



A SURVIVOR'S GUIDE TO FILING A CIVIL LAW SUIT



Presented by WA Coalition of Sexual Assault Programs

This project was supported by Grant Number 2001-WL-BX-0036 awarded by the Office on Violence Against Women, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

A publication of the
Washington Coalition of Sexual Assault Programs
Olympia, WA. 2004

The Washington Coalition of Sexual Assault Programs (WCSAP) is a statewide network of community-based sexual assault programs that work together to provide general advocacy, medical and legal advocacy, information and referral, and public education regarding sexual violence. Through its administrative office, WCSAP supports its member programs, works with state and national organizations to end sexual violence and produces publications such as this guide.

We gratefully acknowledge the Illinois Coalition Against Sexual Assault (ICASA) for allowing us to use their original guide as a basis for the Washington State version. We would like to acknowledge the following individuals and organizations who assisted ICASA in the original version of this publication:

- Sarah Hatch, a student from the University of Illinois College of Law, for researching and writing the guide.
- Connecticut Sexual Assault Crisis Services, Inc. for generously allowing the use of its civil lawsuit guide.
- Lyn Schollett, Staff Attorney of ICASA, for editing the guide.
- Cynthia Bowman, Joe Klest, Sara Love, Helen McGonigle, Polly Poskin, Marcia Rudin and Shawn Schenk for reviewing and commenting on the guide during its production.
- Yvonne Bronke, ICASA Office Coordinator, for preparing the guide for publication.

In addition, WCSAP gratefully acknowledges the work by the following individuals for their contributions to this version, which has been tailored to survivors and advocates in Washington State:

- Barbara Jo Levy, attorney and personal life coach, for her editorial assistance regarding Washington State laws and civil legal issues.
- Lyn Schollett, staff attorney at ICASA, for her additional editorial assistance.
- Suzanne Brown, Toby Cremer, Steve Eckstrom and Gabriella Möller for reviewing and editing this guide.

This guide was prepared by Cynthia Okayama Dopke, Advocacy Education Coordinator at WCSAP.

© 2004, 2001 WCSAP

Programs working with sexual assault survivors may reproduce this booklet in whole or in part. It may not be reproduced or sold for profit.



Washington Coalition of Sexual Assault Programs
2415 Pacific Avenue SE, Olympia, Washington 98501
(360) 754-7583. (360) 709-0305 TTY
www.wcsap.org

This project was supported by Grant Number 2001-WL-BX-0036 awarded by the Office on Violence Against Women, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

TABLE OF CONTENTS

Using This Guide	iv
I. Introduction	1-2
II. Should You File a Civil Suit?.....	3
Civil Suit Defined	3
Why Sue: Pros and Cons.....	4
Factors to Consider	5
Loss of Privacy	5-6
Waiver of Confidentiality	6-7
Cost	8
Time	8
Availability of Damages	8-9
Availability of a Civil Suit	9
Whom to Sue	9
What Harm to Claim.....	9-10
Where to Sue.....	10
When to Sue.....	10-13
III. You and Your Attorney	14
The Attorney's Role.....	14
Selecting an Attorney.....	14
Questions to Ask and Consider.....	15
Questions to Ask the Attorney	15-16
Questions to Ask Yourself.....	16
What Your Attorney Needs to Know.....	17
How to Pay Your Attorney	17-18
IV. How Does a Civil Lawsuit Work?.....	20-23
Civil Procedure Explained	20
Pre-Trial Events	20-22
Trial.....	23
Post-Trial Motions	24
Civil Procedure Outline	25
V. Conclusion	27
Appendix I: Definitions	27-35
Appendix II: Questions to Ask the Attorney	38-40
Appendix III: Questions to Ask Yourself	41-43
Appendix IV: Attorney Referral Services.....	43
Appendix V: WCSAP Member Programs	44-46
Index	47

USING THIS GUIDE

Efforts were made to make this booklet as gender-neutral as possible. At times, however, this booklet uses “she” to refer to the sexual assault survivor and “he” to refer to the perpetrator because women and girls are more often sexually assaulted and men are more often the attackers. We recognize that there are men who are survivors of sexual assault and that the prevalence of such assaults may not be fully known due to underreporting. We also recognize that there are women who are perpetrators. Sexual assault survivors who file a civil lawsuit have similar experiences whether they are women or men.

Some words appear in italics in this guide. The definitions for these words may appear within the guide’s text; all definitions appear in the appendix beginning on page 27.

DISCLAIMER

This guide is not intended to and does not provide legal advice, assistance or representation. WCSAP encourages survivors to consult an attorney licensed in the appropriate jurisdiction regarding their particular case.

I. INTRODUCTION

In the last several decades, advocates in the anti-rape movement and their allies worked to name sexual violence against children and adults as an overwhelmingly unacknowledged social problem. This work has led to sweeping changes in legislation nationally and at the state level in the efforts to stop rape and sexual abuse. We've also seen the development of rape crisis centers across the nation where survivors can find support, information and advocacy. And we've witnessed efforts to institute sexual assault training for the social systems that survivors often must encounter, such as police departments, child protective service agencies, therapy services and hospitals.

While such important change has improved the response to sexual assault survivors, sexual violence continues to plague our society, with estimates that one of every four girls and one of every six boys will have experienced a contact sexual offense by the time they are eighteen years old.¹ In 1999, while overall violent crime decreased, reports of sexual assault increased by 33.3% in the U.S. In the same study, reports of rape increased by 20%.² In a combined study, the National Institute of Justice and Centers for Disease Control and Prevention in 1998 determined that nearly 18 percent of women in the United States have been raped or were the victim of attempted rape at some point during their lives.³

While rape and childhood sexual abuse are criminal acts punishable by law in the U.S., criminal prosecution of a *perpetrator* is not the only legal remedy available for a survivor. Civil lawsuits have become additional avenue that survivors can take on the journey toward healing. In the 1980's, civil lawsuits filed by survivors of rape and childhood sexual abuse against their perpetrators began to enter Washington State courts. In response to grassroots efforts by a survivor and her allies, Washington State lawmakers passed legislation in 1988 that recognizes repressed memories as a result of trauma from childhood sexual abuse. Still in effect, this legislation allows the statute of limitations to begin for adult survivors at the time the abuse is remembered.

The purpose of this guide is to help you, the *survivor* or guardian of a child survivor, understand the advantages and disadvantages of suing your perpetrator or other responsible parties in civil court. Section II outlines the

¹ Finkelhor, David. "Current Information on the Scope and Nature of Child Sexual Abuse." *The Future of Children*, Vol. 4, No. 2, 1994.

² Rennison, Ph.D., Callie Marie. "Criminal Victimization 1999: Changes 1998-9 with Trends 1993-9." Bureau of Justice Statistics, National Crime Victim Survey, U.S. Department of Justice. August 2000. Reports of sexual assault and rape were of victims aged 12 years or older.

³ Patricia Tjaden and Nancy Theonnes, National Institute of Justice, "Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey," 3 (1998).
<http://ncjrs.org/txtfiles/172837.txt>.

personal, financial and legal factors that may influence a decision to file a lawsuit. Section III addresses the relationship between you and your attorney, and provides some questions to guide you through the attorney-selection process. Section IV chronologically describes each step of a civil lawsuit. The guide concludes with questionnaires to aid you in selecting an attorney and contact phone numbers for WCSAP member programs and attorney referral services.

Use the information in this guide to help you determine whether a civil lawsuit is right for you. Consult your attorney, rape crisis advocate and *therapist* (if you are in counseling) when making this decision. These professionals can help you determine whether a civil suit meets your needs. Keep in mind that a decision not to sue also can be empowering. Ultimately, you must make the decision that is best for you. Also keep in mind that this guide is tailored to those able to make informed choices about their own healing journey. If you are a guardian interested in pursuing a civil lawsuit on behalf of a child, there are additional factors to consider regarding the child and yourself. Consult with an attorney or child advocate to discuss these matters.

You are to be commended for coming so far on the difficult journey of healing from sexual violence. Knowledge is power. Properly informed, you will be able to make the decision that is right for you.

II. SHOULD YOU FILE A CIVIL SUIT?

A decision to file a civil lawsuit based upon sexual assault requires careful consideration. For some survivors, a civil suit can be an empowering experience and an important step in the healing process. A civil suit, however, is expensive, time consuming and not always successful. It can drain your emotional resources and affect your recovery because it exposes your private life to the defendant and, in some instances, to the media. This section explains how a civil suit differs from a criminal proceeding, introduces you to the costs and benefits of filing a civil suit and outlines the personal and legal factors you should consider.

CIVIL SUIT DEFINED

A civil lawsuit enforces, remedies or protects private rights; loosely defined, it is any suit that is not a criminal proceeding. Civil suits differ from criminal suits in many respects. Civil suits are private lawsuits, meaning that a *plaintiff* (you, the survivor) initiates the action. By contrast, in a criminal proceeding, a representative of the state (the Prosecuting Attorney) initiates the action. The benefits of a civil lawsuit are that you have more control over the case and may confront your perpetrator, if you choose. The downside is that you may have to pay the cost of the suit, which could easily be tens of thousands of dollars. In contrast, in a criminal trial, the county where the trial is conducted pays for the trial.

Civil and criminal proceedings differ in several other ways. Civil suits involve a lesser standard of proof than criminal cases. The burden of proof in civil cases is known as the *preponderance of the evidence*, which means that the evidence proves that the claim more likely than not occurred. By contrast, the standard of proof for criminal trials is “*beyond a reasonable doubt*,” but a conviction only requires proof of *liability*; proof of injuries is not necessary. In a civil suit, you must provide proof of all harms claimed, and must prove the damages that you claim for each injury in order to receive *money damages*. *Damages* are the legal system’s method of remedying the harm the perpetrator caused by making the perpetrator pay you money. These damages are called *compensatory damages*, and are meant to compensate a plaintiff for the harm sustained. Currently, Washington state does not allow for *punitive damages*, which are damages awarded by the court specifically to serve as punishment. In some circumstances, if the perpetrator tries to leave Washington or hides or removes his or her *assets* from this state, the court may *attach* the perpetrator’s property when you file your suit.

A civil court is not able to imprison the perpetrator or require therapy – only a criminal proceeding may accomplish that. Finally, either party who loses a civil suit may file an *appeal*. Only the *defendant* may appeal after losing in a criminal trial.

Ask yourself,
What are my
personal goals in
filing a suit?

WHY SUE: PROS AND CONS

Although a civil suit cannot undo the harm the perpetrator caused, damage awards and the opportunity for vindication make these suits attractive to some survivors. It is important to know, however, that a civil lawsuit is expensive, time consuming and may open the emotional wounds you worked hard to heal. Carefully weigh the pros and cons of filing a civil suit, and remember that a decision not to sue also can be an empowering experience. The most important part of this decision is that **you** choose, and decide what is best for you. Below is a list of possible pros and cons to consider when deciding whether to bring a civil lawsuit for sexual abuse or rape (for considerations on the relationship between civil and criminal suits, see page 8). Note that many of the pros would only apply with a successful civil suit.

