

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC,¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

Jointly Administered

Re: Docket Nos. 941, 942

Objection Deadline: July 9, 2020 at 10:00 a.m. (ET)
Hearing Date: July 9, 2020 at 10:00 a.m. (ET)

**MOTION FOR ENTRY OF AN ORDER
AUTHORIZING TORT CLAIMANTS' COMMITTEE TO FILE
UNDER SEAL PORTIONS OF OBJECTION OF THE TORT CLAIMANTS'
COMMITTEE TO HARTFORD'S MOTION FOR RECONSIDERATION, IN PART,
OF THE COURT'S ORDER (I) APPOINTING MEDIATORS, (II) REFERRING
CERTAIN MATTERS TO MEDIATION, AND (III) GRANTING RELATED RELIEF**

The official committee of survivors of childhood sexual abuse (the "Tort Claimants' Committee" or the "TCC") hereby files this motion (the "Motion") seeking entry of an order (the "Proposed Order"), substantially in the form attached hereto as **Exhibit A**, (1) authorizing the TCC to file under seal certain limited portions (the "Highly Confidential Information") of the *Objection of the Tort Claimants' Committee to Hartford's Motion for Reconsideration, In Part, of the Court's Order (I) Appointing Mediators, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief* [D.I. 941] (the "Objection") filed in opposition to *Hartford's Motion for Entry of an Order Authorizing Hartford to File Under Seal (1) Portions of Hartford's Motion for Reconsideration, In Part, of the Court's Order (I) Appointing Mediators, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief* [D.I. 860] (the "Reconsideration Motion") and *Century's Joinder to Hartford's Motion for Reconsideration, in Part, of the Court's Order (I) Appointing Mediators, (II) Referring Certain*

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are as follows: Boy Scouts of America (6300) and Delaware BSA, LLC (4311). The Debtors' mailing address is 1325 West Walnut Hill Lane, Irving, Texas 75038.

Matters to Mediation, and (III) Granting Related Relief [D.I. 888] (the “Joinder”) directing that the Highly Confidential Information shall remain under seal and confidential pursuant to the terms of the Protective Order (as defined below) entered in these cases and not be made available to anyone, except to the Court and the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”); and (2) granting related relief. In support of the Motion, the TCC respectfully states as follows:

JURISDICTION AND VENUE

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. The TCC confirms its consent, pursuant to rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are section 107(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”), Bankruptcy Rule 9018, and Local Rule 9018-1.

BACKGROUND

4. On February 18, 2020, Debtors filed the *Motion for Entry of an Order (I) Appointing a Judicial Mediator, (II) Referring Certain Matters to Mandatory Mediation, and (III) Granting Related Relief* (Feb. 18, 2020) (“Mediation Motion”) [D.I. 17]. On March 11, 2020, Hartford filed an objection to Debtors’ Mediation Motion. *See Limited Objection of*

Creditors First State Insurance Company and Twin City Fire Insurance Company and Party In Interest Hartford Accident and Indemnity Company to Debtors' Motion for Entry of an Order (I) Appointing a Judicial Mediator, (II) Referring Certain Matters to Mandatory Mediation, and (III) Granting Related Relief, at 3-4 (Mar. 11, 2020) [D.I. 161].

5. On May 13, 2020, Debtors filed *Motion for Leave to File Debtors' Reply in Support of their Motion for Entry of an Order (I) Appointing Mediators, (II) Referring Certain Matters to Mandatory Mediation, and (III) Granting Related Relief* (May 13, 2020) [D.I. 617].

6. On June 8, 2020, the Court held a hearing to consider, among other things, the Mediation Motion. At the hearing, the Court overruled Hartford's objection and, among other things, appointed Paul Finn as a mediator in these cases.

7. Also on June 8, 2020, the Court entered the *Order Approving Confidentiality and Protective Order* (June 8, 2020) [D.I. 799], which entered Exhibit 1 the *Confidentiality and Protective Order* [D.I. 799-1] (the "Protective Order").

