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Brook Park woman challenges Ohio's tort reform laws after judge slashes \$20M from jury verdict in lawsuit against her rapist

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Amanda Brandt, 26, wants to challenge Ohio's tort reform laws after a Cuyahoga County Common Pleas Court judge cited the laws in lopping nearly \$20 million off an award she won in a lawsuit against the man who raped her as a child. Cory Shaffer, cleveland.com

By [Cory Shaffer, cleveland.com](#)

CLEVELAND, Ohio -- Eight jurors spent three days in a Cuyahoga County courtroom last year listening to the prolonged mental anguish that the now-imprisoned child rapist Roy Pompa inflicted upon one of his victims in 2005 and 2006, and awarded the now-26-year-old woman more than \$134 million in damages.

It was a monumental moment for the survivor, Amanda Brandt, even if Pompa is unlikely to come up with the money.

But Brandt and her Columbus-based attorney John Fitch are using the case to challenge the constitutionality of Ohio's so-called tort reform laws after the Cuyahoga County Common Pleas Court judge who oversaw the trial cited the laws last month when she slashed a portion of the verdict from \$20 million to \$250,000.

Ohio is one of nine states where lawmakers have passed laws capping the amount of money juries can award in civil lawsuits for lasting injury and impact that is non-physical, commonly referred to as "pain and suffering," not just in medical malpractice cases, but in all general tort lawsuits.

"It was kind of like a slap in the face," Brandt told cleveland.com in an interview Monday.

Burnside also awarded Brandt attorney's fees that totaled more than \$200,000.

Brandt made it clear in a Monday interview with cleveland.com that she does not fault the judge. But she and her attorney are mounting a legal challenge to the law in the hopes that it will open the door for both her and other survivors of child rape whose efforts to receive monetary justice are hamstrung by so-called "tort reform" laws.

"At the end, there's no compensation for the horrors that you went through. It's maddening, it's upsetting, and I would just like it to be known that it's wrong," Brandt said.

Brandt and her Columbus-based civil attorney John Fitch on Monday began the process of appealing the reduction on the grounds that the caps violate the constitutional rights of child rape survivors to a trial by jury and to equal protection under the law.

"I don't believe the law should protect a man who rapes a child, or his enabler," Fitch said. "The law should protect the child."

The arrest and conviction of Roy Pompa

The case against Pompa began as a child pornography investigation as he uploaded and downloaded images and video on computers at his Brook Park home. Investigators with the Ohio Internet Crimes Against Children task force searched the home and found VHS tapes labeled with names of girls investigators later learned were friends of Pompa's daughter, combined with crude, sexually explicit terms. The videos showed Pompa sexually abusing the girls during sleepovers at their house.

The girls appeared to be asleep in the videos but did not wake up during the abuse, leading investigators to get a second search warrant on the suspicion that Pompa was drugging them, records say. They went back to the house and found Trazodone, a prescription medication used to treat depression that is a known sedative, as well as an over-the-counter sleeping aid, a syringe and a pill crusher, records say.

The girls later told police -- and testified at trial -- that Pompa made them drink juice, water or tea before they went to bed, and that the drinks always tasted bad, records say. Investigators

concluded Pompa injected the drugs into the drinks to sedate them so he could film himself abusing them, records say. He most frequently delivered the drugs to the girls using juice boxes.

All of the girls -- five in total -- were between the ages of 6 and 14 years old. Brandt was 11 and 12 at the time of the abuse. She said that Pompa abused her at least 20 times at sleepovers in 2005 and 2006.

Pompa was convicted and sentenced in 2007 to more than 450 years in prison.



Roy Pompa

The fallout

Brandt is happily married with children in her hometown of Brook Park and bartending to help pay for training to be a real estate agent. But the road to that point was paved by the struggles of post-traumatic stress disorder, depression, drug addiction and homelessness.

Before the abuse, she was outgoing and volunteered with a community outreach program at her family's church. As she grew older, she was diagnosed with PTSD and experienced occasional panic attacks. She grew reclusive and declined to hang out with her friends, which led her to feel shunned and to blame herself for not being more outgoing.

She stopped volunteering at her church. She moved out of her parents' home when she was 18 years old. She became a regular heroin user and lost both her job and her apartment. She slept in a tent with another heroin abuser, she said.

Then she injected herself with what she hoped was a lethal dose of the drug that controlled the life she no longer could.

“It really was just the lowest point in my life,” she said. “And I stem it all from this.”

She remained in the hospital for two weeks and when she left, she began the slow process of getting her life back on track. She went to Narcotics Anonymous meetings and therapy, and continues treatment to this day. She said she still suffers from nightmares and panic attacks. She can't do things many people in their 20s do like go to concerts or hang out at crowded bars or popular restaurants for fear that someone might accidentally brush up against her.

Brandt said once she decided to pursue a lawsuit in 2018, she called several attorneys across the state, and none of them were eager to take her case.

