
Fairness in **Restitution Act**



THE
LOHM

— Background

RESTITUTION CAN BE A LIFE SENTENCE.

Restitution is a crucial aspect of a defendant's sentence, designed to be compensatory rather than punitive. However, current practices often lead to unjustly burdensome and disproportionate restitution orders. The impact is felt long after serving a prison sentence, hindering individuals from rebuilding their lives, supporting their families, and meeting restitution obligations. For many, restitution becomes an enduring "life sentence."

SUMMARY

The FIR Act aims to enhance federal restitution law by:

Ensuring Fairness, Proportionality, and Accuracy

- ▶ Mandate the Government to demonstrate the actual loss suffered by a victim directly due to the defendant's actions.
- ▶ Abolish joint and several liability, holding defendants accountable only for harms they caused.
- ▶ Hold an evidentiary hearing to prove or disprove the amounts included in a restitution order.

Preventing Onerous Restitution Obligations

- ▶ Reduce the statutory period to pay fines from 20 to 10 years, eliminating extensions sometimes permitted by courts.
- ▶ Allow courts to consider a defendant's economic circumstances to avoid unfair and unrealistic burdens.
- ▶ Protect defendants from wage garnishment, ensuring they maintain assets qualifying for counsel under federal guidelines.
- ▶ Enable petitioning for restitution order adjustments based on changing economic circumstances.
- ▶ Permit defendants to retain small non-wage amounts, such as gifts or inheritances.

Balancing Victim Recovery and Defendant Relief

- ▶ Prioritize restitution satisfaction over forfeiture in cases requiring both.
- ▶ Facilitate settlements for outstanding restitution, ensuring victims receive restitution while relieving defendants of undue burdens.
- ▶ Exclude reduced restitution amounts from taxable income.

The FIR Act strives to create a system where restitution serves its compensatory purpose without perpetuating unjust consequences. It aligns with principles of fairness, proportionality, and economic sensibility, benefiting both victims and defendants alike.

The Stories



I have a **joint and several restitution** over **\$500,700,000**. I don't know the exact figure because the amount was determined AFTER I went to camp. My attorney allowed the prosecutors to add a couple of "victims" because "you'll never be able to pay it back anyway." My attorney had told me, back in 2011, that after I'm off probation, my life will return to normal... that they don't pursue you civilly, etc.

Well, as we know, that philosophy has changed. I didn't benefit financially at all. Not all people convicted of white-collar crimes are Bernie Madoff. Many of us haven't taken anything, but we knew something was going on, but were too afraid to go to the authorities. Does that make it right? No. But, to sentence us to a lifetime of paying back something we didn't take, we will ALWAYS be second-class citizens. ALWAYS. In Florida, where I live, our Governor amended legislation allowing felons to regain the right to vote. The amendment was approved by over 65% of the citizens of Florida. Our Governor changed it to disqualify you from voting if you owe any money- fines or Restitution. Therefore, I will never be able to vote again.

I have paid \$500 every month since I got off home confinement. I have never seen a statement or an accounting of what has been paid back by the co-defendants who took money and had forfeitures. It's a hopeless feeling, knowing you will never, ever be truly free unless something changes.

CATHIE KISSICK

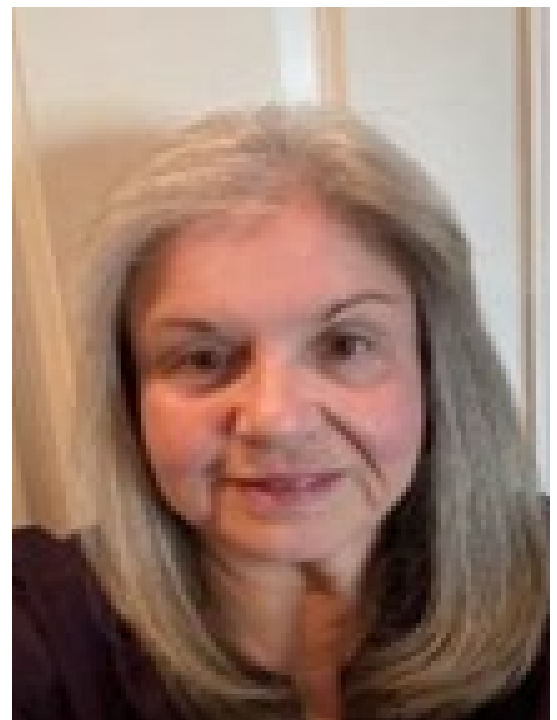
I was incarcerated from 2017 to 2020 at an FPC in Florida, then transferred to home detention per the CARES ACT and was released in 2022.

