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Ohio State, former students split on mediators in ex-doctor's sexual abuse cases

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Former Ohio State University students who have sued the university over claims that the school knew about sexual abuse by deceased physician Richard Strauss, but failed to stop it want their cases mediated by someone with experience in college sexual-assault cases, pointing specifically to mediators involved with Michigan State and Penn State university cases.

Attorneys for Ohio State, though, said they won't agree to such mediators and prefer a mediator who would bring a fresh perspective.

In court filing on Thursday, the parties in the cases — two groups of former Ohio State students who said they were abused by Strauss, as well as Ohio State — laid out their preferences for mediation in the cases, as requested by Federal Judge Michael H. Watson earlier this month.

The Strauss survivors proposed mediation to be led by Judge Layn Phillips or Kenneth R. Feinberg. Phillips is a former U.S. Attorney and U.S. District judge and mediated recent cases between victims of gymnastics doctor Larry Nassar and Michigan State University. Feinberg is “one of the nation's foremost mediators,” the plaintiffs wrote, and is known for helping to oversee the Federal September 11 Victim Compensation Fund of 2001, mediating numerous sexual abuse cases against Penn State University stemming from its Jerry Sandusky scandal and for mediating in thousands of sexual abuse claims involving Catholic priests in several states.

Ohio State objected to those options, writing that while it respects Phillips, “it must strongly object and will not consent, to him serving as mediator in this particular litigation.”

Ohio State pointed to the judge's earlier comments about avoiding some of the problems that arose during the Michigan State case.

"One goal of this mediation will be approaching this situation differently than what occurred at Michigan State University," Ohio State wrote in its position. "Additionally, to bring a fresh perspective to the unique facts and circumstances of this litigation, which differ from those presented in the Michigan State University situation, Ohio State strongly believes someone not personally involved in mediating the Michigan State University situation would be best."

The university had similar objections with Feinberg and his association with the Penn State cases.

Instead, the university proposed Judge James F. Holderman or Paul B. Calico. Holderman is a former chief judge of the U.S. District Court for the Northern District of Illinois and is currently a professional mediator for Judicial Arbitration and Mediation Services Inc. Calico is currently the chief mediator for the U.S. Court of Appeals for the Sixth Circuit.

The plaintiffs said Ohio State's suggestions are fine mediators, but the case needs someone "nationally renowned in handling university sexual abuse claims."

"When (Seattle-based law firm) Perkins (Coie) was hired to investigate the sex abuse at OSU, OSU wanted and insisted on an experienced group," the plaintiffs wrote. "It is puzzling that OSU refuses to consent to the only two mediators suggested that have both sex abuse mediation experience and have ever reached a mediated settlement in a university sex abuse class case."

It's unclear when Judge Watson will make a decision on a mediator, but he said at a January 17 status conference that he intended for mediation to begin within 30 days.

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