Pros

- expose the wrongdoings of the perpetrator
- compensation for damages: money for medical or therapy bills, pain and suffering, lost wages, *loss of consortium*, loss of enjoyment of life
- emotional empowerment
- opportunity to tell your story
- vindication
- acknowledgement by the perpetrator
- acknowledgement by the community
- assist your recovery and healing
- punish the perpetrator
- publicly confront the perpetrator
- strip the perpetrator of power or secrecy
- support from family and friends
- put your community on notice about the perpetrator

Cons

- cost of hiring an attorney and filing a lawsuit
- time for work on the case, meetings with your attorney, attending court, etc.
- length of proceedings (6 months to two years)
- trial would most likely be open to the public
- loss of confidentiality
- loss of privacy and potential media exposure
- perpetrator present at trial and deposition
- reliving your abuse and delaying your healing process
- alienation from family and friends
- perpetrator may not have the money to pay damages, or it may be difficult to collect
- community members may not believe you
- perpetrator may file a *countersuit*
- perpetrator may claim *defamation* (rare)
- perpetrator may have the right to have you evaluated by a psychologist or psychiatrist and may choose the evaluator

FACTORS TO CONSIDER

Many factors will influence your decision regarding whether to file a civil suit, including the requirement that you make otherwise private information public, the amount of time and money you will spend pursuing the lawsuit, and whether or not the defendant has assets to pay a damages award to you. This section describes these factors at length.

LOSS OF PRIVACY

By bringing a civil suit, you probably will lose a great deal of privacy. A civil suit stems from your claim that the defendant(s) harmed you in some way. Also, *rape shield laws* that offer protection in criminal cases do not apply in civil cases. Consequently, it is your *burden* to present evidence of this harm to the court. To do this, you may have to publicize information that otherwise would have been private. You may feel that some of this information about you is negative, but it nevertheless is an element of your claim. Through pre-trial *discovery*, the defendant can obtain personal information about you such as your psychiatric and medical records, and your employment and educational history. You will also obtain information about the defendant; however, the defendant can investigate so much of your personal life that it may seem as if you are the person on trial. To illustrate, below is a list of some of the evidentiary items the defendant might gather during discovery:

- pediatric records
- psychiatric records
- medical records
- whether you have ever been hypnotized
- gynecological records
- educational history
- employment history
- other claims/lawsuits you have brought in the past
- journals or diaries
- credit history
- criminal record
- past sexual history (consensual and non-consensual)
- victim's compensation records
- letters
- photographs
- drawings
- videos
- blood tests
- DNA tests
- psychiatric exams
- medical exams
- gynecological exams
- driving history
- tax returns
- family member testimony
- witness testimony
- calendars or planners
- address books
- doctor's bills
- therapy bills
- information about your social life
- alcohol use
- drug use
- telephone records
- answering machine messages
- computer files

During discovery, even people other than the defendant and the judge may review your claims of being injured. For example:

A settlement can be reached at any time before or during the civil procedure.

The perpetrator or the court may request that you undergo physical or mental exams to determine the existence and extent of the injuries you claim. You must submit to the exam, but may have your attorney present. The defendant must pay for the exam. Washington Superior Court Civil Rule 35.

As in a criminal trial, an expert witness may testify about your injuries, especially if you claim to suffer from a *posttraumatic stress disorder* including *rape trauma syndrome*. To do that, the expert may review your records and/or interview you. Washington Superior Court Civil Rule 35.

If your claim includes *recovered memories* of past sex crimes, the perpetrator or other defendant(s) might accuse you of fabricating the memory or claim that your therapist “implanted” the memory. When a survivor refers to recovered memories, the defendant(s) often asserts that the survivor suffers from *false memory syndrome*. He may even hire an *expert witness* to testify at trial to “disprove” your claims. This public and direct challenge to the validity of the harm that you experienced might seriously affect your recovery and your relationship with your therapist, advocate or attorney.

Although the scope of discovery may intimidate you, remember that you also have the opportunity to gather information about the defendant. Since, however, you are the one making the claim, there may be a greater burden on you to produce information. Generally, in civil cases, there is a greater burden on the plaintiff than on the defendant to produce information.

WAIVER OF CONFIDENTIALITY

Although discovery exposes much personal information about your life, some information is protected by *privileges*. The communications (discussion, correspondence and records) between you and certain professionals are *confidential* and may not have to be revealed in a civil lawsuit. The degree of confidentiality you have with each professional is different. While these privileges exist, you should assume that any information about your personal life will be subject to examination as a result of pursuing a civil lawsuit. The privileges are described below.

Attorney-Client Privilege: Absolute Privilege

The *attorney-client privilege* protects your communications with your attorney, meaning the attorney cannot release information without your consent. This privilege is absolute. The privilege begins at the *initial consultation* and continues until waived by you; it also applies to the attorney’s office personnel who work on your case. RCW 5.06.060 (2), RPC 1.6.

Rape Crisis Center: Qualified Privilege

In Washington, the law states that records maintained by rape crisis center counselors and advocates are not available as part of *discovery* unless the

defendant convinces the court that they are relevant. Before the trial, the defendant must make a written request to the court accompanied by an affidavit with specific reasons why the records are necessary. The court then reviews the records *in camera* to determine if records are relevant. The court must then enter an order stating whether any part of the records are *discoverable* and why. The court decides whether or not to uphold these qualified privileges in civil cases. RCW 70.125.065.

Verbal communications with advocates at rape crisis centers are considered privileged. An advocate cannot be *examined* without the consent of the survivor, except in circumstances where the survivor is at risk of injuring herself or himself or others. RCW 5.60.060 (7).

Non-Rape Crisis Center Therapist

Your communications with a therapist are considered confidential. However, by filing a suit for personal injuries, you waive what is called your physician-patient privilege, which includes privileged communications with your therapist. Your communications with a therapist can be obtained ninety (90) days after filing a suit. RCW 5.60.060.

Voluntary Waiver of Confidentiality

Although specific laws protect each of the relationships above, in some cases you may decide, or the court may rule, that information shared with those professionals be released.

The privilege you have with your rape crisis advocate states that the verbal discussions you have together are private unless *you* decide to waive that privilege. As discussed earlier, in a civil suit, you have the burden of proving both that the perpetrator committed the wrongful act and that you were harmed by it. Many sexual assault survivors do not suffer physical injuries but may suffer severe emotional and psychological injuries. You have the burden of proving to the court what those injuries were.

Many people may be able to testify about the injuries you suffered, including you, family members, friends and co-workers. They can describe the symptoms you displayed after the assault. While it is generally inadvisable to waive your privilege, you and your attorney may decide that the most effective way to prove those injuries is to have your rape crisis advocate testify about the harms you suffered. To allow your advocate to testify, you must waive your privilege, which means that your advocate can testify to anything that you ever discussed with her or him.

The decision to waive your confidentiality is yours. You never have to waive your confidentiality, but to continue with a civil suit, you may have to make the difficult decision between maintaining the privileged relationship with your rape crisis advocate and allowing her or him to testify. Consult your attorney and your rape crisis advocate about the pros and cons of waiving this privilege before you do so.

Court-Ordered Release of Confidential Records

If a judge orders you to release your records, you must do so. Keep in mind that in a civil suit it is your burden to provide the court with evidence of any injuries the perpetrator caused. Washington Superior Court Civil Rule 26C.

You can, however, ask your attorney to place a protective order on your records, which means that they can only be given to the named parties, and not be made available to the public. However, this does not always guarantee full protection of your records. For example, in high profile cases, the media may petition to review your records arguing that the public has a right to know. The decision to allow media access is left to the courts.

COST

It is not unusual for a civil suit to cost tens of thousands of dollars. You and your attorney will create a fee-payment system as discussed on page 17 and 18. Keep in mind that you are responsible for all *out-of-pocket expenses*, regardless of the outcome of your case, in addition to the cost of representation. These may include paying expert witnesses whom you hire (such as doctors or psychologists who testify about your injuries), the cost of transcribing *depositions*, incidental expenses (photocopying, travel costs and phone calls), court fees and sheriff's costs. Sheriff's costs can include serving fees, as well as *prejudgment attachments*, and fees for serving someone in prison.

TIME

It may take six months to two years from the time you file your case until it goes to trial, depending on the county in which you file. This is partly due to an overloaded court system; another factor is any pending criminal proceedings on your behalf. It might be advisable to wait until after the criminal case is over before filing your civil suit, for several reasons. First, a criminal conviction may strengthen your civil case and increase the number of people who are liable. Second, criminal defense attorneys sometimes use a survivor's civil suit against her to question her motivation in the criminal proceedings. Filing a civil suit before or during a criminal proceeding may negatively affect the sentencing in criminal proceedings. Third, therapy, medical and rape crisis records are less protected in civil proceedings than in criminal. If you file a civil suit, many of your records will have been reviewed by the defense. It is more likely that they will be available to the defense in a criminal trial. Discuss these matters with your attorney.

AVAILABILITY OF DAMAGES

If you are successful in your civil suit, the compensation you will receive for your injuries is called “damages.” *Damages* is a sum of money paid by one or more defendants to compensate the plaintiff for the injury the defendant(s) caused her. Whether or not a perpetrator has assets to pay damages can influence your decision whether to bring a civil suit. One method of determining whether a perpetrator has assets is by examining public records (e.g., land records) where he lives. If a perpetrator does not have any assets, you may not collect an award of damages and your attorney may not get paid, especially if your attorney is working on a *contingency fee* basis. Your attorney will review with you the likelihood of collecting damages from a particular defendant.

AVAILABILITY OF A CIVIL SUIT

Before making a decision, it helps to understand the who, what, where and when that shape a civil suit. This section describes the legal issues affecting your suit that should be discussed with your attorney. You may raise as few or as many claims as you deem necessary.

WHOM TO SUE

You are not limited to suing the perpetrator; you can sue any person, institution or organization directly or indirectly involved with the sex offense. Keep in mind that a criminal conviction might expand the number of liable persons. Examples of defendants in sexual assault civil suits include:

parents	therapists	employers
stepparents	coaches	shopping centers
grandparents	schools	restaurants
uncles or aunts	boards of education	railroad companies
siblings	the State of WA	bus companies
spouses	counties	perpetrator’s estate
dating partners	daycare providers	neighbors
family friends	doctors	babysitters
accomplices	youth clubs	law enforcement
co-workers	churches and dioceses	agencies
teachers	classmates	insurers
clergy members	landlords	
counselors	hotels or motels	

WHAT HARM TO CLAIM

A civil lawsuit may address many types of harms or injuries arising from a sex offense. The underlying contact may have involved sexual touching or penetration. It may involve other kinds of restraint and violence. It may have

happened once or many times. Your attorney will advise you about the types of claims you may raise. Examples of these *causes of action* include:

Personal Injury: harm done to your body or your personal rights.

Medical Expenses: money paid to reimburse the money you paid as a result of the assault. This can include psychotherapy bills.

False Imprisonment: unlawful detainment or confinement.

Assault: an attempt to physically harm you. This does not require actual touching and is usually combined with *battery*.

Battery: intentional harmful or offensive physical contact that occurs without your permission.

VOCA claims: *Victims of Crime Act* of 1984, federal statutes that include prohibiting violence against women.

Hate Crimes: crimes based on gender, race, religion or sexual orientation.

Lost Wages: earnings you lost as a result of the sexual assault.

Intentional Infliction of Emotional Harm: acts done with the intent to cause severe emotional harm.

Negligent Infliction of Emotional Harm: acts that a reasonable person should know would cause harm.