By the time I reported to the camp in 2017, my assets had been seized but never applied to my restitution of \$7.3 million dollars. The judge sustained my attorney's objection to these erroneous restitution figures; he stated that he was imposing it anyway, even though it exceeded the amount my company had received or could have received from Medicare according to my contract. The judge was fully aware.

Now, at the age of 71, I am trying to function with Pulmonary Sarcoidosis. I am unable to work; I have no savings; my social security retirement benefit is garnished by 15%, and my widow's benefit from the New Orleans Fire Department is being **garnished** at 30%. These ever-increasing garnishments are frightening and unsustainable for me.

As of today, after seven years of seizures, liens, and garnishments, I have never received a statement or any accounting of where these monies are being applied. I continuously ask the Financial Litigation Unit (FLU) for my records, and no one replies.

GERTIE PARKER



I have a restitution order for \$2.5 million and a forfeiture order for \$2.5 million. In 2013, after trial, I was convicted of conspiracy to commit wire fraud, conspiracy to commit bank fraud, and bank fraud. The total loss from my conviction was only one lender for \$35,000. Unbeknownst to me, my attorney, without my permission, waived my right to an **evidentiary hearing**. There are three (3) additional victims in my judgment, that the jury or I was unaware of. None of the victims submitted loss affidavits or any documentation. I did not benefit financially or obtain property.

After research, I discovered all the victims in my judgment were either out of business or paid years before my indictment. Each month, I pay restitution. There has never been a disbursement since 2015 when I started paying while in prison. I am one of the lucky ones who recently got a printout from the county clerk's office. FLU is harassing me to fill out annual financial forms; I recently hired a new attorney to ask questions about my restitution, but FLU refuses to return his calls and emails.

The prosecutor and judge created these figures to sentence me to 30 months imprisonment and a life sentence in the community. I have served the last 12 years of my life after being convicted by a jury of my so-called peers of defrauding a lender of \$35,000. While in prison, not only did I lose my freedom, dignity, and liberty. I lost my ability to have children due to early onset menopause without treatment. When is ENOUGH, ENOUGH?



TANYA PIERCE



I am a single mother of six, and one of my children has autism. I served two years in federal prison for conspiracy to commit Bank Fraud, and my release date was May 31, **2013**. Over the past 10-plus years since my release, I've worked tirelessly to rebuild my life and not be a burden to my children. I celebrated my 65th birthday in June this year and am hoping to gradually retire and slow down my work schedule.

However, there's a significant challenge I've been facing. I have a restitution order for \$4 million, yet there is no evidence of any financial loss incurred by National City Bank, now PNC, as a result of my actions. My family and I have consistently requested the supporting documentation for these claims, even prior to the 10-year shredding policy mentioned by the Attorney General's Office, and I possess evidence confirming the timeliness of my request before the 10-year shredding policy.

Furthermore, it raises the question of why digitized information would be destroyed in the first place. PNC Bank has also requested these documents from the Department of Justice (DOJ), and if they ever existed, PNC would have retained copies from when they acquired National City Bank, which happened less than four years after the alleged loss.

Lastly, it's essential to note that the 6th Circuit Court now mandates actual loss only for restitution, not anticipated or fabricated loss figures. Despite this, many like myself continue to carry the burden of fabricated restitution orders that affect our lives indefinitely. Why do I and so many others have a fabricated noose of restitution around our necks for the rest of our lives?

MARY K. ROGERS

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