

# The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2022

PHILADELPHIA, AUGUST 22, 2022

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## 'Multitudes of Unimaginable Stories': Attorney Talks Strategies for Leading 300-Witness 'Kids-for-Cash' Civil Suit to \$206M Verdict

BY MAX MITCHELL

Litigation surrounding one of the Pennsylvania justice system's worst scandals in recent years came to a close last week when a federal judge handed down a \$206 million verdict against former Judges Mark Ciavarella and Michael Conahan.

The two ex-judges were convicted years ago for their roles in the Luzerne County "kids-for-cash" scandal, where they were found to be sending hundreds of children to juvenile detention centers in exchange for massive kickbacks from the facilities' developers.

The civil trial, which involved testimony from more than 300 witnesses directly affected by the scandal, was helmed by Anapol Weiss partner Sol Weiss.

The Legal spoke with Weiss about his role overseeing the lengthy civil trial, his strategy for litigating the infamous case, and what comes next.

**The Legal Intelligencer:** How did you get involved?

**Sol Weiss:** It was in 2008 or 2009 when a lawyer Barry Dyller, who practices up in that area, told my then partner Greg Spizer about this story, and wanted to know whether we wanted to be involved. I said sure, that looks like something we'd want to do, so we met with some of Barry's clients. We also talked to my good friend Bill Caroselli at Caroselli Beachler in Pittsburgh. He had some clients in that area, so they did their own complaint.

We did a complaint, and we learned that the Juvenile Law Center had clients of their own. They did a King's Bench petition, and all the other litigation to help the kids. Hangley Aronchick [Segal Pudlin & Schiller] was also working with the Juvenile Law Center. So we were able to come together in a unified way in 2009.

**TLI:** Since this was a lengthy litigation that initially played out in the criminal courts, can you



Courtesy photo

Sol Weiss of Anapol Weiss.

walk me through the litigation from the start?

**SW:** When we started the litigation, we were hampered for a long time because there was the criminal investigation. No one wanted to move forward because most either had a target letter or were being indicted.

[Robert J.] Powell [who owned the facilities] pleaded guilty first. He wore a wire as part of his understanding with the government. Rob Mericle [who built the facilities] pleaded guilty. Eventually the judges, one of them pleaded guilty—that was Judge [Michael] Conahan. He withdrew his guilty plea, before pleading

guilty again, and then [Judge Mark] Ciavarella went to trial. So after they were either pleaded guilty or had a guilty verdict, we were able to file our civil litigation. We filed as a class action.

After Mericle settled, we set up a settlement committee. We set up various categories and matrices, and administered that private settlement fund. The other owners of the private prisons eventually settled. We also had claims against Powell and they settled last. The entire amount of the settlement was about \$20 million. That left the judges, but nobody believed the judges had any assets,

Unfortunately, Judge [A. Richard] Caputo [who had handled the civil litigation] died and Judge Christopher Connor picked up the assignment, and eventually he started asking questions about how are you going to end this case. I had an open discussions with the judge. We came up with a plan, and drew up papers.

**TLI:** How did you litigate the civil claims?

**SW:** At this point none of the other firms were involved. Anapol Weiss alone sent out a letter to kids we knew and all the parents giving them an opportunity to testify. We told them they may get another award, but more likely than not, they're not going to get any money out of it because the judges don't have any assets.

I think we had 280 of the kids, now adults, and 20 or so of the parents testify.

I prepped them. We had individuals testify in front of Judge Connor. We did some Zoom presentations and we did live presentations. It took about three weeks to do this.

The pandemic was raging at that time. It took a while. We started September 2021 and were done in October.

Judge Connor, he took every person's testimony, evaluated it and came up with what he thought was a fair number. It came up to \$106 million and change, and he awarded \$100 million on top of it.

Judge Connor gave Conahan and Ciavarella the opportunity to be present or participate. I received a letter from each of them saying can't do it, go on without us.

**TLI:** Who was on the trial team?

**SW:** I had two fellows from Villanova law school. First we had Colleen Swiers. She was the one who had a lot of contact with the individual clients. I had some, but she did a lot of the behind-the-scenes work.

