



By Dan Packel

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Penn State Will Pay \$60M In Sandusky Settlements

Law360, Philadelphia (October 28, 2013, 5:46 PM ET) -- Pennsylvania State University announced Monday that it will pay nearly \$60 million to settle 26 claims from the victims of former assistant football coach Jerry Sandusky, who was convicted on charges of child molestation in 2012.

The university had received 32 claims from individuals who were or allege they were abused by Sandusky and rejected six of the claims for being meritless. The school said 23 of the settlements are fully signed and the remaining three are agreed in principle and await final documentation in the next few weeks.

The actual settlements include a release of all claims against the university and are subject to confidentiality agreements.

"The Board of Trustees has had as one of its primary objectives to reach settlements in a way that is fair and respects the privacy of the individuals involved," said Keith Masser, chairman of the Board of Trustees, in a statement. "This is another important milestone in accomplishing that goal. I would like to thank the board's Legal and Compliance Committee, as well as its Legal Subcommittee for its leadership throughout this process."

The total size of the settlements is \$59.7 million, and the money will not come from student tuition, taxpayer funds or donations, according to university officials.

Instead, the university said the bulk of the money will come from various liability insurance policies, and any remaining sums will come from interest reve-

nues related to loans made by the University to its self-supporting units.

Thomas Kline, a partner with Kline & Specter PC, who represented Victim 5 — the first individual to settle — said the university itself will likely pay significantly less than the \$60 million.

"As someone who was in the trenches during the settlement negotiations, I can say that this was a deliberately calculated strategy to reach a settlement and control the claims, which would allow it to then seek contributions elsewhere," Kline told Law360.

He said that in addition to its own liability insurers, the university would also seek to recover from the Second Mile, the now-defunct charity that was founded by Sandusky.

Penn State has locked horns with one of its liability insurers — Pennsylvania Manufacturers' Association Insurance Co. — over the question of indemnity for the settlements in Pennsylvania state court, and Kline said this case will control the others. He added that the university can reach a settlement with the insurers, and it will likely settle with or file suit against the Second Mile.

The final number of settlements is one higher than the total shared by an attorney from Penn State in August, who then reported that the university expected to settle with 25 victims.

That attorney, Michael Rozen, and his partner Kenneth Feinberg, both of Feinberg Rozen LLP, were re-

tained by the university in September 2012 to settle the claims.

"I would like to thank Ken Feinberg and Michael Rozen for their efforts to facilitate the settlements," University President Rodney Erickson said in a statement. "Their expertise and efforts have been invaluable to our ability to reach mutually acceptable resolutions in the large majority of the claims."

Kline said it would be difficult to compare the monetary value of the settlements to anything that came before.

"The Penn State settlements are sui generis. There was never — to my knowledge — anything that came close to the impact that the Penn State/Sandusky matter with regard to publicity or damage to an institution," he said. "That said, the settlements compared to historical settlement values are higher."

Sandusky, who was convicted on 45 counts of child molestation and was sentenced to 30 to 60 years in prison, is currently appealing his sentence.

Meanwhile, his deeds have spawned a wide range of criminal and civil litigation, beyond the indemnity battle.

On the criminal side, cover-up charges against three former top university administrators, including former president Graham Spanier, are moving toward a 2014 trial.

On the civil side, Spanier has sued former FBI director Louis Freeh for allegedly libeling him in his critical report on the university's handling of allegations against Sandusky.

And the NCAA is fighting suits from both the estate of former Penn State football coach Joe Paterno and a Pennsylvania legislator and the state's treasurer over the \$60 million in sanctions that it has imposed on the university.