

Civil suit allows prosecution on decades old sexual abuse

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Matt Morgan's effort to punish his uncle for sexual abuse three decades ago has traveled a unique legal course.

After exhausting traditional legal avenues, Matt Morgan's legal team used claims of fraud to bring Terry Morgan to justice, winning a \$395,000 judgment Dec. 2.

It is a legal tactic that could be used more extensively in the future, especially for those trying to press sexual abuse cases that can't be prosecuted because the statute of limitations has expired, said Boise attorney Andrew Chasan.

Chasan said the pursuit of Terry Morgan under a fraud claim is innovative and could open doors for other victims. Chasan is currently utilizing a fraud claim against the Boy Scouts of America, alleging that the Idaho branch of the scout group knew scouting posed a danger to young boys.

He said pursuing a single abuser for fraud is inventive.

"It (Morgan's case) doesn't have the strength of precedent as if it came from the (Idaho) Supreme Court," Chasan said. "But



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Matt Morgan and his wife Lynne are starting a nonprofit, Building Hope Today, for children who have suffered sexual abuse.

it helps prop the door open for others."

Legal relief

Matt Morgan approached Clint Casey and Dan Skinner in September 2012.

They decided to take a two-pronged approach to the case.

First, they attempted to overturn the state's statute of limitations for child abuse, which provides a

case can't be prosecuted after five years.

Court records show District Judge Dane Watkins Jr. ruled July 9, 2014, that he would not allow the child abuse claims to proceed. Idaho Code 6-1704 says criminal child abuse claims can be brought forward if the victim is over 18 and becomes aware of the abuse "within five years of the time the child discovers or reasonably

should have discovered the act, abuse or exploitation."

When that claim failed Matt's attorneys endeavored to find a new route. They argued fraud, basically claiming that Terry Morgan had lied to his nephew.

Watkins allowed the fraud claims to stand. Watkins said the theory behind fraud was not restricted to claims of financial harm and that

Terry lying to Matt could be considered fraud, court records show.

"Nothing in Idaho expressly confines fraud to commercial transactions," Watkins said.

The lawyers argued Matt was diagnosed with post-traumatic stress disorder and dissociative amnesia in 2010. Dissociative amnesia causes a temporary wipe of the memories of abuse. The diagnosis made litigation possible under a fraud claim. Matt's affliction opened the door to a fraud claim. Testimony from Matt's family members saying Terry Morgan groomed Matt for abuse bolstered the case.

A unanimous jury decision on Nov. 6 found that Matt's uncle had groomed him for sexual abuse which amounted to fraud under Idaho law.

Skinner said this verdict allows accessibility for victims to confront abusers who were never pursued criminally.

"We did a little research and we realized that maybe this is something that hasn't been done before," Skinner said.

Chasan said that though this use of fraud is insightful, it has been used before. The most famous case was when

defendants sued tobacco companies for damages, claiming companies knew the danger of cancer but kept it from the public.

"The reason (the defendants started to win) was internal documents proving the tobacco companies knew tobacco was a harmful product, but they failed to warn the public," Chasan said. "That opened (the tobacco companies) to fraud."

Skinner said Matt's case cannot yet be utilized on a national level.

Terry Morgan's attorneys appealed the case to the Idaho Supreme Court on July 2, court records show. If it survives appeal, the decision could become precedent for similar cases nationwide.

"People could use it in district level courts in Idaho," Skinner said. "But as far as citing to authority in all the other states, we're not there yet."

Matt may never see the money because Terry Morgan can't afford it. But Matt said the real victory is shining a light on child abuse.

"I think the statute of limitations should be changed," Matt said. "There needs to be some good positive things that come from this experience."