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# A “Spotlight” on Reviver Statutes for Sexual Abuse Claims



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A few months ago, a camp client received a letter from Mitchell Garabedian, the plaintiff’s lawyer featured in the Oscar winning movie, “Spotlight.” The letter stated that his client attended camp in 1970 and was sexually assaulted by a counselor. Mr. Garabedian demanded millions of dollars from the camp on a 50 year old claim. The current third generation owner had not yet been born during the alleged abuse.

Letters like these are arriving more frequently, as state legislatures re-write sex abuse statutes of limitations. “Reviver Statutes” – as they are commonly called – permit

victims of sexual abuse to file lawsuits that would otherwise be barred by the statute of limitations. The general purpose of a statute of limitations is to let stale claims lie so a cause of action does not linger for eternity. However, the common trend regarding sex abuse claims erodes the intent behind the statute of limitations.

Two common types of reviver statutes have emerged among the states: “window legislation” statutes, and statutes that enlarge the already existing limitations period.

California, Delaware, Georgia, Hawaii and Minnesota have passed

such “window legislation” statutes. These laws create a window – a period of time from one to four years – during which a plaintiff can file a lawsuit for sexual abuse no matter when the abuse occurred or when the statute of limitations expired. For example, in 2015, Georgia passed a window statute reviving previously expired claims for a two year period. This means that from 2015 to 2017, any victim of sexual abuse in Georgia can sue the perpetrator no matter how old the claim is or when the statute of limitations expired.

Other states like Massachusetts passed legislation reviving the

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statute of limitations and permitting victims to bring a lawsuit up to age 53 against the perpetrator and allowing a 7 year discovery rule against entities. This means that victims can now file a lawsuit within seven years of the date when he or she could reasonably have discovered his or her psychological harm was caused by another’s sexual act.

Reviver statutes like the ones mentioned above are being considered in over a dozen states including New York, Pennsylvania, Maryland, Florida, and Washington D.C.

Reviver statutes have also gotten the attention of the federal government. This past December, Senator Harry Reid introduced a bill incentivizing states to eliminate their child sex abuse statutes of limitations. The potential law would increase federal funding to those states that eliminate statutes of limitations governing sexual abuse.

***What should you do?***

Depending on where you’re located, your camp could be liable for a decades old sexual abuse claim. If your camp receives a notice of claim letter like the one from Mr. Garabedian, there are a few things you should immediately do.

First, forward the letter to your current and prior insurance brokers. Second, you should dust off your old files and look for the applicable insurance policies. Since claims could be thirty or more years old, it will be difficult to track down the applicable insurance policy. You can consider hiring an insurance archaeologist to help with this task. This issue reinforces that you should keep your primary general liability and excess liability policies forever. Scan your old policies and keep them electronically where you can always find them.

Next, you should retain legal counsel to investigate the claim and locate witnesses to assess its validity. These legal costs may be covered by the insurance that was in force at the time of the alleged abuse, if you can find it.

You may also consider preemptively re-organizing the corporate structure of your camp. If the same entity has owned the camp for fifty years, that entity will be liable for wrongdoing committed years ago. If, however, the assets of that corporation have been transferred to a new entity in a bona fide transaction and the old entity retains the liabilities, the new entity may be shielded from liability. This obviously may have tax and other considerations but may be worth exploring. 