Loss of Consortium: loss of relationships with your partner, including companionship, support and sexual relations.

Sexual Abuse/Childhood Sexual Abuse: sexual acts involving a minor.

Child Exploitation: conduct which induces children to engage in harmful activities.

Sexual Exploitation by a Therapist: acts that occur when a therapist sexually abuses a patient or former patient.

Abduction: kidnapping or otherwise taking a person away through fraud, persuasion or violence.

Seduction: situations in which a perpetrator entices a survivor to have intercourse.

Outrage: behavior that is so extreme it is intolerable in a civilized society.

Injury or Death of a Child: parents' loss of love and companionship of their child, or destruction of the parent-child relationship.

WHERE TO SUE

The location of your suit depends upon the claims you assert. Typically, the state court of the county where the perpetrator lives or where the sexual assault happened hears your civil suit. A federal court may hear your suit if it contains a federal claim (e.g., one arising under *VOCA*) or if *diversity* exists (the perpetrator is from another state and you sue for at least \$75,000). Consult an attorney regarding where to sue as early as possible so that you can locate an attorney licensed in the appropriate *jurisdiction*.

WHEN TO SUE

The *statute of limitations* provides the deadline for filing your suit. This deadline prevents (*bars*) the court from hearing any case you file after the

provided time period expires. This is the tool most often used to defeat claims of childhood sexual abuse. The time period extends (*tolls*) in specific situations. Keep in mind that different laws govern criminal statutes.

If you are contemplating filing suit, consult with an attorney as soon as possible. It is important to determine the correct jurisdiction and the applicable statute of limitations as soon as possible so that your claims are not barred because you filed them too late or in the wrong place. Most attorneys who handle these cases will give a free initial consultation. In that consultation, you can review these issues and the question of whether any extensions of the statute of limitations may be available in your case.

Washington was the first state to enact legislation regarding the statute of limitations for adult survivors of childhood sexual abuse: RCW 4.16.340. The statute of limitations begins at the time the survivor remembered the abuse occurred, or recognized that injuries they have are related to the abuse. The full text, findings and notes read as follows:

*Discovery rule:
A rule that
delays the
commencement
of a statute of
limitations period
until the survivor
discovers the
wrongful act
occurred and that
she or he was
injured by the
wrongful act.*

RCW 4.16.340: Actions Based on Childhood Sexual Abuse.

(1) All claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall be commenced within the later of the following periods:

- (a) Within three years of the act alleged to have caused the injury or condition;
- (b) Within three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act; or
- (c) Within three years of the time the victim discovered that the act caused the injury for which the claim is brought:

PROVIDED, that the time limit for commencement of an action under this section is tolled for a child until the child reaches the age of eighteen years.

(2) The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse or exploitation.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a person under the age of eighteen years.

(4) For purposes of this section, "child" means a person under the age of eighteen years.

(5) As used in this section, "childhood sexual abuse" means any act committed by the defendant against a complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed.

[1991 c 212 § 2; 1989 c 317 § 2; 1988 c 144 § 1.]

NOTES:

Finding -- Intent -- 1991 c 212: "The legislature finds that:

- (1) Childhood sexual abuse is a pervasive problem that affects the safety and well-being of many of our citizens.
- (2) Childhood sexual abuse is a traumatic experience for the victim causing long-lasting damage.
- (3) The victim of childhood sexual abuse may repress the memory of the abuse or be unable to connect the abuse to any injury until after the statute of limitations has run.

(4) The victim of childhood sexual abuse may be unable to understand or make the connection between childhood sexual abuse and emotional harm or damage until many years after the abuse occurs. (5) Even though victims may be aware of injuries related to the childhood sexual abuse, more serious injuries may be discovered many years later. (6) The legislature enacted RCW 4.16.340 to clarify the application of the discovery rule to childhood sexual abuse cases. At that time the legislature intended to reverse the Washington supreme court decision in *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986).

It is still the legislature's intention that *Tyson v. Tyson*, 107 Wn.2d 72, 727 P.2d 226 (1986) be reversed, as well as the line of cases that state that discovery of any injury whatsoever caused by an act of childhood sexual abuse commences the statute of limitations. The legislature intends that the earlier discovery of less serious injuries should not affect the statute of limitations for injuries that are discovered later." [1991 c 212 § 1.]

Intent -- 1989 c 317: "(1) The legislature finds that possible confusion may exist in interpreting the statute of limitations provisions for child sexual abuse civil actions in RCW 4.16.190 and 4.16.340 regarding the accrual of a cause of action for a person under age eighteen. The legislature finds that amending RCW 4.16.340 will clarify that the time limit for commencement of an action under RCW 4.16.340 is tolled until the child reaches age eighteen. The 1989 amendment to RCW 4.16.340 is intended as a clarification of existing law and is not intended to be a change in the law.

(2) The legislature further finds that the enactment of chapter 145, Laws of 1988, which deleted specific reference to RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b) from RCW 9A.04.080 and also deleted those specific referenced provisions from the laws of Washington, did not intend to change the statute of limitations governing those offenses from seven to three years." [1989 c 317 § 1.]

Application -- 1988 c 144: "Sections 1 and 2 of this act apply to all causes of action commenced on or after June 9, 1988, regardless of when the cause of action may have arisen. To this extent, sections 1 and 2 of this act apply retrospectively." [1988 c 144 § 3.]

Below is a summary of state, federal and related statutes of limitations for civil lawsuits.

WASHINGTON STATUTES OF LIMITATIONS FOR SEXUAL ASSAULT AND SEXUAL ABUSE

Adult Victims of Sex Offenses: An individual aged eighteen (18) years or older who is sexually assaulted must file a civil suit within two (2) years after the assault occurred for claims of assault and battery. RCW 4.16.100.

Adult Survivors of Childhood Sexual Abuse: The three (3) year statute of limitations begins when the survivor aged eighteen (18) years or older discovers or should have discovered the abuse and related injury. RCW 4.16.340.

Minor Victims: The three (3) year statute of limitations for a minor survivor (under the age of eighteen) filing a civil suit for a cause of action other than

sexual abuse (for sexual abuse, see RCW 4.16.340) begins running when the survivor turns eighteen (18) years of age. RCW 4.16.190.

FEDERAL STATUTES OF LIMITATIONS

General Statute of Limitations: Any civil suit arising under a congressional act (including VOCA) has a four (4) year statute of limitations from the time the abuse happened, unless provided otherwise. 28 U.S.C. §1658 (1994).

Minor Victim of Sexual Assault under Federal Law: For a minor who is a survivor of sexual assault, the statute of limitations does not begin to run until the survivor reaches age twenty-five (25). 18 U.S.C. §3283 (1994).

WASHINGTON STATUTES OF LIMITATIONS FOR RELATED OFFENSES

Personal Injury: Suits to recover damages for *personal injury* must be filed within three (3) years after the act occurred. RCW 4.16.080.

Sexual Exploitation by a Therapist: A survivor may sue a therapist, if the therapist sexually exploited the her or him while in therapy until three (3) years after the exploitation or discovery of the abuse. RCW.4.16.340.

Assault, Assault and Battery, and False Imprisonment: Suits to recover damages from an assault, assault and battery and false imprisonment must be filed within two (2) years of incident. RCW 4.16.100.

All Other Personal Injuries not Provided for Within Washington Law: If a statute does not specifically address the cause of action, it may be pursued in civil court until three (3) years after it arose. RCW 4.16.080.

Death of Survivor: If the survivor dies, the designated representatives may file a suit on the survivor's behalf any time after the statute of limitations as long as it is within one (1) year of the survivor's death. RCW 4.16.200.

Death of Perpetrator: If the perpetrator dies, the survivor may file a claim against the perpetrator's estate if it is within the statute of limitations and within four (4) months of the published death notice or within thirty (30) days of written notification by an appointed personal representative. If proper notification was not given, the survivor has twenty-four (24) months to file suit. RCW 11.40.051.

Many of the statutes of limitations described above may be extended if the common law *discovery rule* applies to them. The discovery rule states that a person who is injured has three (3) years from the time that they know or should have known that 1) the wrongful act occurred, and 2) that they were injured by the wrongful act to file a lawsuit for the injury. Application of the

discovery rule happens on a case-by-case basis. Your attorney can help you assess whether the discovery rule may apply in your case.

The statute of limitations and its application to your claim is highly technical. If you think you might want to pursue a civil lawsuit, contact an attorney familiar with these kinds of cases as soon as possible.

Select an attorney with whom you are comfortable and whom you trust.

III. YOU AND YOUR ATTORNEY

You need an attorney for your civil suit. This section explains what services the attorney provides, lists some questions to ask the attorney and yourself to guide you through the selection process, and describes common fee-payment systems.

THE ATTORNEY'S ROLE

A civil suit is a private lawsuit; therefore, you must hire your own attorney. This is different from a criminal proceeding where a prosecuting attorney represents the State of Washington.

At your first meeting, the attorney advises you about the strength of your case, determining the likelihood of success if you decide to sue. If you decide to hire this attorney, and this attorney accepts your case, the attorney acts on your behalf when communicating with the defendant(s) and the court. The attorney handles the legal aspects of your case, although you have input regarding how the attorney approaches your case.

SELECTING AN ATTORNEY

Select an attorney with whom you are comfortable and whom you trust. She or he should be familiar with sexual assault cases. You may find a desirable attorney in a number of ways, but it is best to get information about an attorney from more than one source and preferably with referrals. Some sources of information follow:

- family and friends
- other survivors
- your support group
- local attorneys
- local rape crisis centers or hospitals
- therapists
- legal directories

A few possible questions to ask when getting a referral are:

- How do you know this attorney and what can you tell me about her or him?
- Do you have any experience working with this attorney? If so, what was the experience like?
- Do you know if the attorney has successfully handled sexual abuse or rape cases before?

For additional resources and phone numbers, refer to page 43.

QUESTIONS TO ASK AND CONSIDER

Before contacting an attorney, it is helpful to consider your own personal goals in filing a suit. Ask yourself, “what are my personal goals in filing this suit?” After identifying a few attorneys, call them to arrange an initial consultation. The attorney may ask you a few pre-screening questions over the phone to determine whether your claims are timely and whether she or he is licensed in the jurisdiction where you are likely to file suit. Frequently the initial consultation is free, but you should confirm this when making your appointment. Do not worry about telling these attorneys the facts of your case. The attorney-client privilege protects the initial consultation, which means that neither the attorney nor the attorney’s staff may tell anyone your information unless you give them specific permission.

This is your opportunity to “comparison shop” and interview attorneys. Do not be afraid to ask the questions that follow, and bring the checklist on page 36-38 with you to the meeting.

QUESTIONS TO ASK THE ATTORNEY

How long could this case take?

- How long do I have to file?
- How soon could you start working on my case?
- What is your action plan?

What is my chance of winning?

- What is the law on these issues?
- Does the law work for or against my case?
- Would you go to trial with this case, or would you settle it out of court?

Have you handled other cases like this? If so, how many?

- Were those cases successful?
- Have you handled cases involving recovered memories?
- How would you handle a defense strategy alleging false memory syndrome?
- Will you be the attorney working on this case or would other attorneys work on this as well?
- Can highly sensitive matters be placed *under court seal* or fictitious names used?
- Have you ever represented the perpetrator before or do you have any other connection with the perpetrator?

How much will I participate in this suit?