8. On June 9, 2020, the Court entered the *Order (I) Appointing Mediators, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief* (June 9, 2020) [D.I. 812] (the "Mediation Order").

9. On June 16, 2020, Hartford Accident and Indemnity Company, First State Insurance Company and Twin City Fire Insurance Company ("Hartford") filed the Reconsideration Motion.

10. On June 23, 2020, Century Indemnity Company, as successor to CCI Insurance Company, as successor to Insurance Company of North America and Indemnity Insurance Company of North America, Westchester Fire Insurance Company and Westchester Surplus Lines Insurance Company ("Century"), filed the Joinder.

11. On July 2, 2020, the TCC filed the Objection to the Reconsideration Motion and the Joinder.

12. The Highly Confidential Information in the Objection has been marked by the Debtors. The TCC therefore seeks leave to file under seal pursuant to the terms of the Protective Order the limited portions of the Highly Confidential Information in its Objection.

RELIEF REQUESTED

13. By this Motion, the TCC requests entry of the Proposed Order (a) authorizing the TCC to file under seal the Highly Confidential Information pursuant to the terms of the Protective Order; (b) directing that the Highly Confidential Information shall remain under seal and confidential and not be made available to anyone, except to the Court and the U.S. Trustee; and (c) granting related relief.

BASIS FOR RELIEF

14. Section 5.3 of the Protective Order provides that a Producing Party:²

may designate Discovery Material as “**HIGHLY CONFIDENTIAL**” if such Producing Party believes in good faith (or with respect to Discovery Material received from a Party in Interest, has been advised by such other person or entity in good faith) that such Discovery Material contains information that: (a) constitutes a trade secret under applicable law; or (b) contains such highly sensitive financial, personal, or business information that is of such a nature that disclosure to persons other than those identified in Paragraph 7.3 of this Order, as applicable, would present a risk of competitive injury. Such **HIGHLY CONFIDENTIAL** material includes, but is not limited to, Discovery Material reflecting trade secrets; sensitive financial, personal or business information, including insurance policy information; any financial information provided by an individual Local Council originally designated as “Committee Advisor Only” but converted to “Highly Confidential” pursuant to paragraph 7.4; or those portions of any material prepared by such Producing Party’s legal advisors, industry advisors, financial advisors, accounting advisors, experts of consultants (and their respective staff) that are retained by any Party that include or reveal Highly Confidential Discovery Material.

Protective Order § 5.3.

15. Section 7.6 of the Protective Order governs the filing or submitting of Protected

² Producing Party is defined in the Protective Order as “any person or entity that produces, provides, or makes available Discovery Material to any Party.” See Protective Order, II.

Material, which is defined as “Discovery Material designated as ‘CONFIDENTIAL,’ ‘HIGHLY CONFIDENTIAL,’ or ‘COMMITTEE ADVISOR ONLY.’” Section 7.6 provides in relevant part that:

any document containing Protected Material that is submitted to or filed with the Bankruptcy Court must be filed under seal as a restricted document in accordance with Local Rule 9018-1 and any applicable Chambers Procedures, or as otherwise ordered by the Bankruptcy Court. All Protected Material for which a Party or Party in Interest is requesting permission to file under seal (“Sealed Documents”) pursuant to this Order shall be filed in unredacted form in conformity with the sealing procedures set by the Clerk of the Bankruptcy Court. Such Sealed Documents shall be released by the Clerk of the Bankruptcy Court only upon further order of the Bankruptcy Court.

Any Party or Party in Interest that files a motion to file under seal with the Bankruptcy Court shall provide counsel to the U.S. Trustee with an unredacted copy of all documents sought to be sealed, pursuant to section 107(c)(3)(A) of the Bankruptcy Code.

Id. § 7.6.