Then she found Fitch, who waged a years-long unsuccessful battle against Ohio's tort-reform laws before.

Tort reform

States across the country began passing tort reform laws in the mid-2000s. Ohio Gov. Robert Taft signed Ohio's current law into effect in 2005, while Pompa was sexually abusing Brandt and the other girls.

The law limited the amount of money a person could win at a civil trial for non-economic losses -- things like mental anguish or other damages besides the actual cost of medical treatment and any effects to potential future earnings. The limit for cases with a single plaintiff, as in Brandt's case, is \$250,000.

Supporters of the reforms, led mostly by GOP-controlled statehouses and insurance companies, commonly cited the rising cost of health care and said the caps would bring down the cost of liability insurance for doctors and hospitals, and those savings would get passed on to consumers. The issue became a piece of the debate on health-care reform between then-Sen. John McCain and future President Barack Obama during the 2008 presidential election.

In addition to medical malpractice cases, some states also placed caps on damages in personal injury lawsuits and other general torts.

Ohio's laws for those cases did carve out exceptions for the caps not to apply to plaintiffs who suffered “catastrophic injuries,” but those injuries are all physical in nature, like the loss of a limb, Fitch said.

Fitch said the law is a violation of the Constitution's right to equal protection especially in the case of child rape survivors, who are likely to only suffer non-physical injuries and therefore cannot receive the same treatment as someone who suffered a physical injury.

“If during the course of this abuse she woke up and she was running away and she fell and she cut herself and she had a significant scar somewhere, then there would be no caps for her,” Fitch said. “My argument has always been when you rape a child, that really is a catastrophic injury to a child. This law in my opinion is archaic.”

The civil trial

Fitch filed a lawsuit against both Pompa and his ex-wife, who divorced Pompa shortly after his arrest and maintained that she had no knowledge of the abuse. Fitch and her lawyers agreed to a small out-of-court settlement.

The case went to trial before Common Pleas Court Judge Janet Burnside in November and, following testimony from Brandt, her mother and a psychologist, jurors awarded her \$14 million for abuse she suffered before tort-reform law went into effect in April 2005, \$20 million for abuse after the new law passed, and \$100 million in punitive damages.

Following the verdict, Pompa’s attorneys filed a request for Burnside to reduce the \$20 million award for abuse that occurred after the cap law passed down to \$250,000. Burnside sided with Pompa’s attorneys and cut the award in a Jan. 21 order. She left the remaining money in tact, bringing the new total award to \$114,250,000.

Ohio’s tort reform law also caps punitive damages, but it does not cover defendants who have been convicted of a felony so the \$100 million punitive award against Pompa stood, Fitch said.

Prior challenges

Fitch also represented a woman who sued a central-Ohio church after its pastor sexually abused her in his office when she was 15.

In that case, Ohio Supreme Court Justices in a 3-2 decision handed down in December 2016 upheld the cap laws that a judge cited in reducing the jury award in that case from \$3.5 million down to less than \$500,000. The court’s majority argued in their opinion that the survivor in that case had not sought any long-term treatment and went on to play college basketball.

The court held that there may be some circumstances where the cap proves unconstitutional, but “as applied to the facts before us,” the court found the cap constitutional.

Less than two months after the ruling, State Rep. Kristin Boggs introduced a bill that would exempt victims of rape and sexual assault from the caps for noneconomic damages. The central-Ohio Democrat later argued in an op-ed on cleveland.com that the caps disproportionately benefit wealthier adults who can prove that they suffered real, monetary impacts.

“[C]hildren, the unemployed, and the disadvantaged have few wages, are often without insurance, and are less likely to receive treatment,” Boggs wrote. “The bulk of their recovery is through compensation for ‘noneconomic’ pain and suffering they have endured -- which is capped.”

The bill, then HB 20, never received a vote and stalled in the Government Oversight and Accountability Committee.

Not about the money

Fitch said he doubts that Brandt is ever going to see the millions of dollars that jurors decided Pompa owes her.

He said his and Brandt's quest is to challenge a law that they find unjust and potentially hampering rape survivors from coming forward in the future.

For survivors of child rape whose abuse occurred after the tort reform was signed into law, tort reform would likely cap their non-economic damages at a maximum of \$500,000 for a victim and the victim's family.

Bringing these types of lawsuits can be expensive, for both the survivor of the abuse and the attorney. Hiring experts to testify on several subjects including a client's mental and emotional state and lasting damage costs money, and will cost more money if the abuser can afford a high-powered defense and hire multiple experts witnesses.

He pointed to his previous case before the Ohio Supreme Court, which he worked on for eight years until to the court's 2016 decision.

The result of capping the damages has been fewer lawyers who are going to be willing to pursue lawsuits on behalf of rape and sexual abuse survivors in cases that are long, complex and costly.

"This is an extremely powerful deterrent to accountability," he said.

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