

Compassion key to helping abuse victims, lawyers told

BY KENDYL SEBESTA

Law Times

Compassion and understanding are key to protecting sexual abuse claimants from revictimization in court, according to a new guide for lawyers released by the Law Society of Upper Canada.

Created by a three-member working group of practitioners who deal with sexual abuse cases, the guide recommends lawyers representing or interacting with victims of sexual abuse approach claimants with respect and focus on helping them make informed choices about their mental-health needs and legal options, particularly when they're seeking compensation.

The 13-page guide notes sexual abuse victims are often "vulnerable and psychologically damaged," angry, and distrustful of authority figures. It recommends lawyers develop a complete understanding of the particular needs that arise from those factors to avoid revictimizing sexual abuse claimants in court.

Elizabeth Grace, a contributing author of the guide and a partner at Lerner LLP, says other issues such as cultivating compassion in the legal community in order to help lawyers avoid those pitfalls are also key suggestions outlined in the guide and were important factors in its development.

"While the guide is primarily directed at plaintiffs in sexual

abuse cases, we hoped it would be used by both plaintiffs and defendants to create a more encompassing respect for the legal process," says Grace.

"The hope is that the guide will draw attention to the victims' bill of rights, the demands on the clients who have been sexually abused, and the obligation of lawyers to represent them competently and compassionately."

One of those obligations, says Simona Jellinek of Jellinek Law Office, is to ensure lawyers develop a genuine sense of trust with sexual abuse claimants.

"These clients often face some pretty difficult issues around trust and authority and oftentimes, even though we are representing them, they still view us as an authority figure," says Jellinek, who also was involved in authoring the guide.

"That can be particularly harmful in establishing trust because their abusers often were viewed in the same way."

According to the guide, this could also cause sexual abuse victims to become "protective or avoidant" and have difficulty expressing themselves when interacting with counsel.

"Claimants' lack of self-esteem and confidence and the avoidant and destructive coping tendencies they often employ can make them particularly ill-suited to the de-



'The issue of abuse is not going away,' says Elizabeth Grace.

mands of the justice system," the LSUC guide noted.

"Claimants in sexual abuse cases may also be prone to aggression and harmful behaviours towards others, including those who are trying to help them."

To help address those issues, the guide recommends lawyers be open and direct in their communication with victims of sexual abuse. It also emphasizes being compassionate and understanding when hearing about their sexual abuse for the first time.

Not backing away from vic-

tims or talk about their abuse is key, says Loretta Merritt, a lawyer at Torikin Manes LLP who often represents clients in sexual abuse cases.

"Lawyers in these types of cases need to make themselves aware of what they may encounter and need to be educated about the process," says Merritt.

"They need to know not to back away when a client tells their story or to shrink away when a client calls them, cusses them out, and hangs up on them. They have to engage them and they have to know it's about so much more for victims of sexual abuse. It's about being heard... about justice for them. This guide can be very good in helping with that."

In addition, the guide recommends lawyers meet with clients in person before establishing a retainer relationship; finalizing the agreement before taking steps on behalf of the client; and reviewing the personal and professional supports available to claimants.

"Sexual abuse claims are both legally and factually complex," the guide noted.

It added that "because of the ever-present risk of harm to this psychologically fragile group of claimants, lawyers acting for claimants may wish to review, at the beginning and throughout their retainers, the personal and professional supports available to

their clients, and where possible and appropriate, encourage and/or assist them to seek out the supports they need to safeguard their health and well-being."

That psychological support, says Rick Goodwin, executive director of The Men's Project, is particularly important among male victims of sexual abuse who often face a "hellish process" in court.

"From the get-go, chances are most male victims won't even recognize the experience and their mental-health issues become exacerbated as a result," says Goodwin, whose organization provides support services to abuse victims.

"There is a need for concurrent psychological support among them and that can't be overemphasized."

But Goodwin says that while suggesting support groups might be useful advice for lawyers who represent victims of sexual abuse, it may not be enough.

"I think it's still a very challenging process. I'm not sure how well someone who has been sexually abused and requires substantial mental-health support can seek that out when the resources from the province simply aren't there."

Still, Grace says she hopes the law society guide will at least create a discussion about the legal profession's treatment of sexual abuse victims.

"The issue of abuse is not going away. I hope that this guide at least helps make people aware that these issues are out there." **LT**