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Dec. 10, 2012

The Philadelphia Inquirer

Settlement talks with Sandusky victims are fraught process

(The following is excerpted from *The Philadelphia Inquirer*)

With Jerry Sandusky sitting just feet away, one of his young accusers slowly breathed in, locked eyes with the former coach, and haltingly described how the sexual abuse he suffered had forever changed his life.

"No sentence will ever erase what he did to me," the 26-year-old man known in court filings as Victim 5 said at an October hearing. "It will never make me whole. It will never erase from my memory his hands on my skin or mine on his. But he must pay for his crimes."

A judge agreed, ordering Sandusky that day to pay with at least 30 years of his life.

But as Pennsylvania State University continues to contemplate its role in the former coach's crimes, its own debt to the victims is not so clear-cut.

Talks of financial settlement between the university and 24 Sandusky accusers continue, with attorneys for both sides saying they are unlikely to be resolved by the end of the year. And the negotiations have already raised a series of thorny questions.

How much financial responsibility does the university bear for Sandusky's crimes? Can one victim's abuse be judged worse than another's and thus more deserving of compensation? And, ultimately, can any dollar amount make up for years of emotional turmoil?

"It's not one of those things where you plug A, B, and C into a calculator and it spits out an amount," said Ben Andreozzi, a Harrisburg attorney representing multiple Sandusky accusers. "Our goal is to focus on what each specific client needs in order to find closure."

Three former Penn State officials, including former president Graham B. Spanier, face charges of covering up early allegations against Sandusky, who was convicted in June of molesting 10 boys, many of them on the university's campus.

While the ex-officials' cases have yet to go to trial, Spanier's successor, Rodney Erickson, has said the university shares some blame for enabling the former coach. Announcing settlement talks in September, he pledged a "just outcome for the victims."

To guide the process, the university has turned to one of the nation's top civil mediators. Over the last decade, Kenneth R. Feinberg has presided over settlements in the aftermath of disasters ranging from Sept. 11 to the 2010 BP oil spill to the 2007 shootings at Virginia Tech.

A product of blue-collar Boston with an accent to match, Feinberg has a reputation of stripping issues fraught

with emotional heft to a series of dispassionate, quantifiable facts.

"This is a market-driven process" is the way Feinberg described his approach in an interview last week. "Plaintiffs will demand one thing. Defendants are willing to give another. My job is to present them with facts that can justify them meeting in the middle."

In dispensing the Sept. 11 victims' compensation fund, a \$7 billion pot of cash set aside by Congress for those who lost relatives in the 2001 terrorist attacks, he designed criteria based on age, income, number of children, and expected life's earnings to determine amounts eventually offered to each family.

But Feinberg's formulas, which have since become a hallmark of his work, roil critics, who describe his process as cold and unfeeling.

Why should the family of a busboy killed when the Twin Towers collapsed deserve any less than a stockbroker who lost his life in the same disaster? they ask.

And settling Penn State's debt to Sandusky victims is likely to pose new challenges to Feinberg's processes. Unlike victims of those earlier disasters, the young men abused by the former coach have endured no long-term physical damage and cannot point to specific economic losses.

Their injuries are almost entirely internal and emotional, said Victim 5's attorney, Thomas Kline. "These are not easy things to sort out," he said. "There is no doubt that there's a heavier subjective component than what you'd see in other mass tort cases."

Emerging criteria

Still, Feinberg appears ready to stick to his method, attorneys representing several Sandusky accusers said last week. Though negotiations remain preliminary, many have sensed criteria emerging for evaluating their clients' claims:

Did the abuse happen on university property? Did it occur prior to 1998, when the first known allegations against Sandusky were filed with university police? Did it happen after 2001, when a subsequent complaint was allegedly ignored by administrators? Was Sandusky still employed by the university at the time? Or did the accuser ever change the story he told police?

... But ultimately, the exact dollar figure Penn State offers any one victim may matter less than the feeling that the university has acknowledged their sufferings and treated them fairly, said Thomas Plante, a Santa Clara University psychologist who has treated clergy sex-abuse victims involved in past high-profile settlements.

"It's not necessarily about money," he said. "It's about validation. It's about being able to say, 'Yes, I was victimized, and yes, the institution is taking responsibility.' The money is a representation of that."

So far, said Feinberg, Sandusky's accusers appear to be holding out hope.

"No one has told me that 'We're not interested in talking,' " he said. "No one has said, 'We'll see you in court.' "