- What is the policy for keeping me informed about my case?
- What information from my personal life will you need (e.g., counseling records, medical records, family history)?

How much will this cost?

- Will there be a retainer fee? If so, how much?
- Approximately what will the out-of-pocket costs be?
- What other costs besides your fee will I have to pay?
- How do you arrange fee payments?
- What forms of payments do you accept?

Trust your research and your instincts when reflecting on your initial contact with potential attorneys.

After the initial consultation, the attorney evaluates the strength of your case, decides whether a statute of limitations bars the case and assesses whether the perpetrator has money to pay damages. Based on this information, he or she decides whether or not to take your case.

At the same time, you should evaluate whether you feel comfortable working with this attorney. Your relationship with this attorney will be long-term, since civil suits often take several years. The attorney you select will learn all about your private life and the sexual assault during the course of the representation. Trust your research and your instincts while asking yourself the following questions:

QUESTIONS TO ASK YOURSELF

Was the attorney comfortable with and knowledgeable about sexual victimization?

- Did the attorney seem to know about this type of law?
- Am I comfortable telling this attorney personal information?

Am I comfortable with the way my case will be handled?

- Did this attorney accept and understand my goals in filing this suit?
- Will this attorney, and not an assistant, handle my case?
- Did this attorney focus only on taking my case to trial, or only on settling the case?
- Did the attorney talk to me in ways I could understand?
- Did the attorney explain the strengths and weaknesses of my case, and the laws that apply?

Was the attorney respectful and polite?

- Did the attorney focus on me at the meeting or were there lots of interruptions (phone calls, office staff, etc.)?
- Did the attorney, an associate, a clerk or a paralegal interview me?
- Did I feel I would participate in the decision-making?
- Did I feel like a real person and not just another case?
- Did the attorney put me at ease?

What is my gut reaction?

WHAT YOUR ATTORNEY NEEDS TO KNOW

The attorney needs to ask you questions in order to evaluate your case. It is critical that you share information with your attorney so that he or she can assess both the strengths and weaknesses of your claims. Be open and honest with the attorney, even at the initial consultation. The attorney-client privilege protects your conversations with your attorney. The attorney will need to know at least the following:

- when the injury occurred
- where the injury occurred
- the identity of the perpetrator
- the type of injury you suffered
- what treatment you had or are having
- whether there is a pending criminal prosecution, or what the result was if it has finished

HOW TO PAY YOUR ATTORNEY

There are several ways to structure a fee-payment system. Directly ask your attorney which method he or she uses, and whether you can create a flexible schedule that works for both of you. Regardless of the method used, all of the payment systems guarantee that two things will occur. First, the *Rules of Professional Conduct* require that the attorney put your fee arrangement in writing and provide you with a copy. Second, you are responsible for all out-of-pocket expenses. The following are typical payment methods:

Contingency Fees: This method is the most common for sexual assault civil lawsuits. Under this agreement, the attorney is paid a percentage of any money damages you win. The Rules of Professional Conduct require that your attorney describe the fee assessment to you in writing and provide you with a written statement showing how he or she calculated the bill after your suit. R.P.C. 1.5 (1996). Because the attorney bases a contingency fee on the money the defendant must pay you, it is critical to determine beforehand whether the defendant has sufficient assets. Regardless of the outcome, you are responsible for all out-of-pocket expenses, but not for additional fees. If your suit is unsuccessful, you do not have to pay a contingency fee.

If, after consulting several attorneys, you are unable to find one that will take your case on a contingency fee basis, you may need to consider other payment options. The fact that attorneys are not willing to take your case on a contingency basis also may reflect the viability of your legal claim or the recoverability of damages in your case. If multiple attorneys are not willing to risk time and money to pursue your case, they probably do not believe that you will be able to recover a worthwhile amount of damages. This does not mean that the assault did not happen or that you were not harmed by it. It may mean, however, that your claim is not well suited for the civil legal system.

Hourly Fees: Under this arrangement, the attorney charges you a fixed hourly rate for all the time she or he spends working on your case, including research, phone calls, depositions, travel, typing, copying, court appearances and certified mailings. The attorney bases this method on his or her standard hourly rate. Hourly rates may vary from approximately \$100 to \$200 and can be much higher. Legal fees based on an hourly rate can mount quickly especially in complex sexual assault cases. As a result, this method is not generally recommended for plaintiffs in sexual assault cases. This method is not based on the defendant's ability to pay. Cases paid for on an hourly basis usually require a *retainer* (advance payment). You must pay fees and out-of-pocket expenses as the case goes along and regardless of the outcome.

Sliding Scale Fee: In this payment system, the attorney lowers his or her hourly fee according to your ability to pay. Attorneys infrequently use this method because sexual assault civil suits are often expensive and time consuming.

Pro Bono: In this arrangement the attorney works for free, but you must pay the out-of-pocket expenses. A law firm able to donate its time and money might provide pro bono services, as may an attorney seeking to branch into a new field of law. Because of the complexity of sexual assault cases, public interest organizations or legal clinics very rarely handle these cases.

Project-Based Fee: In this arrangement, the client pays the attorney a flat fee for the entire case. This format is not used very frequently in personal injury cases.

Retainer Fee: Loosely defined, a "retainer" is a sum of money the survivor pays the attorney early in the representation. It frequently serves as a reserve of money that the attorney can use to pay costs, such as filing fees.

Retainers serve other purposes as well. For example, a retainer ensures an attorney's availability over a period of time, with the attorney keeping the money even if he or she does not do any work for the survivor during that time. A retainer also may pay for future services, by allowing the attorney to use the sum as payment for work the attorney completes (*quantum meruit*). Finally, a retainer pays the fees and costs an attorney incurs as the representation progresses.

Advancement of Out-of-Pocket Expenses: In some circumstances, an attorney may agree in advance to pay for out-of-pocket expenses, usually with the expectation that the survivor will reimburse the attorney from the damage award she receives. The attorney may charge interest for these advances.

Regardless of the payment method used, all billing issues should be put in writing at the beginning of the case. Otherwise, conflicts over payment issues can strain the relationship between you and your attorney. However, any such conflict will not compromise the attorney-client privilege.

Washington State courts are generally open to the public. You may want to consider observing a civil trial to help you decide if it is right for you. Contact the court in your county to find out when civil trials are heard.

IV. HOW DOES A CIVIL LAWSUIT WORK?

Civil procedure – the steps through which the court hears a civil suit – is complex. This contributes to the cost of your suit and the length of time it may take the court to resolve your case. This section walks you through the possible occurrences within a typical suit, and concludes with an outline of civil procedure. Be aware that every case differs in length and the specific steps involved. The process summarized below is intended to provide a general overview of steps common to many civil sexual assault cases.

CIVIL PROCEDURE EXPLAINED

Make a decision whether or not to sue after considering factors such as those presented in this guide. If you are seeing a rape crisis advocate or a therapist, discuss these issues with her or him as well as with an attorney, all of whom can help you determine whether you are ready for, or require, this step. Most of all, listen to yourself. This is your decision to make.

If you decide to sue, your case progresses through three general stages: pre-trial events, the trial itself and post-trial motions. This section explains civil procedure and provides a glimpse of what you might experience if your case proceeds to court.

PRE-TRIAL EVENTS

Hire an Attorney: Find an attorney to represent you. The questionnaires and phone numbers included in the appendix may help you with this process.

Demand Letter: After you hire an attorney, he or she may send the perpetrator (or other people potentially liable for the assault) a *demand letter* to notify him that you intend to sue, and to offer him the opportunity to meet your demands before your attorney files the *Complaint*. For strategic reasons, your attorney might choose to forego sending a demand letter and simply file the complaint.

Complaint: Filing the Complaint with the court formally begins your civil suit. The Complaint is a document that states your claims and supporting facts, and lists the damages you seek. Your attorney must pay a *filing fee* to file the Complaint with the court. Filing a Complaint in Washington costs approximately \$110. This is an out-of-pocket expense which you ultimately are responsible for paying.

The Complaint and other papers filed with the court are called “*pleadings*.” Pleadings are usually a matter of public record available to the public and the media. Reporters often scan new Complaints and may report on your case, particularly if a high-profile defendant(s) is involved.

Service of Process: When the attorney files the Complaint with the court, she or he must serve the perpetrator a *Summons*. A sheriff or process server must deliver a copy of the Complaint to the perpetrator. This *service of process* assures the court that the perpetrator knows about the suit. Service of process requires a fee of approximately \$50-\$200 or more depending on the number of defendants and difficulties in service. Again, this is an out-of-pocket expense which you must pay.

Prejudgment Attachment Hearing: You can request that the court issue a prejudgment attachment, which would allow the court to seize the property of the perpetrator so that if you win your case, you will be able to collect your judgment through the sale of the seized property. Ordinarily, a hearing must be held before the attachment takes place, and most courts require you to post a bond for any damages that result from the seizure (especially if you ultimately lose the law suit).

Motion to Dismiss: The perpetrator and other people who could be liable for the assault (now called the defendant(s)) may file a *Motion to Dismiss* with the court, requesting that the court drop the case. The defendant(s) may claim that you have no legal case, that a statute of limitations bars your case, that the court lacks jurisdiction (meaning it does not have the power to hear the case based upon its subject matter or where the defendant lives), or that you have not claimed a harm the court can remedy.

Answer: In the *Answer*, the defendant(s) must respond to your Complaint by admitting or denying each of the claims you raise and/or raising *counterclaims* against you.

- **Counterclaim:** The defendant(s) files suit against you claiming that you harmed him in some way. For example, he might claim defamation. Claiming defamation is rare, however, because a statement is not defamation if it is true.
- **Special Defenses:** The defendant might state that he has a *defense* to your claim, such as that you consented to the act. Consent is not a defense if you were a minor at the time the act(s) occurred.

Discovery: Discovery is the process through which each side gathers information and evidence, such as from documents and by interviewing witnesses under oath in a *deposition*. Discovery opens much of your private life including your medical and psychotherapy records to the defendant(s) and the court. Other unprotected areas are your education, employment or pediatric medical records, and other personal information such as your past sexual history or things you wrote in your diary (see page 5 for more examples of evidentiary items the defendant may gather during discovery). The process of obtaining discovery often requires attorneys to file various motions (e.g., motions to compel people to testify and motions for extension of time) that take time and money.

- **Deposition:** The deposition is a proceeding where your attorney or the defendant's attorney interviews either the opposing party or a witness under oath. A deposition usually takes place at one of the attorneys' offices. Usually the only people present at a deposition are the attorneys, the person being interviewed and the court reporter. The parties to the lawsuit do, however, have the right to attend the deposition but cannot ask any questions. When you are deposed, the defendant(s), including the perpetrator, have the right to be present. Both the questions and answers are recorded by a court reporter, and the person being questioned must swear to tell the truth, similar to the oath required before testifying at trial. After the deposition, the court reporter transcribes the testimony into a written document. In addition to having the deposition transcribed into a written document, some depositions are videotaped. Videotaped depositions are often used for witnesses who may be unavailable for trial or who reside out of state. The party taking the deposition must pay the fees related to the deposition. These fees include the costs involved with the court reporter, transcripts, witnesses and travel costs, if any.
- **Interrogatories:** *Interrogatories* are written questions that the witness or party must answer under oath in writing. Attorneys usually use interrogatories in addition to a deposition. This method of fact-finding is less expensive than a deposition, but it may take longer to obtain the information.
- **Subpoena for Documents and/or Requests for Production:** Each side may use *subpoenas* to request documents for inspection. The defendant's attorney or the court may request your medical or psychiatric records, or other records such as your employment history, educational records and personal writings such as diaries or journals.
- **Independent Psychiatric Evaluation:** The defendant's attorney or the court might request that you undergo an examination by an independent psychiatrist or physician, to evaluate the harm you claim. If requested, you must submit to this exam, but you may have your attorney present. If you refuse to cooperate, you could jeopardize the likelihood of success for your case.

