



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com  
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

# NY Court System Must Face Sex Abuse Cover-Up Claims

By **Frank G. Runyeon**

Law360 (May 31, 2023, 4:55 PM EDT) -- The New York state court system will face conspiracy claims by a longtime employee who says officials protected a judge who raped and abused her for years, a federal judge ruled Tuesday, clearing the way for her to seek evidence of an attempt to silence her.

U.S. Magistrate Judge Leslie G. Foschio's decision effectively allows former judicial secretary Rebecca Klymn to demand documents and testimony in her civil rights lawsuit, finding that she plausibly alleged a cover-up stretching back to 2005 and allowing her to add battery and emotional abuse claims via the newly enacted Adult Survivors Act. The act allows those sexually assaulted or abused as adults at any time to file civil suits during a one-year lookback window that opened on Nov. 24.

Judge Foschio granted key portions of Klymn's request to amend her lawsuit with civil conspiracy claims of a systemic effort to suppress her repeated complaints to court officials that her longtime boss, then-Commercial Division Justice Matthew Rosenbaum, coerced her into sex with threats and raped her.

Rosenbaum has denied the allegations, saying he and Klymn, who was his secretary until 2019, had a "totally consensual" extramarital affair. His attorney declined to comment on the latest ruling.

Judge Foschio's ruling said Klymn mustered "a plethora" of facts to sufficiently allege a conspiracy among Rosenbaum, a female judge, human resource officers and a top regional official entered into a tacit agreement to prevent her from complaining about Rosenbaum's conduct, violating her civil rights to equal protection under the law.

Judge Foschio noted that Klymn's allegations include that after she complained about the sexual harassment, the defendants repeatedly refused to tell Klymn how she could properly report it, discouraged her from complaining, delayed acting on her complaints and refused to help her find a new job away from Rosenbaum.

Judge Foschio added that none of the "nefarious" alleged actions were in line with legitimate court system goals, given that Klymn had already come to them with sexual abuse complaints.

Klymn's conspiracy claim dodged being undone by a corporate immunity provision because the court officials allegedly acted out of an improper personal interest "to protect Rosenbaum from being removed from judicial office and adverse publicity," Judge Foschio wrote.

Rosenbaum resigned in January 2020 under a vague ethics stipulation that said he had "made improper and at times abusive personal demands of court staff." Klymn's lawsuit, filed in 2021, claims that he harassed her, raped her and coerced her into more than 80 sex acts. Court officials ignored her complaints for years, she claims.

In an immediate response to the lawsuit, local law enforcement said it was investigating Rosenbaum for "possible criminal conduct." The status of the investigation is unclear; the Monroe County District Attorney's Office did not immediately respond to a request for comment on Wednesday.

Looking favorably on Klymn's first complaint, U.S. District Judge John Sinatra ruled in November that Rosenbaum and individual state court officials must face her state sex discrimination claims dating from 2005, and that the court system itself should face her federal discrimination claims dating from

2019.

Judge Sinatra accepted Klymn's so-called continuing violation theory linking alleged sexual abuse beginning 18 years ago to a more recent hostile work environment. Klymn's claims that Rosenbaum raped her in her home and forced her to perform oral sex in chambers dozens of times between 2005 and 2009 were sufficiently linked to alleged inappropriate comments and public touching that followed until 2019, he ruled.

Judge Sinatra also offered her a chance to bolster claims against individual state court officials to show their personal involvement.

With Judge Foschio's decision Tuesday, Klymn has now named many individual court officials — including former Justice Ann Taddeo, former Chief Clerk Ronald Pawelczak and human resource officers Margaret Allen and Amy Fields — in her new conspiracy allegations.

A spokesperson for the state court system declined to comment.

Lindy Korn, an attorney for Klymn, told Law360 that the judge's decisions to allow the conspiracy and battery claims under the Adult Survivor's Act were important victories. "Those two pieces are substantial, and we believe that these amendments really strengthen what we believe to be an already substantial case," Korn said.

Klymn is represented by Anna Marie Richmond and Lindy Korn.

Rosenbaum is represented by David A. Rothenberg and Michael Rothenberg of Rothenberg Law.

The state court defendants are represented by Pedro Morales of the Office of Court Administration.

The state court and individual defendants are represented by Heather Lynn McKay and Michele Romance Crain of the New York State Attorney General's Office.

The case is Klymn v. Monroe County Supreme Court et al., case number 6:21-cv-06488, in the U.S. District Court for the Western District of New York.

--Editing by Peter Rozovsky.

---

All Content © 2003-2023, Portfolio Media, Inc.