

Sexual Assault, Sexual Abuse, and Human Trafficking Lawsuits
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I. Introduction

Recently, human trafficking and sexual assault lawsuits have garnered much needed attention, in both the media and courtrooms. Survivors of these horrific crimes are coming forward to have their voices heard and bring claims against Defendant businesses and universities to hold them accountable. This article will provide an overview of the types of human trafficking and sexual assault/abuse cases currently being pursued, the types of claims brought, and litigation updates.

A. Human Trafficking Litigation

The pending human trafficking litigations are divided into two categories: labor trafficking and sex trafficking.¹ Currently, the majority of pending cases are for survivors of sex trafficking, which is the focus here.²

To date, sex trafficking claims have been filed against a multitude of businesses in which sex trafficking is prevalent and readily disguised. For example, Plaintiff sex trafficking survivors have filed suits to hold hotels accountable for their role in sex trafficking that occurred at various franchises. Other survivors have brought suit against social and digital media platforms, such as social media websites, dating websites, and marketplace websites for the websites' role in enabling and contributing to the trafficking of people.

Plaintiffs have an avenue for civil liability under the Trafficking Victims Protection Reauthorization Act (“TVPRA”).³ Under the TVPRA, trafficking survivors have a ten-year statute of limitations to bring their claims. Additionally, Plaintiffs may bring claims of negligence, negligent supervision/training, and other various state-specific causes of action. To bring these claims, trafficking survivors must act within the applicable state law statute of limitations. Survivors also have other legal hurdles in bringing their claims such as the Communications Decency Act (“CDA”) which provides immunity from liability for providers and users of social and digital media platforms who publish information provided by third-party users.⁴

Recently, the Jurisdictional Panel on Multidistrict Litigation (“JPML”) declined to consolidate twenty-one actions pending across the country in which all Plaintiffs were survivors

¹ See generally Federal Human Trafficking Civil Litigation: 15 Years of the Private Right of Action, The Human Trafficking Legal Center, <https://www.htlegalcenter.org/wp-content/uploads/Federal-Human-Trafficking-Civil-Litigation-1.pdf>.

² See 18 U.S.C. § 1591(a)-(b) for the definition of sex trafficking.

³ 18 U.S.C. §1595.

⁴ 47 U.S.C. § 230. The CDA specifically states that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by third-party users.”; see also Robert Burnson, Salesforce Tentatively Cleared in Backpage Sex-Trafficking Suit, Bloomberg, Sept. 20, 2019, <https://www.bloomberg.com/news/articles/2019-09-21/salesforce-tentatively-cleared-in-backpage-sex-trafficking-suit>.

of sex trafficking on hotel properties.⁵ Although the cases are not currently consolidated, Plaintiffs can and should continue to pursue their sex trafficking cases in various state and federal court venues.

B. Sexual Assault and Abuse Litigation

In today's climate, sexual assault and abuse litigation has been on the rise. Survivors have brought suit against businesses such as Uber and Lyft. Alternatively, student survivors have filed suit against colleges and universities for sexual abuse by campus physicians, which is the focus here.

Survivors brought hundreds of civil suits against Michigan State University for the Larry Nassar sexual abuse scandal. After legal and public pressure, a settlement for \$500 million was reached between the parties.⁶ However, lawsuits are still pending against other actors responsible for ignoring the misconduct.

In Ohio, survivor student athletes filed suit against The Ohio State University for sexual abuse committed by Richard Strauss. Recently, OSU announced that some of the claims brought by survivors were settled at an undisclosed amount. Other cases remain pending and have yet to be resolved.

Not long ago, allegations, which echoed other college sexual abuse scandals, also surfaced against the University of Michigan for claims of sex abuse by team physician, Robert Anderson. An investigation into these allegations is being conducted by a private law firm and survivors continue to come forward.

In pursuing these cases, Title IX of the Education Act of 1972 ("Title IX")⁷ is an important avenue in battling sexual assault and abuse on college campuses. Institutions receiving federal financial assistance are subject to Title IX and, therefore, have a legal obligation to protect students from gender-based violence and harassment – including sexual assault.⁸ Title IX does not expressly provide a statute of limitations, and as a result, this is typically borrowed from the individual state's personal injury statute of limitations.

In addition to Title IX claims, Plaintiffs are bringing claims under 42 U.S.C. § 1983 which imposes liability against those acting under authority provided by the state, such as universities, for deprivation of Constitutional rights. Plaintiffs also bring claims for negligence, negligent supervision, vicarious liability, agency law, and intentional or negligent infliction of emotional distress. Survivors must act within the applicable state law statute of limitations for these claims.

II. Practical Considerations

⁵ In Re: Hotel Industry Sex Trafficking Litigation (MDL No. 2928), Order Denying Transfer, https://www.jpml.uscourts.gov/sites/jpml/files/MDL-2928-Denied_Transfer-1-20.pdf.

⁶ Mitch Smith and Anemona Hartocollis, Michigan State's \$500 Million for Nassar Victims Dwarfs Other Settlements, *The New York Times*, <https://www.nytimes.com/2018/05/16/us/larry-nassar-michigan-state-settlement.html>.

⁷ 20 U.S.C. §1681(a), *et seq.*

⁸ 20 U.S.C. §1681(a); *see also* Title IX and Sexual Violence in Schools, ALCU, <https://www.aclu.org/title-ix-and-sexual-violence-schools>.

As a final note, the authors would like to present certain practical considerations to be aware of in bringing sex trafficking and sexual assault/abuse lawsuits. First, the safety and protection of survivors. Practical tools such as protective orders and confidentiality in filing are only the first step to protecting survivors that choose to come forward. In coming forward, survivors of human trafficking or sexual assault/abuse are at risk for further emotional trauma. It is always important to remember the mental toll of these cases on Plaintiffs. Second, there may be potential barriers such as the length of time that has passed. However, it is important to bear in mind that legislation is pending at both the state and federal level to provide survivors with an avenue to bring their claims and hold their traffickers and abusers accountable, regardless of the passage of time. Further, as recent case law has shown, Defendants who have attempted to cover up their actions can still be held accountable regardless of the time that has passed.