Motion for Summary Judgment: If the presented case has no facts in dispute and could be decided only by looking to the applicable law, you or the defendant(s) may ask the court to decide the case before it goes to trial. For example, if discovery shows that your claims are time-barred as a matter of law, the court could find for the defense in a *Motion for Summary Judgment*.

Settlement: In a *settlement*, you and the defendant(s) reach an agreement through your attorneys. This may occur at any point before or during the trial, up to the point at which the court makes a final judgment. A settlement looks like a contract; a court may enforce it and the agreement may provide money damages (the settlement amount) just like a court's decision. The defendant may insist upon a private settlement, which prevents you from revealing the facts of the case, the identity of the perpetrator or the settlement amount to others. Cases

sometimes settle because the defendant(s) wants to avoid the cost and publicity of a trial.

TRIAL

A trial has many different steps. The trial of your case may include some or all of the following stages.

- The judge alone may hear a civil suit in a *bench trial*, or it may be heard by a judge and a jury. Either party may request a trial by jury. Both the plaintiff and the defendant(s) are usually present in the courtroom during all phases of a trial, whether it is by a judge or a jury.
- If using a jury, your attorney and the defendant's attorney will select the jury by questioning prospective members. This process is called *voir dire*. In federal court, however, there is no individual voir dire.
- When the trial begins, your attorney speaks first and presents an *Opening Statement*, which provides the judge or jury with an outline of the case. The defendant's attorney also presents an Opening Statement which outlines his defense(s).
- Your attorney then begins putting on the *evidence*. Your attorney proves your case by presenting evidence through the submission of physical items (such as medical and therapeutic records) and *testimony*. Your attorney *examines* you and your witnesses, including your *expert witness*, if you have one.
- Then the defendant's attorney questions you and your witnesses during the *cross-examination*. The styles of defense attorneys during the cross-examination vary; some are much more aggressive than others. He or she will ask you about all aspects of your claims, including extensive questions about the sexual assault, your background, what motivated you to file suit and whether any harm exists. The defense attorney's job is to cast doubt on you, your claims and the credibility of you and your witnesses. Cross-examination might make you feel as if you are the person on trial. Your attorney should help you prepare for this experience.
- The defendant's attorney then admits physical items and testimony from the defendant and witnesses supporting the defendant's case, and attempts to refute your version of the case. Your attorney may cross-examine the defendant and any of the defendant's witnesses.
- After both attorneys present all evidence, but before the judge or jury decides the case, the defendant's attorney might submit a *Motion for Directed Verdict*, stating that you failed to meet the burden of proof. If granted, the judge makes a judgment without allowing the jury to reach a decision because there can be only one decision under the law with the

If you have already filed a claim for Crime Victims Compensation, you may be eligible to re-open your claim during or after civil proceedings if it is within the time limit. (see Appendix I for more information).

facts as presented. The court may initiate this motion on its own.

- If the Motion for Directed Verdict is denied by the judge, both attorneys present separate *Closing Arguments* in which they summarize the case as presented. In jury trials, the judge then provides instructions for the jurors to use when coming to a verdict. This is the final stage of the trial before the judgment.

Judgment: The judge or the jury retires to come to a verdict, which they reach by weighing all the evidence. The judge or jury must make this decision based upon the *preponderance of the evidence* standard, which means they find that certain events more likely happened than did not happen. This standard is less than the *beyond a reasonable doubt* standard used in criminal proceedings. If the judge or jury determines that you proved your case under the preponderance standard, you win the liability aspect of the trial. The judge and jury will also award the amount of damages they believe fairly compensate you for your injuries. The length of time required to reach a decision varies. After decisions about the liability and damages have been made, the court enters a Judgment.

Damage Award and Recovery: Talk to your attorney about what to claim for damages. The court or the jury might determine that money damages are an appropriate award for you. The defendant pays the amount of damages ordered to you. Washington law does not provide for the awarding of punitive damages.

You might encounter difficulties collecting the award from the defendant(s), however. To avoid this situation, the court may *attach* the defendant's property. A post-judgment attachment is a court order that prevents the defendant(s) from removing his property from Washington or hiding assets, and is used when he is not from Washington or has moved away from this state. The unfortunate reality is that many survivors do not recover their award if the defendant(s) has no assets, or do not recover the award fully if the defendant evades attachment or enforcement of the judgment. RCW 6.25.

POST-TRIAL MOTIONS

Motion for Judgment Notwithstanding the Verdict (J.N.O.V.): The defendant or plaintiff may file a motion for *J.N.O.V.*, asking the judge to set aside the jury's verdict. If the judge agrees, the decision reached by the jury is not accepted and instead the judge enters her or his own decision based on the trial record.

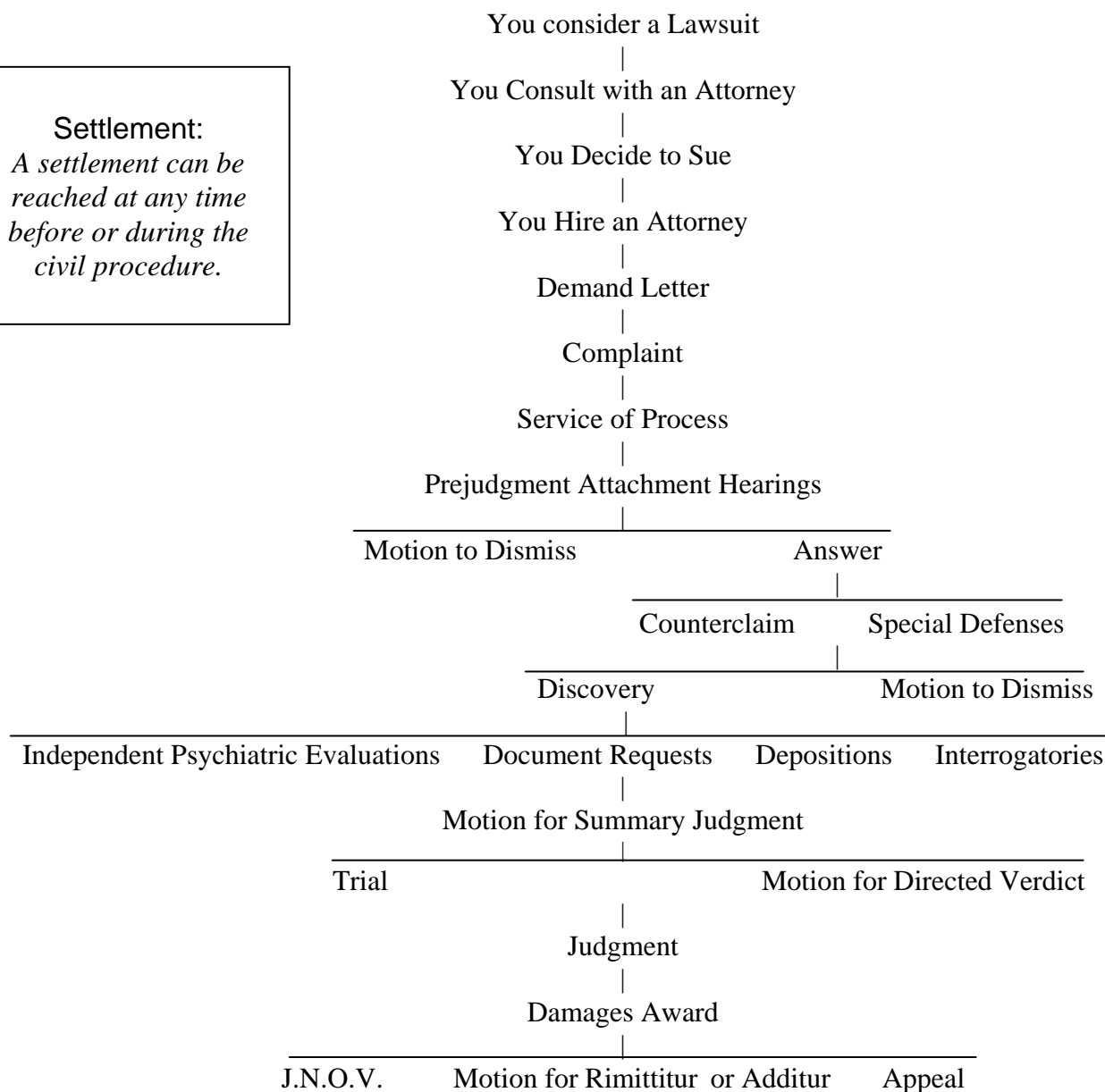
Motion for Remittitur or Additur: The defendant may file a post-trial motion for *remittitur* asking the judge to reduce the amount of the damages awarded. If the judge grants the motion, the amount of damages will be reduced. The plaintiff may file a post-trial motion for *additur* and increase the amount of damages awarded. If the judge grants the motion, the amount of damages will be increased.

Appeal: If you (or the defendant) believe that the trial court erred in its decision, you may *appeal* the judgment or the damages (if the damage award is based on legal error). During the appeal a different court reviews the trial record and

makes a decision about the alleged error. Keep in mind that appeals require an attorney and an additional expenditure of money and time. You will not receive money awarded to you as damages while your case is on appeal. Appeals can take one to two years to process.

Civil Procedure Outline

Settlement:
A settlement can be reached at any time before or during the civil procedure.



V. CONCLUSION

In deciding whether or not to file a civil lawsuit, make the decision that is best for you. Balance your goals and reasons for filing a lawsuit with the investment of money, time and emotional risk that a civil suit requires. You might decide that a civil suit is right for you, or you might decide that a suit's costs outweigh its benefits. There are good reasons to make either decision and whatever you decide is perfectly valid. A decision not to sue can be as empowering as a lawsuit, as long as you keep your needs in mind and are true to yourself.

Be sure to discuss the issues presented in this guide with your rape crisis advocate or therapist. If you decide you want to sue, find a competent attorney with whom you are comfortable to assist you with the legal aspects of your case. These professionals can help you weigh the pros and cons of filing a civil lawsuit.

Congratulations on reaching this point in your healing, and best wishes to you in whatever **you** decide.

NOTES

Appendix I: Definitions

- A -

Abduction – Taking away a person (such as kidnapping) through fraud, persuasion or violence.

Absolute privilege – A method of protecting the confidential relationship between a survivor and a rape crisis advocate and attorney from the defendant(s) and the court. This unconditional privilege cannot be broken unless waived by the survivor. Implications of this statute are that verbal communications with a rape crisis advocate are protected, but written records are subject to review at the court’s discretion.

Additur – A process through which the judge increases the amount of damages awarded to a plaintiff by a jury.

Advocate – The rape crisis center employee or volunteer who may have assisted you at the hospital, counsels you and/or accompanies you to court.

