims, but also in no situation would a victim ever be forced to be in a room with the perpetrator without the presence of their attorney. Correct?

Martin Gould:

That's right. We would always be present and shoulder to shoulder with our client the entire process.

Jonathan Rosenfeld:

Marty, I'm going to follow up with you as some of these cases move forward. We can talk a little bit more about these cases in detail, but I really want to thank you for joining me today and sharing your insight on these really disturbing cases. Thank you.

Martin Gould:

Thanks for having me, Jon.