CERTIFICATION PURSUANT TO LOCAL RULE 9018-1(d)

16. Pursuant to Local Rule 9018-1(d), counsel for the TCC certifies that counsel to the TCC and counsel to the Debtors as the “Holder of Confidentiality Rights” (as such term is defined in Local Rule 9018-1) conferred in good faith regarding the scope of material to be redacted from the Objection. The redacted version of the Objection [Docket No. 942] reflects such parties’ agreement regarding the scope of material to be redacted and remain under seal.

CONCLUSION

WHEREFORE, the TCC respectfully requests that the Court enter the Proposed Order, substantially in the form, attached hereto as **Exhibit A**, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Date: July 7, 2020

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

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Counsel for the Tort Claimants' Committee

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC,¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

Jointly Administered

Objection Deadline: July 9, 2020 at 10:00 a.m. (ET)

Hearing Date: July 9, 2020 at 10:00 a.m. (ET)

**NOTICE OF MOTION FOR ENTRY OF AN ORDER
AUTHORIZING TORT CLAIMANTS' COMMITTEE TO FILE
UNDER SEAL PORTIONS OF OBJECTION OF THE TORT CLAIMANTS'
COMMITTEE TO HARTFORD'S MOTION FOR RECONSIDERATION, IN PART,
OF THE COURT'S ORDER (I) APPOINTING MEDIATORS, (II) REFERRING
CERTAIN MATTERS TO MEDIATION, AND (III) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on July 7, 2020, the official committee of tort claimants (consisting of survivors of childhood sexual abuse) (the "Tort Claimants' Committee"), appointed in the above-captioned cases, filed the attached *Motion for Entry of an Order Authorizing Tort Claimants' Committee to File Under Seal Portions of Objection of the Tort Claimants' Committee to Hartford's Motion for Reconsideration, In Part, of the Court's Order (I) Appointing Mediators, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief* (the "Motion") with the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801 (the "Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE that any response or objection to the Motion must be filed with the Bankruptcy Court on or before **July 9, 2020 at 10:00 a.m. prevailing Eastern Time.**

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are as follows: Boy Scouts of America (6300) and Delaware BSA, LLC (4311). The Debtors' mailing address is 1325 West Walnut Hill Lane, Irving, Texas 75038.

PLEASE TAKE FURTHER NOTICE that at the same time, you must also serve a copy of the response or objection upon: (i) the Office of the United States Trustee for the District of Delaware: United States Trustee, J. Caleb Boggs Federal Building, 844 North King Street, Suite 2207, Lockbox #35, Wilmington, DE 19801 (Attn: David L. Buchbinder, Esq. (david.l.buchbinder @usdoj.gov) and Hannah Mufson McCollum, Esq. (hannah.mccollum@usdoj.gov)); and (ii) counsel to the Tort Claimants' Committee: Pachulski Stang Ziehl & Jones LLP, 919 North Market Street, 17th Floor, P.O. Box 8705, Wilmington, DE 19899-8705 (Courier 19801) (Attn: James I Stang, Esq. (jstang@pszjlaw.com) and James E. O'Neill, Esq. (joneill@pszjlaw.com)).

PLEASE TAKE FURTHER NOTICE THAT IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

PLEASE TAKE FURTHER NOTICE THAT A HEARING TO CONSIDER APPROVAL OF THE MOTION WILL BE HELD ON **JULY 9, 2020 AT 10:00 A.M. PREVAILING EASTERN TIME BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN, UNITED STATES BANKRUPTCY JUDGE, AT THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 MARKET STREET, 6TH FLOOR, COURTROOM NO. 2, WILMINGTON, DELAWARE 19801.**

[Signature on next page.]