Answer – The defendant’s written response to the claims made in your complaint. He must admit, deny in part or in whole, or move to dismiss each claim you raise.

Appeal – A party challenges the judgment made by the court through a new proceeding that is based upon the trial record and addresses only the issue raised. A court that is higher than the trial court hears the appeal.

Assault – An attempt or threat to intentionally harm another person. People usually refer to assault and battery together, but unlike battery, assault does not require actual touching.

Assault and Battery – A term combining assault, the threat of injury by force, with battery, the actual use of force and resulting harm.

Assets – The money and property (real estate, personal property, and intellectual property) owned by a person, organization or corporation.

Attachment, attached – The process through which the court “freezes” the defendant’s assets until the court decides your case.

Attorney-client privilege – A legal principle protecting oral and written communications between the attorney and the client. This privilege keeps the survivor’s confidential information from the defendant(s) and the court.

- B -

Bar, barred – A party no longer has access to the court based on the cause of action.

Battery – Offensive or intentional physical contact, such as punching, kicking or any physical trauma sustained during sexual assault. Battery always includes an assault.

Bench Trial – A trial heard and decided by the judge alone (without a jury).

Beyond a reasonable doubt – The standard used in criminal proceedings to determine whether the facts completely establish the defendant’s guilt. This is a higher standard of proof than the “preponderance of the evidence” standard used in civil cases.

Burden, burden of proof – A party’s duty to prove its claims to the court. In a civil suit arising from sexual assault, the survivor (plaintiff) has the burden.

- C -

Cause of action – The facts that create a viable legal claim. A statute of limitations or statute of repose may limit the cause of action.

Child exploitation – Conduct which allows, employs, authorizes, permits, induces, or encourages children to engage in activities, which are not in their best interest in order to achieve self-satisfaction or self-gratification.

Child molestation – Sexual contact with a person who is much younger than the offender, or when the offender knowingly causes another person under 18 years of age to have sexual contact with a younger person. According to Washington State law, there are three degrees depending on the ages of the victim and the offender.

First degree: victim is less than 12; offender is at least 36 months older than the victim. RCW 9A.44.083.

Second degree: victim is 12 or 13; offender is at least 36 months older than the victim. RCW 9A.44.086.

Third degree: victim is 14 or 15; offender is at least 48 months older than the victim. RCW 9A.44.089.

Childhood sexual abuse – Sexual abuse that happens to a person who is a minor.

Closing arguments – An attorney’s presentation to the court at the end of the trial. The attorneys representing the plaintiff and the defendant, respectively, each present a final argument to the court in which they resolve and summarize their version of the case presented.

Compensatory damages – A monetary award designed to “make up” for any harm you sustained. The theory behind this award is to restore you to the position you were in before the sexual assault.

Complaint – The plaintiff’s case as initially presented to the court in the form of a written document. This includes all claims the plaintiff wishes to raise and officially begins the lawsuit.

Confidentiality, confidential communication – Legal protection for oral and written communications between a survivor and his or her attorney, rape crisis advocate or therapist. See also “absolute privilege,” “qualified privilege,” “attorney-client privilege”.

Counterclaim – A claim raised by the defendant(s) in direct response to a claim the survivor raises. For example, the survivor claims the perpetrator raped her, but he claims the survivor consented.

Countersuit – A suit initiated by the defendant(s) in response to the survivor’s suit. To illustrate, a defendant(s) sometimes files a suit against the survivor by claiming defamation.

Contingency fee – The client pays the attorney a percentage of the damages awarded. If the client does not receive damages, she does not have to pay the attorney a fee. Regardless of whether she recovers damages, the client must pay out-of-pocket expenses.

Crime Victims Compensation Program – A statewide program that provides financial assistance for certain expenses related to violent crime, such as medical and mental health bills. To see whether you are eligible, call (800) 762-3716 to find your local office.

Cross-examination – The process through which the opposing party’s attorney asks the survivor and her or his witnesses questions during the trial or the deposition regarding the survivor’s version of the facts. The survivor’s attorney repeats this process by questioning the defendant and his or her witnesses when they testify.

- D -

Damages, (damage award, money damages, monetary damages) – An award made by the court requiring the defendant(s) to pay the survivor for the harm she suffered. See also “compensatory damages” and “punitive damages.”

Defamation – A claim that a person (in this case, the survivor) attempted to damage the reputation of the person raising the claim (the defendant). This includes libel and slander.

Defendant – The person against whom the plaintiff files charges with the court. Here, the defendant is the perpetrator or the person or organization enabling the perpetrator’s acts.

Defense, special defense – A claim made by the defendant(s) intended to provide a reason why the survivor should not recover based on her claims.

Demand, demand letter – A letter sent by the survivor’s attorney notifying the defendant(s) that the survivor will file suit unless the defendant satisfactorily addresses her claims.

Deposition – A process through which an attorney questions a party or witness to develop an official collection of factual evidence in preparation for the trial.

Discovery, discoverable – The pre-trial process through which an attorney obtains factual evidence from the opposing party. This evidence includes information such as documents, the identities of persons (e.g., witnesses), depositions or psychiatric exams.

Diversity, diversity of citizenship – A legal term for the situation where the parties are from different states or have substantial contacts with a different state, and the plaintiff sues for over \$75,000. Diversity allows a survivor to file her claim in federal court.

Document subpoena – The court formally requests the submission of a document as evidence.

- E -

Estate – The property (money, real estate and other property) a person owns at the time he or she dies.

Evidence – Proof (physical items or testimony) that supports or refutes a claim at trial.

Examination, examine, exam – The process at trial through which a party’s attorney questions that party and its witnesses to establish their version of the case.

Expert witness – A professional who testifies regarding a specialized, complex topic that arises at trial, to explain it to the court. For example, a psychotherapist could provide expert testimony regarding posttraumatic stress disorder at a civil sexual assault trial.

- F -

False imprisonment – The perpetrator intentionally and unlawfully detains a survivor against her will, either by confining her or by force. This cause of action includes periods of brief confinement.

False memory syndrome – The theory that sexual abuse memories are not valid. Defendants use this theory as a defense to claims involving recovered memories.

Filing fee – A sum charged by the court when an attorney submits documents or pleadings to the court.

- G -

- H -

Hate crimes – Acts perpetrated against a person that are motivated by the person’s gender, race, religion or sexual orientation.

- I -

In camera – A private proceeding before the judge that excludes other parties and persons from the courtroom, or which the judge holds in his or her chambers.

Incest – Intercourse or sexual contact with a person known to be related to the offender, including stepchildren and adopted children under the age of 18.

Indecent liberties – Touching of sexual body parts of another person through the use of threat or physical force, or when the victim is physically helpless, or doesn’t understand. RCW 9A.44.100.

Initial consultation – The first meeting between a survivor and an attorney. This meeting provides the survivor with an opportunity to assess the attorney’s qualifications and her reaction to the attorney, and allows the attorney to learn the specific facts of the survivor’s case in order to decide whether to accept the case.

Intentional infliction of emotional harm – Acts done by the perpetrator with the purpose or hope of causing the survivor emotional harm.

Intercourse – Vaginal or anal penetration, however slight, as well as oral-genital contact. RCW 9A.44.010 (1).

Interrogatories – Written questions in discovery that a party or witness must answer in writing and usually under oath. Interrogatories may replace or supplement a deposition.

- J -

Judgment notwithstanding the verdict (J.N.O.V.) – A post-trial activity in which the judge sets aside the jury’s verdict and enters his or her own decision. A party’s motion for a directed verdict must precede a J.N.O.V. motion.

Jurisdiction –The power and authority of a court to hear a particular case. A court “has jurisdiction” over cases it is allowed to hear. This word also refers to a specific geographic area (e.g., a county or a state) in which a court can hear cases.

- K -

- L -

Liability – The state of being legally obligated or accountable.

Loss of consortium – A loss of marital relations, including companionship, affection and sexual relations. The survivor’s spouse frequently raises this claim.

Lost wages – Wages the survivor lost as a result of the harm she suffered, such as money she would have earned if she had not been unable to work due to her sexual assault.

- M -

Medical expenses – A survivor’s medical or psychotherapy bills resulting from the sexual assault.

Money damages, monetary damages – An award by the court that requires the defendant(s) to pay the survivor money.

Motion for directed verdict – A party’s request that the court enter judgment in its favor before submitting the case to the jury because there is no legally sufficient evidentiary foundation on which a reasonable jury could find for the other party. Superior Court Civil Rule 50.A1.

Motion to dismiss – After the complaint is filed, but before the defendant’s answer, the defendant(s) requests that the court dismiss the case on the grounds that it is deficient in some way, such as it lacks a valid claim.

- N -

Negligent infliction of emotional harm – Acts that a reasonable person should have known would cause harm.

- O -

Opening statement – An attorney’s presentation to the court at the beginning of the trial. In this statement, the attorney outlines the case and the supporting proof he or she will present during the trial.

Out-of-pocket expenses – Costs that are tangential to a lawsuit, such as filing fees, charges for copying or mailings, expert witness fees and other expenses.

Outrage -- behavior that is so extreme it is considered intolerable in a civilized society.

- P -

Perpetrator – The person who sexually assaulted the survivor.

Personal injury – Harm done to a survivor’s body, as opposed to her property or reputation. This is an “umbrella” term that includes false imprisonment and mental suffering.

Plaintiff – The person filing a lawsuit with the court. Here, the plaintiff is usually the survivor.

Pleadings – The parties’ documents filed with the court, including the Complaint and Answer.

Posttraumatic stress disorder – A syndrome which typically results from experiencing a traumatic event, such as sexual assault/abuse, where the person fears death or serious injury or a threat to their physical integrity. This syndrome often is displayed by survivors who have intrusive thoughts about their assault/abuse, emotional numbing regarding the event such as an inability to recall details surrounding the assault/abuse and difficulty with increased arousal such as sleep problems.

Preponderance of the evidence – The standard of proof used in civil lawsuits, where the evidence proves that the claim more likely than not occurred. This is a lower standard of proof than the “beyond a reasonable doubt” standard used in criminal cases.

Privilege – A legal principle protecting communications (verbal conversations and written documents) between two people. Examples of privileges included physician-patient privilege, rape crisis advocate-victim privilege, therapist-client privilege, attorney-client privilege and clergy-penitent privilege.

Punitive damages – Damages awarded by the court specifically to serve as a punishment. Washington State does not allow for punitive damages in civil lawsuits.

- Q -

Qualified privilege – A confidentiality privilege that allows the defendant(s) or the court to view a survivor’s personal information and records *in camera* in certain circumstances. This privilege applies to a survivor’s records at a rape crisis center. This is a lesser amount of protection than an absolute privilege.

Quantum meruit – This doctrine requires that the client pay the attorney a reasonable amount of money for the service he or she provided.

- R -

RCW -- The Revised Code of Washington that refers to the specific laws in Washington State. RCW’s can be accessed on the web site: <http://www.leg.wa.gov/wsladm/rcw.htm>.

Rape – Forced intercourse, which includes vaginal or anal penetration as well as oral-genital contact. Rape is a felony crime. According to Washington State law, there are three degrees of rape, depending on the degree and type of force used:

First degree: perpetrator threatens to use a deadly weapon, kidnaps or inflicts serious physical injury on the victim, breaks in to commit the offense, or renders the victim unconscious through physical injury. RCW 9A.44.040.

