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## INQUIRER EXCLUSIVE

# Abuse victim 1st to settle with PSU

The multimillion-dollar accord involves one of 26 claims. More settlements are likely this week.

By Susan Snyder

INQUIRER STAFF WRITER

Pennsylvania State University has agreed to a multimillion-dollar settlement with a 25-year-old man who was sexually abused by former assistant football coach Jerry Sandusky in a campus shower.

It is the first of 26 claims to be settled in the Sandusky scandal, with the others expected early this week. The university has approved spending \$60 million for the payouts.

The man, known as Victim 5 in court proceedings, was assaulted by Sandusky in August 2001, six months after then-graduate assistant Michael McQueary reported to university officials that he saw Sandusky rape a boy in a campus shower.

Because the assault occurred so soon after the McQueary report and took place on campus, it was considered pivotal in reaching a settlement agreement with other victims, said Michael K. Rozen, a lawyer hired by the university to help settle the cases.

"The pivotal issue from the university's perspective in dealing with the victims is where the incident occurred and when it occurred proximate to the 2001 shower. See **PENN STATE** on A17

## Penn State

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incident," Rozen said. "Number 5' is probably the singular one of the claims that has come to the university's attention where it absolutely, positively could have been stopped."

Neither Rozen and Philadelphia lawyer Thomas Kline, who represents Victim 5, would specify the amount of the settlement, but Rozen said it was one of the highest negotiated because of its circumstances.

"There are categories of relative value," Rozen said. "Within those categories, there is a hierarchy. Certainly, Tom's client, 'Number 5,' sits at the top of the top grouping. There may be one or two other claims up there as well."

The victim, who grew up in the shadow of Beaver Stadium — so close that when a touchdown was scored, his house windows would shake — met Sandusky through the coach's Second Mile charity in the mid-1990s when he was 7 or 8 years old.

The coach took him to more than a dozen Penn State football games. When the boy was 12 or 13, Sandusky exposed himself to him in a Penn State locker-room sauna, then sexually assaulted him in the shower, he testified during Sandusky's trial last year.

The victim did not want to comment Friday on the settlement but was "relieved," Kline said.

Rozen and Kline discussed how they arrived at the settlement in a joint interview with *The Inquirer* on Friday that shed light on how the litigants and their high-powered lawyers have gone about resolving the many claims arising from Sandusky's crimes.

The two lawyers have known each other for years, tell of respect for each other's work, and have sat across the table



**Jerry Sandusky after sentencing.** The settlement with "Victim 5" was especially high because, a lawyer said, the abuse "positively could have been stopped." MATT ROURKE / AP

on other high-profile cases. They met at least 20 times over the last 11 months and communicated just about every other day as they tried to determine fair compensation for Kline's client and other victims of Sandusky, now in prison.

Rozen said 26 of the 31 claims, including that of Victim 5, had been tentatively settled. Kline signed off Friday on the final paperwork and was the first of the various plaintiffs' lawyers to do so, Rozen said.

**"It was much harder to evaluate injury. In this kind of case, you're looking into the mind of a victim of sexual abuse."**

**Thomas Kline,** lawyer for Victim 5

Other lawyers and their clients have received the paperwork and their sign-off was expected to be imminent, Rozen said. ...

Within those categories, the university also looked at where the abuse occurred, over what time frame, the severity of the abuse and the credibility of the claims, he said.

Assaults before 1998 were assigned the lowest value because there is little if any evidence that the university should have known at that point, the university's lawyer said.

"There's an open question" about the cases from 1998 to 2001. Rozen said.

Of five other Sandusky accusers, one is in litigation in Maryland, and a suit is expected to be filed in another shortly, Rozen said. Three others have thus far offered evidence that Rozen asserted was insufficient to prove their claims.

Under the terms of each settlement, the victims have agreed not to sue Penn State or Second Mile, and cede their right to sue Second Mile to the university, which plans to go to court to try to get the charity's insurer to reim-

and "there's a much harder argument from the university's perspective post-2001."

Former university president Graham B. Spanier and two other university officials face trial on charges of failing to report and act on the abuse in the 2001 case.

In the case of Victim 5, the evidence was clear, Rozen said. He cited the man's court testimony and a psychological evaluation, showing the man had been scarred by the abuse.

Rozen and Kline said they first met to discuss the cases on the Jewish holiday of Yom Kippur last

September. They spent hours at Kline's apartment in New York City overlooking Central Park as they began to grapple with how to assign value to the suffering of a sex-abuse victim, among other variables. Both men previously had participated in high-profile, so-called mass tort cases. Rozen was involved in the settlements for 9/11 victims; Kline represented patients in the Vioxx drug case.

The Penn State case, though with fewer victims, was challenging in a different way, the lawyers said.

"It was much harder to evaluate injury," Kline explained. "In this kind of case, you're looking into the mind of a victim of sexual abuse."

Rozen also had to negotiate with other lawyers to get an agreement in principle on the initial, "global" settlement.

"It's like a 3-D chess match," Rozen said. "There are multiple layers and lots of pieces."

The case also was complicated by its widespread publicity, Rozen said, and a lack of knowledge about some victims who were not part of the court proceedings.

The lawyers said they didn't get down to talking dollars for months. When they did, things got more difficult.

"You get 90 percent of the way there," Kline said. "You get into the tunnel under the Hudson River and then the train stops."

But Rozen and Penn State board of trustees member Ira Lubert — a Philadelphia-area real estate investor who was overseeing the negotiations for the board — visited Kline's office recently. It was at that meeting that a dollar amount was decided. Kline said he was impressed with Penn State's desire to do right by the victims, a sentiment Lubert conveyed.

"It convinced me of what the university was trying to say to the victims," Kline said.

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