

'Strings Attached' for Both Parties in Jameis Winston Settlement



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Tampa Bay Buccaneers quarterback Jameis Winston and a former Florida State classmate have reached a confidential settlement on her rape claim against him.

by Celia Ampel

The public won't learn any details about Tampa Bay Buccaneers quarterback Jameis Winston's settlement of the sexual assault lawsuit filed against him by a former Florida State University classmate.

Sports law experts say Wednesday's agreement more than likely involves strong incentives for both parties to stay mum, closing the book on litigation with a scheduled April trial that would likely have been strenuous for not only Winston and his accuser, but also for the National Football League.

The typical outline of a settlement like this one is a cash payment to a plaintiff in exchange for confidentiality, nondisparagement and liquidated damages if the accuser breaks the agreement, said Fort Lauderdale attorney Jeff Ostrow, managing partner of Kopelowitz Ostrow Ferguson Weiselberg Gilbert and an NFL-certified agent with ProPlayer Sports LLC. The parties likely also released each other from any future lawsuits.

But settlements sometimes get creative, and so the agreement could include additional requirements for the

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defendant, such as donations to anti-sexual-violence organizations, said Peter Carfagna, director of the sports track for the University of Miami School of Law's graduate program in entertainment, arts and sports law.

"There are strings attached, both ways, which can be pulled if the contingencies or the confidentiality aren't satisfied," said Carfagna, who is also chairman and CEO of Magis LLC, a sports marketing, management and investment company. He is not involved in the case.

Records filed in Orlando federal court say only that Winston and his accuser, Erica Kinsman, "reached a compromise with contingencies" and would file joint motions for dismissal in 20 days.

That's typical language, Carfagna said, with "contingencies" meaning the settlement would be revisited if either party breached confidentiality or other clauses. The settlement ends Kinsman's case as well as a countersuit Winston filed against her for defamation.

Kinsman sued Winston in April 2015 for sexual battery, assault, false imprisonment and emotional distress stemming from a December 2012 incident. She has said she was drunk at a Tallahassee bar when Winston and others took her to an apartment, where she says the quarterback raped her. Winston has said the allegations are false and he and Kinsman had consensual sex. Prosecutors later said there wasn't enough evidence to win a conviction and that there were gaps in Kinsman's story.

Kinsman filed the lawsuit two weeks before Winston was made the top overall pick in the NFL Draft by Tampa Bay. In 2013, he won the Heisman Trophy.

"While the public yearns to know the [settlement] amount, Winston yearns

to keep the allegations quiet, out of the public's eye, in order for him to continue to play football but also to receive significant amounts of money in endorsement deals and other appearances," said Coral Gables attorney Alan Fertel, a partner at Weiss Serota Helfman Cole & Bierman and chair of the firm's sports and entertainment law group, who is not involved in the case.

Kinsman likely agreed never to discuss the amount of the settlement with anyone without court approval, except possibly a financial adviser or a spouse, Ostrow said.

Although Winston is probably more interested than Kinsman in keeping the amount quiet, she might not want the dollar figure made public either.

"If she didn't get much money, perhaps it looks like there's not merit in her claim, and if she got a lot of money, people might look at it and have an opinion about what her motives were in bringing the case," Ostrow said.

The cash could be paid in a lump sum or over a number of years, the lawyers said. Because Winston will make a guaranteed \$16 million under his current contract, Fertel said a lump sum seemed likely.

"If the defendant has the resources, it's better for the plaintiff to receive all of their money now," particularly for a plaintiff's lawyer working on contingency, Fertel said. "If the defendant does not have the wherewithal, the plaintiff sometimes accepts structured payment. The problem for her here in accepting structured payments is it sort of holds a guillotine, for lack of a better term, over her head because there are sums due to require her to adhere to the contract."

Besides cash, Kinsman might have asked for any number of other promises from Winston, Carfagna said. For instance, the football player might be barred from contacting her in the future, or the parties could even have in-

cluded a clause saying the agreement would be re-opened if Winston committed sexual assault in the future, he said.

And if Winston starts donating to charities to work to prevent sexual assault, the public can probably assume it was in this week's settlement, Carfagna said.

"If you saw that, you'd start to be able to unravel some of these contingencies pretty quickly," he said.

The settlement heads off a trial that might have been undesirable for both parties. Carfagna said typically, women accusing professional athletes of rape are run through the wringer in court.

"They'll drag out anything and everything about her past," he said. "It's a very torturous cross-examination at best."

A trial might also have been a reputational stain for the NFL, although the alleged rape was before Winston went pro, Fertel said, particularly because of the strong statements the league has made recently denouncing violence against women.

As for Florida State, it settled the Title IX lawsuit Kinsman filed against it for \$950,000. As part of the settlement, FSU made a five-year commitment to sexual assault awareness and prevention. The university also agreed to publish annual reports for the next five years about those programs.

For Winston, the settlement may mean tighter morality clauses in any future endorsement deals, Fertel said. But mostly it means he can look toward a future full of athletic success and dollar bills.

"He's intelligent enough or listening to enough suits to turn the page," Fertel said. "There's so much more money to be made in the future. This is a speed bump. It's a blip in the radar."

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Associated Press reporter Joe Reedy contributed to this report.