Second degree: perpetrator threatens to harm victim or others, or uses physical force that overcomes resistance; or when the victim is physically helpless (e.g. due to intoxication or disability), or doesn't understand. RCW 9A.44.050.

Third degree: perpetrator threatens to harm property; or when the victim's lack of consent is clearly expressed by words or conduct. Under Washington law, third degree rape situations are not legally considered rape if the victim and perpetrator are married to each other. RCW 9A.44.060.

Rape crisis advocate – The rape crisis center employee or volunteer who helps the survivor recover through advocacy and counseling.

Rape of a child – Any vaginal or anal penetration, however slight, as well as oral-genital contact, with a person who is much younger than the offender. According to Washington State law, there are three degrees depending on the ages of the victim and the offender:

First degree: victim is less than 12; offender is at least 24 months older than the victim. RCW 9A.44.073.

Second degree: victim is 12 or 13; offender is at least 36 months older than the victim. RCW 9A.44.076.

Third degree: victim is 14 or 15; offender is at least 48 months older than the victim. RCW 9A.44.079.

Rape shield law – A law which limits the admissibility of a sexual assault survivor's past sexual and/or marital history in a criminal sex offense trial if it is intended to attack the survivor's credibility. If such personal history proves relevant to the case, the defense may make a pretrial motion, which must be approved by the court. RCW 9A.44.020.

Rape trauma syndrome – Behavioral, somatic and psychological reactions that occur as a result of being raped or being the victim of attempted rape. These include such things as nightmares, intrusive thoughts, feelings of detachment, sleep disturbance, fears and feelings of self-blame. Rape trauma syndrome is generally regarded as a posttraumatic stress disorder.

Recovered memories – Memories of past abuse, which typically occurred during childhood, that the survivor suppressed as a defense or coping mechanism and remembers at a later time, such as during adulthood.

Remittitur – A process through which the judge reduces the amount of damages awarded to a plaintiff by a jury.

Retainer – An amount of money given to an attorney to guarantee that his or her services will be available.

R.P.C. -- Rules of Professional Conduct (see definition immediately below.)

Rules of Professional Conduct – An ethical code to which all attorneys must adhere. Violations of this code may result in disciplinary actions by the Disciplinary Board, but do not create malpractice liability by themselves. (You can find the R.P.C. online at: <http://www.courts.wa.gov/rules> under Rules of General Application.)

- S -

Seduction – A perpetrator entices a survivor into having intercourse through bribes, solicitation or promises.

Service of process – The method by which the court ensures that the defendant(s) is notified of a pending suit. The plaintiff must provide the defendant(s) with a copy of her complaint to meet this requirement.

Settlement – An agreement between the survivor and the defendant(s) that resolves the survivor's claims. This is a decision reached outside of the court, and may occur at any time before the court renders a judgment. Usually a settlement includes a payment of damages to the survivor.

Sexual assault – Sexual contact or intercourse with a person without her or his consent.

Sexual exploitation of a child – Using children in the production of sexually explicit materials. RCW 9.68A.040.

Sexual exploitation by a therapist – Sexual acts between a therapist and a person who is that therapist's patient or former patient.

Sexual misconduct with a minor – intercourse or sexual contact with a person who is 16 or 17 by a perpetrator who is in significant relationship to the minor, and who abuses a supervisory position within that relationship in order to engage in such behavior.

First degree: intercourse; offender is at least 90 months older than the victim. Sexual misconduct with a minor in the first degree is a felony. RCW 9A.44.093.

Second degree: sexual contact; offender is at least 60 months older than the victim. Sexual misconduct with a minor in the second degree is a gross misdemeanor. RCW 9A.44.096.

Statute of limitations – The time limit for filing a lawsuit. When this period ends, a survivor's *cause of action* is *barred* from the court. In some cases, the statute of limitations can be *tolled* (extended).

Subpoena (document subpoena, subpoena duces tecum) – A document issued on behalf of one of the parties that requires the other party to produce documents such as records, books or other items.

Summary judgment – A judgment rendered by the judge when there are no facts in dispute and only a legal issue exists. A jury does not need to hear a case before the judge grants a summary judgment.

Summons – The court's formal request that a person appear at the trial. Ignoring a summons is a direct violation of the court's order.

Superior Court Civil Rule – These rules govern the procedure in the superior court in civil suits. You can access the rules on the web at <http://www.courts.wa.gov/rules/state/cfm?group=sup> and then click on Superior Court Civil Rules or CR.

Survivor – The person victimized by sexual assault.

- T -

Testimony – A party’s or witness’ sworn statement in deposition or at trial that explains their version of the events and facts surrounding the sexual assault or other claims raised by the survivor.

Therapist – The psychotherapist aiding the survivor in her or his emotional recovery.

Toll, tolling – When used in conjunction with a *statute of limitations*, “tolled” means that a survivor’s right to file suit is extended.

- U -

Under court seal – Documents used in a lawsuit that are placed under court seal are not accessible to the general public without an order from the court.

U.S.C. (United States Code) – These are written laws, or statutes, that apply in federal court.

- V -

VOCA (Victims of Crime Act) – A federal statute designed to assist people victimized by specific crimes, including sexual assault.

Voir dire – The process through which jurors are selected based on their responses to questions presented by both parties’ attorneys. The phrase “voir dire” literally means “to speak the truth.”

This section paraphrases definitions from Black’s Law Dictionary (6th ed. 1990, 7th ed. 2000) and definitions from the Revised Code of Washington. The public can access the RCW’s through the internet at <http://www.leg.wa.gov>. For more detailed information please consult these resources.

Appendix II: Questions to Ask the Attorney

Attorney: _____ Date: _____

Address: _____

_____ Phone: _____

Do you charge a fee for an initial consultation? ____ If so, how much? _____

1. How long could this case take? _____

• How long do I have to file? _____

• How soon could you start working on my case? _____

• What is your action plan? _____

2. What is my chance of winning? _____

• What is the law on these issues? _____

• Does the law work for or against my case? _____

• Would you go to trial with this case, or would you settle it out of court? _____

3. Have you handled other cases like this? If so, how many? _____

• Were those cases successful? _____

• Have you handled cases involving recovered memories? _____

• How would you handle a defense strategy alleging false memory syndrome? _____

• Will you be the attorney working on this case or would other attorneys work on this as well? _____

• Can highly sensitive matters be placed under court seal or fictitious names used? _____

• Have you ever represented the perpetrator before or do you have any other connection to him? _____

4. How much will I participate in this suit? _____

• What is the policy for keeping me informed about my case? _____

• What information from my personal life will you need (e.g., counseling records, medical records, family history)? _____

5. How much will this cost? _____

- Will there be a retainer fee? If so, how much? _____

- Approximately what will the out-of-pocket costs be? _____

- What other costs besides your fee will I have to pay? _____

- How do you arrange fee payments?

_____a) hourly fees _____c) sliding scale fee _____e) project-based fees

_____b) contingency fee _____d) pro bono

- What forms of payment do you accept? _____

NOTES:

Appendix III: Questions to Ask Yourself

Attorney: _____ Date: _____

Address: _____

_____ Phone: _____

My general reaction: _____

1. Was the attorney comfortable with and knowledgeable about sexual victimization? _____

- Did the attorney seem to know about this type of law? _____

- Am I comfortable telling this attorney personal information? _____

2. Am I comfortable with the way my case will be handled? _____

- What are my goals in filing suit? _____

- Did this attorney accept and understand my goals? _____

- Will this attorney, and not an assistant, handle my case? _____

- Did this attorney focus only on taking my case to trial, or only on settling the case? _____

- Did the attorney talk to me in ways I could understand? _____

- Did the attorney explain the strengths and weaknesses of my case, and the laws that apply? _____

3. Was the attorney respectful and polite? _____

- Did the attorney focus on me at the meeting or were there lots of interruptions (phone calls, office staff, etc.)? _____

- Did the attorney, an associate, a clerk, or a paralegal interview me? _____

- Did I feel I would participate in the decision-making? _____

- Did I feel like a real person and not just another case? _____

- Did the attorney put me at ease? _____

4. What is my gut reaction? _____

NOTES:

Appendix IV: Attorney Referral Services

Referral Services in King County

King County Bar Association

Provides referrals to attorneys in private practice primarily for King County residents. Seattle, WA (206) 623-2551, <http://www.kcba.org>

King County Community Legal Services Programs

Provides low-income residents of King County with advice and representation on a broad array of civil legal issues. Seattle, WA (206) 623-2551, <http://www.kcba.org>

Northwest Women's Law Center

Provides family law information, referrals and workshops statewide. Seattle, WA (206) 621-7691, <http://www.nwwlc.org>

Lawyer Referral Services Outside King County

Clark County

Southwest Washington Lawyer Referral Service
(360) 695-0599

Pierce County

Tacoma-Pierce County Bar Lawyer Referral
(253) 383-3432

Kitsap County

Kitsap County Lawyer Referral Service
(360) 373-2426

Snohomish County

Snohomish County Bar Referral Service
(425) 388-3018

Lewis County

Lewis County Lawyer Referral Program
(360) 748-0430

Thurston County

Thurston County Lawyer Referral Service
(360) 923-4844

State-wide Low-Income Legal Assistance (except King County)

If you need legal help with a civil legal problem, you can't afford an attorney, and you DO NOT live in King County, call the Northwest Justice Project's client intake line called CLEAR Intake (toll free) 1-888-201-1014 before calling other legal services programs. CLEAR will assist you by relying on a comprehensive database that includes a large law library of brochures for non-lawyers and pro se instructions and forms. Certain cases can be referred to Northwest Justice Project offices, local volunteer lawyer programs, law school clinics or other resources in the caller's community. At this time all counties in Washington state are being served by CLEAR, with the exception of King County.

National Attorney Referral Service

National Crime Victim Bar Association

National network of attorneys who represent crime victims in civil lawsuits arising out of criminal acts. Arlington, VA (703) 276-0960.

Check with your local sexual assault program listed on pages 42-43 for additional attorney referrals.