The next year Cecilia Carreras. She passed the bar right around the time the testimonies ended, but she helped Colleen and I. We did quite a bit of the brief writing, getting everything down, making sure it made sense.

These ladies worked their tails off, basically nonstop for a long time.

**TLI:** What did it take to prep so many witnesses?

**SW:** We had the paperwork from the prior settlements, so some was on paper, but a lot was electronic as well.

We were able to use those to figure out how long they were incarcerated, what their adjudications were, if they had any injuries what injuries. We interviewed each one, and they told us their story. We initially set 15 minutes as a guidepost for how long their testimony would be. It took a couple days until a pattern was set. The judge asked a lot of good questions. We took copious notes every day.

Some days we were just emotionally drained, because the testimony was very compelling.

**TLI:** How did you deal with hearing about so much trauma each day?

**SW:** When we were in Wilkes-Barre, we had dinner every night. When we were doing it by Zoom, we would meet afterwards. We took copious notes and began to develop statistics and a pattern of what happened to these kids. You get caught up in the moment. There's nothing else we did but concentrate on that.

**TLI:** What testimony stuck with you?

**SW:** Just about every story was riveting.

I remember one guy walked into the courtroom who was friendly with Ciavarella and he had a paper bag into the courtroom. In the bag were all sorts of things he had from his son. He said he turned in his son because the son was verbally fighting with the mother, and because he knew Ciavarella and he thought Ciavarella would scare the daylights out of the kid, give him probation or something and that would end it. Ciavarella put the kid away. The mother and father divorced after that, then the kid turned to drugs and suicide.

This guy was literally shaking and crying on the stand. I think he had the urn on the stand with his son's ashes as well.

It was stories that I frankly almost couldn't believe were true.

A girl whose father was molesting and raping her. She reported that, but Ciavarella turned it around on her and said how dare you try to put a good man behind bars and he put her away for I don't know how long.

It's really hard to comprehend that this took place.

An 8-year-old kid stole a Hershey bar and he went away for I don't know how many months. The private prison was where they warehoused them, but Ciavarella would send them to all around. Some got sent to Glenn Mills where they were pummeled and abused.

**TLI:** What was your strategy? What did you want to convey?

**SW:** The litigation strategy was to try to have a couple people every day who had extraordinarily devastating stories. We wanted to just make sure it was robust and basically continue to capture the judge's attention.

I gotta tell you, every day there were multitudes of unimaginable stories.

To me it was an exercise for them. It wasn't about getting any fee because I didn't think we were going to get paid because the judges have no assets. It was all about these victims to come to court to tell their stories.

**TLI:** Were you surprised by the judge's \$206 million verdict?

**SW:** I expected some punitive damages awards because the conduct was so reprehensible. I was very gratified to see Judge Connor's analysis. The amount of the award was overwhelming. I am very humbled by what he did and how meticulous he was in this process. I'm sure most of the kids who are now adults really appreciate what Judge Connor did too.

**TLI:** What comes next in terms of recovery?

**SW:** I told Judge Connor that our office would take depositions in aid of executing the judgments. I don't believe they have many assets. They were hidden. And those they had, the federal

government took them away from them, so I doubt there's a lot of money to be gotten. But we'll have to do some investigation.

**TLI:** What are your thoughts now that 13 years of litigating this case is over?

**SW:** I've been very fortunate to be involved in a lot of cutting-edge cases, like the NFL concussion case, the diet drug class action, Vioxx, and some other cases of that magnitude. This case has given me more satisfaction than any other case. To be able to do something for kids and take on a corrupt system is very satisfying and that's one of the highest goals and achievements that I believe a lawyer can do.

The Juvenile Law Center did a fantastic job uncovering this in the beginning. No one could really believe this actually happened. But now that it's out, I hope these kids and their families get finality. I hope a day doesn't go by where these judges are not reminded about what they did.

I'm glad I did it, and I'm eternally grateful to Colleen and Cecelia and others who helped and I'd do it again in a heartbeat.