Dated: July 7, 2020

PACHULSKI STANG ZIEHL & JONES LLP

/s/ James E. O'Neill

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Counsel for the Tort Claimants' Committee

Exhibit A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC,¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

Jointly Administered

Re: Docket No. _____

**ORDER GRANTING MOTION FOR ENTRY OF AN ORDER
AUTHORIZING TORT CLAIMANTS' COMMITTEE TO FILE
UNDER SEAL PORTIONS OF OBJECTION OF THE TORT CLAIMANTS'
COMMITTEE TO HARTFORD'S MOTION FOR RECONSIDERATION, IN PART,
OF THE COURT'S ORDER (I) APPOINTING MEDIATORS, (II) REFERRING
CERTAIN MATTERS TO MEDIATION, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of the official committee of survivors of childhood sexual abuse (the "Tort Claimants' Committee" or the "TCC") for entry of an order (this "Order") (1) authorizing the TCC to file under seal certain limited portions of the *Objection of the Tort Claimants' Committee to Hartford's Motion for Reconsideration, In Part, of the Court's Order (I) Appointing Mediators, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief* [D.I. 941] (the "Objection"); (together with limited portions of the Objection, the "Highly Confidential Information"); (2) directing that the Highly Confidential Information shall remain under seal and confidential pursuant to the terms of Protective Order entered in these cases and not be made available to anyone, except to the Court and the Office of the United States Trustee for the District of Delaware (the "U.S. Trustee"); and (3) granting related relief; all as more fully set forth in the Motion; and this Court having jurisdiction over this matter pursuant to

¹ The Debtors in these The Debtors in these chapter 11 cases, together with the last four digits of each Debtor's federal tax identification number, are as follows: Boy Scouts of America (6300) and Delaware BSA, LLC (4311). The Debtors' mailing address is 1325 West Walnut Hill Lane, Irving, Texas 75038

² Capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Motion.

28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the TCC's notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The TCC is authorized to file the Highly Confidential Information under seal, subject to further order of the Court, pursuant to sections 105(a) and 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1.
3. Except upon further order of the Court, the Highly Confidential Information shall remain under seal, and shall not be made available to anyone, except that copies of the Highly Confidential Information shall be provided to the Court and the U.S. Trustee on a confidential basis. Such parties shall be bound by this Order and shall at all times keep the Highly Confidential Information strictly confidential and shall not disclose the Highly Confidential Information to any party whatsoever.
4. The TCC and any party authorized to receive the Highly Confidential Information pursuant to this Order shall, subject to Local Rule 9018-1(c) and without further order of the Court, redact specific references to the Highly Confidential Information from any

and all pleadings filed on the public docket maintained in these chapter 11 cases.

5. This Order is without prejudice to the rights of any party in interest to seek to unseal and make public any portion of the material filed under seal.

6. The TCC is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

7. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC,¹

Debtors.

Chapter 11

Case No. 20-10343 (LSS)

Jointly Administered

CERTIFICATE OF SERVICE

I, James E. O'Neill, hereby certify that on the 7th day of July, 2020, I caused a copy of the following document(s) to be served on the individual(s) on the attached service list(s) in the manner indicated:

Notice of Motion for Entry of an Order Authorizing Tort Claimants' Committee to File Under Seal Portions of Objection of the Tort Claimants' Committee to Hartford's Motion for Reconsideration, In Part, of the Court's Order (I) Appointing Mediators, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief

Motion for Entry of an Order Authorizing Tort Claimants' Committee to File Under Seal Portions of Objection of the Tort Claimants' Committee to Hartford's Motion for Reconsideration, In Part, of the Court's Order (I) Appointing Mediators, (II) Referring Certain Matters to Mediation, and (III) Granting Related Relief

/s/ James E. O'Neill

James E. O'Neill (DE Bar No. 4042)

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Boy Scouts of America and
Delaware BSA, LLC
2002 Service List EXPEDITED
Case No. 20-10343 (LSS)
Document No. 227583.2
002 - Express Mail
005 - Overnight Delivery
171 - Emails

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The County Commission of Fayette County
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P.O. Box 307
Fayetteville, WV 25840

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