Community Sexual Assault Programs in Washington State

Aberdeen
Beyond Survival
 P.O. Box 203
 Aberdeen, WA 98520
 (360) 533-9751
Hotline: (360) 538-2292,
 (888) 626-2640

Bellingham
Whatcom Crisis Services
 1407 Commercial St.
 Bellingham, WA 98225
 (360) 671-5714
Hotline: (877) 715-1563
 wcservice@uswest.net

Chelan
Human Resource
 New
 P.O.
 Chelan
 (360) 7
Sexual
Violence
 (360) 5
 hrnet@l

Colville
Family Support
 956 S Main
 Colville, WA
 (509) 684-5296
Hotline: (509) 684-6098

Clarkston
Rogers Counseling Center
 900 Seventh Street
 Clarkston, WA 99403
 (509) 758-3341
Hotline: (509) 758-4665

Davenport
Family Resource Center
 P.O. Box 1130
 Davenport, WA 99122
 (509) 725-4358
Hotline: ((800) 932-0932
 famrc@sisna.com

Dayton
Inland Counseling Network
 P.O. Box 30
 Dayton, WA 99328
 (509) 382-2527
Hotline: (509) 382-4039,
 (888) 382-4039

Ellensburg
ASPEN (Abuse Support & Prevention Education Now

Pr
Cent
 916 Pacific Avenue
 Everett, WA 98201
 (425) 251-1666
Hotline: (360) 252-4

Woods
Woods Abuse Progr
 P.O. Box 17
 F., WA 98331
 (360) 374-6
Phone: (360) 374-6
 house

Eastsound, WA 98245
 (360) 376-5979
Hotline: (360) 376-1234
 dvsassanjuan@rockisland.com

Kelso
Emergency Support Shelter
 P.O. Box 877
 Kelso, WA 98626
 (360) 425-1176
Hotline: (360) 636-8471
ess@pacifier.com

Moses Lake
New Hope
 P.O. Box 1744
 Moses Lake, WA 98837
 (509) 764-8402
Hotline: (888) 560-6027

Mount Vernon
Skagit Domestic Violence/ Sexual Assault Services
 P.O. Box 301
 Mt. Vernon, WA 98273
 (360) 336-9591

Family Crisis Net
 P.O. Box 2
 Newport, WA 99156
 (509) 477-1144
Hotline: (360) 447-1
 (360) 588
 sis@p

Wenatchee, WA 98239
Hotline: (360) 378-3030

Olympia
Safeplace
 314 Legion Way SE
 Olympia, WA 98501
 (360) 786-8754
Hotline: (360) 754-6300
 safeplace@mail.tss.net

Omak
The Support Center
 P.O. Box 3639
 Omak, WA 98841
 (509) 826-3221
Hotline: (509) 826-3221,
 (888) 826-3221
 suprtcnt@qosi.net

Port Angeles
Healthy Families of Clallam County
 111 E 3rd Ste. D
 Port Angeles, WA 98362
 (360) 452-3811
Hotline: (360) 452-4357
 healfam@olympen.com

Port Orchard
Kitsap Sexual Assault Center
 P.O. Box 1327
 Port Orchard, WA 98310

(360) 779-8500
Jefferson
Sexual Assault
 P.O. Box
 Pt. Tenino, WA 98368
 (360) 779-8500
Hotline: (360) 779-85291
 jsc.org

Violence of
 (360) 779-8500
 2-HELP
 m

Republic
Connections
 42 Klondike Road
 Republic, WA 99166
 (509) 775-3331
Hotline: (509) 775-3132
connect@fccs1.org

Seattle
Abused Deaf Women's Advocacy Services
 4738 11th Ave NE
 Seattle, WA 98105
 (206) 726-0093 TDD
 (800.833.6384 Relay)
Hotline: (206) 236-3134
 TDD
 adwas@adwas.org

Community Sexual Assault Programs in Washington State

Children's Response Center

925-116th NE, Suite 211
Bellevue, WA 98004
(425) 688-5130
Hotline: (425) 688-5130

Harborview Center for Sexual Assault & Traumatic Stress

325 Ninth Ave.
MS 359947
Seattle, WA 98104
(206) 521-1800
Hotline: (206) 521-1800

King County Sexual Assault Resource Center

P.O. Box 300
Renton, WA 98057
(425) 226-5062
Hotline: (800) 825-7273

Shelton

Center for Advocacy & Personal Development

P.O. Box E
211 West Railroad
Shelton, WA 98584
(360) 426-5430
Hotline: (360)- 427- 8179

South Puget Intertribal Planning Agency

2970 SE Old Olympic Hwy
Shelton, WA 98584
(360) 426-3990
Hotline: (360) 490-5713
socserv@cco.net

Spokane

Sexual Assault & Family Trauma Response Center

7 S Howard St, #200
Symons Bldg.
Spokane, WA 99201
(509) 747-8224
Hotline: (509) 624-RAPE

Stevenson

Skamania Co. Council on DV/SA

P.O. Box 477
Stevenson, WA 98648
(509) 427-4210
Hotline: (877) 427-4210
sccdvs@gorge.net

Sunnyside

Lower Valley Crisis & Support Services

P.O. Box 93
Sunnyside, WA 98944
(509) 837-6689
Hotline: (509) 837-6689
lvcss@bentonrea.com

Tacoma

Sexual Assault Center of Pierce County

633 N. Mildred St. #J
Tacoma, WA 98406
(253) 597-6424, (253) 277-0448 TDD
Hotline: (253) 474-RAPE,
(800) 756-7273

Tri-Cities

Sexual Assault Response Center

830 N Columbia Center Blvd., Ste. H
Kennewick, WA 99336
(509) 374-5391
Hotline: (509) 374-5391,
(888) 846-RAPE

Vancouver

Clark County Sexual Assault Program

3609 Main Street
Vancouver, WA 98663
(360) 696-0167
Hotline: (360) 695-0501

Walla Walla

Walla Walla YWCA

213 S 1st St
Walla Walla, WA 99362
(509) 525-2570
Hotline: (509) 529-9922
ywca@bmi.net

Wenatchee

Wenatchee Domestic & Sexual Violence Crisis Center

P.O. Box 2704
Wenatchee, WA 98807
(509) 633-1952
(800)833-6388

White Salmon

Programs for Peaceful Living

P.O. Box 1486
White Salmon, WA 98672
(509) 493-2662
Hotline: (800) 866-9372
peaceful@gorge.net

Yakima

Yakima Sexual Assault Unit

P.O. Box 959
Yakima, WA 98907
(509) 576-4326
Hotline: (888) 605-6999

Community Sexual Assault Programs in Washington State

Sexual Assault Services

All Community Sexual Assault Programs (CSAP's) offer the following services to survivors of sexual violence, their friends and family, and others who request information. *These services are confidential, and provided without charge.*

Information & Referral: Trained advocates are available 24 hours a day to answer questions and to provide resources and referrals related to sexual abuse/assault.

Crisis Intervention: Trained advocates are available 24 hours a day to provide an immediately available, personal response to individuals presenting crises relating to sexual abuse/assault.

Legal, Medical, and General Advocacy: Advocates are available to provide legal, medical, and general information about sexual abuse/assault. Advocates are able to help clients identify their options in the different systems of care and can provide in person support and advocacy services for clients in these settings. Advocates can act on behalf of clients to ensure their interests are represented and their rights are upheld.

System Coordination: Community Sexual Assault Programs work to coordinate the network of services that are available to survivors of sexual violence and their friends and family members.

Prevention Services: Community Sexual Assault Programs provide a wide array of services aimed at the prevention of sexual violence.

- CSAP's inform the community about sexual violence to increase the community's awareness and knowledge about sexual abuse/assault.
- Trained staff provide programs and presentations focused on building skills within the community to prevent sexual abuse/assault.
- CSAP's are available to help facilitate the prevention of sexual violence in different communities.

WCSAP is committed to fostering a culture of respect, dignity and autonomy for all individuals. We recognize that disrespect, ignorance and the abuse of disparities in power are the roots of sexual violence. To that end, WCSAP endeavors to engage with agencies and individuals who share our commitment.

Washington Coalition of Sexual Assault Programs
2415 Pacific Ave. SE, #10-C • Olympia, WA 98501
(360) 754-7583 • (360) 786-8707 FAX
www.wcsap.org • wcsap@wcsap.org

INDEX

-A-

abduction, 10
absolute privilege, 6
additur, 23
advocate, 2, 6, 7, 19, 25
answer, 20
appeal, 3, 23
assault, 10, 13
assets, 3, 5, 9, 17, 23
attachment, 23
attorney-client privilege, 6, 15, 17

-B-

bar, 10, 11, 16, 20, 21
battery, 10
bench trial, 22
beyond a reasonable doubt, 3, 23
burden, 5, 6, 7, 8
burden of proof, 22

-C-

cause of action, 12, 13
child exploitation, 10
childhood sexual abuse, 10, 11, 12
closing arguments, 22
compensatory damages, 3
complaint, 19, 20
confidentiality, 4, 6, 7
contingency fee, 9, 17
counterclaim, 20
countersuit, 4
cross-examination, 22

-D-

damages, 3, 4, 5, 8, 9, 13, 16, 17, 19, 23
defamation, 4, 20
defendant, 3, 5, 6, 9, 14, 17, 18, 19, 20, 21, 22,
23
defense, 8, 15, 20, 21, 22
demand letter, 19
deposition, 8, 18, 20, 21
discovery, 5, 6, 11, 12, 13, 20, 21
discovery rule, 12, 13
diversity, 10

-E-

estate, 9, 13

evidence, 3, 5, 8, 20, 22, 23
exam, examine, examination, 6, 7, 21, 22
expert witness, 6, 8, 22

-F-

false imprisonment, 10, 13
false memory syndrome, 6, 15
filing fee, 18, 19

-H-

hate crimes, 10
hourly fee, 18

-I-

initial consultation, 6, 11, 15, 16, 17
Intentional Infliction of Emotional Harm, 10
interrogatories, 21

-J-

J.N.O.V., 23
Judgment Notwithstanding the Verdict, 23
jurisdiction, 4, 10, 11, 15, 20

-K-

-L-

loss of consortium, 4, 10
lost wages, 4, 10

-M-

medical expenses, 10
money damages, 3, 17, 21, 23
motion for directed verdict, 22
Motion for Remittitur or Additur, 23
motion to dismiss, 20

-N-

Negligent Infliction of Emotional Harm, 10

-O-

opening statement, 22
out-of-pocket expenses, 8, 17, 18

-P-

perpetrator, 1, 3, 4, 6, 7, 8, 9, 10, 13, 15, 16, 17,
19, 20, 21

personal injury, 9, 13, 18
plaintiff, 3, 6, 9, 18, 22, 23
pleadings, 19
posttraumatic stress disorder, 6
prejudgment attachment hearing, 20
preponderance of the evidence, 3, 23
privilege, 6, 7
pro bono, 18
punitive damages, 3

-Q-

qualified privilege, 6, 7
quantum meruit, 18

-R-

rape crisis advocate, 2, 7, 19
rape trauma syndrome, 6
recovered memories, 6, 15
remititur, 23
retainer, 16, 18
Rules of Professional Conduct, 17

-S-

seduction, 10
service of process, 19, 20
settlement, 21
sexual abuse (*see* childhood sexual abuse)
sexual assault, 1, 3, 7, 9, 10, 12, 13, 14, 16, 17,
18, 19, 22
sexual exploitation by a therapist, 10
sliding scale fee, 18
special defense, 20
statute of limitations, 10, 11, 12, 13, 16, 20
subpoena, 21
summary judgment, 21
summons, 19
survivor, 1, 3, 4, 6, 7, 8, 10, 12, 13, 14, 18, 23

-T-

testimony, 5, 21, 22
therapist, 6, 7, 9, 10, 19, 25
toll, 10, 34

-U-

under court seal, 15

-V-

Victims of Crime Act, 10
voir dire, 22

-W-

witness, 5, 6, 8, 20, 21, 22 (*see also* expert witness)

-X-

-Y-

-Z-

We welcome and encourage your feedback on this guide.

Please send to:

Advocacy Education Coordinator
Washington Coalition of
Sexual Assault Programs
2415 Pacific Avenue SE, Olympia, WA
98501
Phone: (360) 754-7583
(360) 709-0305 TTY
Fax: (360) 786-8707
www.wcsap.org

This project was supported by Grant Number 2001-WL-BX-0036 awarded by the Office on Violence Against Women, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.



Washington Coalition of Sexual Assault Programs
2415 Pacific Avenue SE, Olympia, Washington 98501
www.wcsap.org