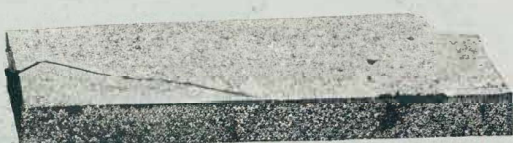
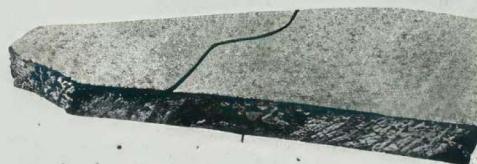
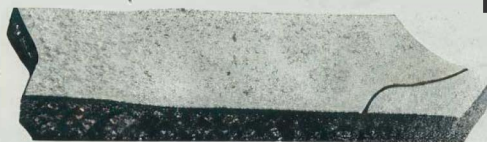


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THE VOICE OF YOUTH RIGHTS



A SURVIVORS GUIDE TO **LEGAL ACTION** AGAINST TROUBLED TEEN INDUSTRY PROGRAMS



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PURPOSE STATEMENT

To offer survivors of the Troubled Teen Industry (TTI) comprehensive education on pathways to justice and the possibility of civil litigation as an option. This guide aims to empower survivors with the knowledge and practical skills necessary to understand the nuances of civil litigation, anticipate potential outcomes, navigate attorney consultations, and grasp the implications of statutes of limitations on their cases.





TYPES OF LEGAL ACTION

The two most common types of legal action you will see in the Troubled Teen Industry are civil lawsuits and criminal charges.



Civil Lawsuits

There are many different kinds of civil lawsuits, but the following types are the most prevalent when holding a TTI program or a bad actor accountable.

Tort

A tort is a civil wrong that causes harm or loss to someone, for which the injured party may seek compensation through a lawsuit. Examples include negligence, defamation, medical malpractice, personal injury, or sexual assault. When people bring multiple cases together, they may be brought as either a “mass tort” case or a “class action.”

Mass Tort

A mass tort refers to a civil action involving numerous plaintiffs who have been harmed or injured by the same defendant or product. Mass tort litigation allows multiple individuals with similar claims to consolidate their cases for efficiency in court proceedings, often involving complex legal and scientific issues. In a mass tort case, each case is brought and settled or decided individually.

Class Action

A class action is a lawsuit where a group of people with similar claims sue together as a single entity represented by one or more individuals. It's used when many people are affected by the same issue, like product defects or consumer fraud. If successful, the outcome applies to everyone in the group. In a class action, a decision is reached for every plaintiff at once. In order to file a class action lawsuit, a court must agree to “certify” the group of plaintiffs as a class. This can be a lengthy and difficult process.

Key Differences Between Mass Tort and Class Action Lawsuits

Individual vs. Collective Claims

In mass torts, each plaintiff may receive a different amount of compensation based on individual claims and circumstances. In class actions, all members of the class are bound by the same verdict or settlement, and typically, each member receives an equal or formula-based share of any settlement or judgment.

Legal Proceedings

Mass torts may be consolidated into a single court for pretrial proceedings through mechanisms like Multidistrict Litigation (MDL), but they may be tried separately. Class actions are tried as a single case.

Scope of Impact

Class actions are efficient when the damages or issues are uniform across the class, whereas mass torts are suitable for situations where the harm varies significantly between individuals.



Criminal Charges

Criminal cases are initiated by the government against an individual or organization accused of committing a crime. The purpose is to maintain public order and ensure justice by imposing penalties like fines, community service, or imprisonment. Key types include:

Felony

Serious crimes such as murder, rape, and robbery, typically punishable by imprisonment for more than one year or by death.

Misdemeanor

Less serious crimes, such as petty theft and vandalism, are generally punishable by fines or imprisonment for less than one year.

Infractions

Minor offenses, such as traffic violations, are usually punishable by fines only.



Key Differences Between Civil and Criminal Cases

Standard of Proof

The standard of proof in legal cases establishes the level of certainty and evidence required to decide a case. In civil lawsuits, the standard is “preponderance of the evidence,” which means the evidence must show it’s more likely than not that the claim is true, requiring just over 50% certainty. In contrast, criminal lawsuits demand the “beyond a reasonable doubt” standard, the highest level, necessitating near certainty of the defendant’s guilt due to the potentially severe consequences, such as imprisonment.

Outcomes

The consequences of civil and criminal cases are different. If a person or organization is found guilty in a criminal case or chooses to plead guilty before trial, they may face jail time, financial penalties, sex offender registration requirements, and/or probation or parole. In a civil trial, a party found “liable” or responsible will often be ordered to pay the other party in the case a certain amount of money determined by the judge, jury, or negotiated in a settlement before trial. Some civil case settlements or verdicts can also order the party found responsible to take certain direct actions, such as changing organizational policy or practices.

Charging Party Differences

In a criminal case, the case is brought by the prosecutor employed by the government. The prosecutor decides whether a case is strong enough for charges to be filed, often regardless of the victim’s wishes. In a civil case, any person or private organization can bring a lawsuit against another person or organization.

Potential Outcomes of Civil Litigation

The most common outcome of civil litigation is a sum of money, whether in the form of a settlement agreement or damages following a trial. While having to pay out this money may put a financial strain on programs leading to their eventual closure, it is unlikely that a civil lawsuit itself will order a program to be closed. Programs are more likely to be forced to close through criminal cases or licensing boards. However, as stated above, it is possible, although rare, that a program may agree to certain policy or practice changes in their program as a part of a settlement agreement.

Because the outcome of civil litigation is often monetary in the form of a settlement or damages, the terms of the agreement and the source of the damages may differ. First, it is common that a condition of a settlement agreement will be that the defendant does not admit any fault. It is likely that in order to agree to settle and pay a monetary amount instead of going to trial, a program may insist that the agreement states they are admitting no fault for the accusations in the suit. Second, settlement amounts or damages may be paid by the program or person you are suing themselves, but more often are paid out by insurance programs that cover the program or person who works there. Thus, while a survivor may win a monetary amount from a case, it is unlikely the person or program they sued will have to pay that amount directly.

Civil Litigation's Role in the Fight Against the TTI

Although civil litigation has its limits, it is still a vital tool in the fight against the TTI. Civil cases can help exhaust the resources of a program so that they are forced to declare bankruptcy and eventually close, draw massive media attention and put pressure on a program to close, help share and validate your story, and can grow the case law-related to the TTI. As more cases are decided related to the TTI, more experts will weigh in in court and more judges will have examples of how to deal with these programs.





Finding an Attorney

When seeking an attorney, it's crucial to focus on the area of law relevant to your claim. For instance, if you're pursuing a personal injury case, look for a firm specializing in personal injury law. Specialized firms also handle cases like medical malpractice, negligence, and child sexual abuse. Ensure you search for attorneys in the jurisdiction where you intend to file suit, typically in the state where the incident occurred.

When contacting an attorney, clearly outline the claims you're making against your program or perpetrator (e.g., medical malpractice, negligence), your age, the dates of when the claims happened, and provide a concise summary of 2-3 key facts in your case. While firms will delve into the details if they take on your case, simplifying your claims helps them assess potential legal remedies more efficiently amid numerous inquiries. If your case aligns with their expertise, they may request a formal intake to gather more specifics.

If a firm is unable to take your case, inquire about referrals to other firms that may be better suited to assist you.

Payment for the Attorney

Plaintiffs have several options for paying attorneys in civil cases. Some may opt to directly hire a private attorney and cover their retainer and hourly rate. However, for those who lack the funds for hourly fees, many law firms in this field operate on a contingency fee basis. Under this arrangement, attorneys only receive payment if the case results in a successful settlement or verdict, at which point they take a percentage of the compensation awarded to the plaintiff.

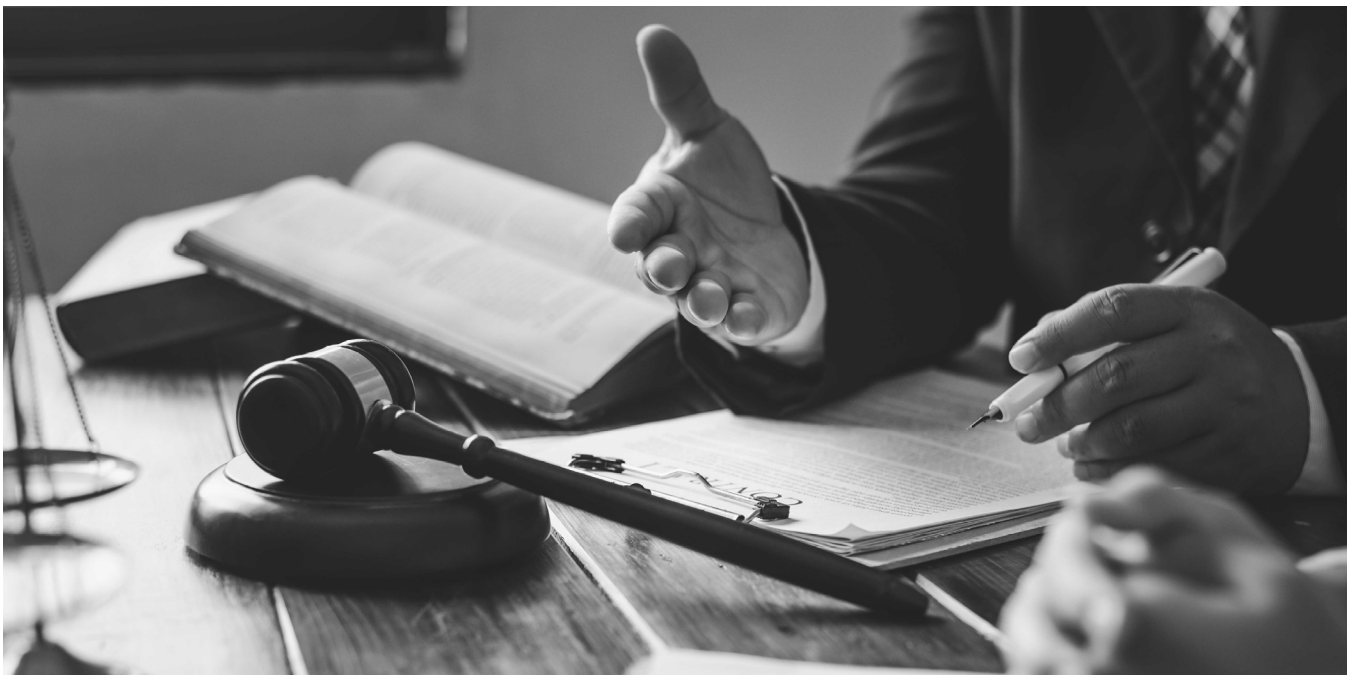
When selecting legal representation, it's essential to discuss fee arrangements, including whether the attorney works on a contingency fee basis and if there are additional expenses like court filing fees or charges for expert witnesses. Additionally, exploring nonprofit legal aid organizations can be worthwhile, as they may offer pro bono assistance. You can identify these organizations by searching for legal aid services in the state your program is located in.





TYPES OF CLAIMS THAT TEND TO HAVE MORE SUCCESS IN COURT

While acknowledging the validity of all survivors' experiences with programs, it's important to recognize that the legal system may prioritize certain forms of harm. Cases involving sexual or physical abuse are often more straightforward to pursue, whereas claims centered on emotional harm, particularly if ongoing, can be more complex. Nonetheless, emotional abuse can still be grounds for legal recourse, typically as part of a broader negligence claim against the program. Negligence claims may arise if the program fails to meet basic requirements set by local licensing agencies or neglects to provide for your basic needs.





STATUTES OF LIMITATIONS AND LOOKBACK WINDOWS

Statutes of Limitations (SOL)

Legal claims are time-limited by statutes of limitations. A statute of limitations will define how long after an incident a legal claim may be brought. Every state has different sets of statutes for each type of wrongdoing or harm.

Lookback Window

For sexual and child abuse cases, many states have passed laws referred to as lookback windows, which is a specified period during which individuals who were previously barred by the statute of limitations can bring forward legal claims for past instances of harm or wrongdoing. States can pass new lookback window laws at any time, so even if your claim is currently time-barred, your state may implement an exception for your type of case at a later date.

For Example

A state may have a statute of limitations of 5 years for negligence cases, meaning that after 5 years, those claims can no longer be brought in court. Another state may have a statute of limitations of 2 years for all torts but implement a lookback window that states claims of child sexual abuse can be brought within 10 years or even indefinitely.

When Claims Fall Outside the Statute of Limitations

While the amount of time that has passed since a program harmed you does not make what they did any less harmful, the law is very strict about statutes of limitations. If your incident occurred outside the statute of limitations and there is no applicable lookback window, it is unlikely that you will be able to bring a successful legal claim.

IV.

DOCUMENTATION AND GATHERING EVIDENCE

Importance of Evidence

One of the most important things to know about filing a lawsuit against your program is that you will need as much evidence as possible. This means saving anything and everything you have access to. While it may be cathartic and an emotional relief to destroy things like your journal from your program, preserving that evidence may be key to winning your case. Examples of evidence to be sure to hold onto include journals, texts, emails, letters, other written communications, doctor's or therapy notes, and program policies. You have the right to request your therapeutic and medical records from a program, though they are only required to preserve those records for a certain number of years, depending on the state.

How to Retain Evidence

Collecting all of your evidence in one place can be helpful for an attorney sifting through the information. For example, creating a Google Drive folder with a folder for emails, texts, and medical records is very helpful. Another great way to retain evidence is to create a timeline of events relevant to your claim. You can do this by creating a document with dates (even approximate ones) and descriptions of events that happened that you think are relevant to your legal claim. Having a timeline prepared when you reach out to an attorney allows them to more quickly evaluate if they can help.



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