

**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)

Hearing Date:

November 18, 2020 at 10:00 a.m. (ET)

Objection Deadline:

November 12, 2020 at 4:00 p.m. (ET)

**DEBTORS' MOTION FOR ENTRY OF AN ORDER
(I) APPROVING WILSON SETTLEMENT AGREEMENT AND
(II) LIFTING THE AUTOMATIC STAY, TO THE EXTENT NECESSARY, TO
PERMIT PAYMENT OF SETTLEMENT AMOUNT BY APPLICABLE INSURANCE**

The Boy Scouts of America (the “BSA”) and Delaware BSA, LLC, the non-profit corporations that are debtors and debtors in possession in the above-captioned chapter 11 cases (together, the “Debtors”), submit this motion (this “Motion”) for entry of an order, substantially in the form of the proposed order attached hereto as **Exhibit A**, pursuant to sections 105(a), 362 and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code), and Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), (i) approving that certain settlement agreement by and between the BSA, Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council (“Crossroads”) and the National Boy Scouts of America Foundation (the “Foundation” and, collectively with Crossroads and the BSA, the “Defendants”), on the one hand, and Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson (the “Plaintiff” and, together with the Defendants, the “Parties”), on the other hand, as memorialized in that certain Settlement

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

Agreement attached hereto as **Exhibit B** (the “Settlement Agreement”), and (ii) lifting the automatic stay, to the extent necessary, to permit payment of the settlement amount from applicable insurance. In support of this Motion, the Debtors respectfully state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

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

3. The statutory bases for the relief requested herein are sections 105(a), 362 and 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a).

BACKGROUND

4. On January 28, 2019 the Plaintiff filed a lawsuit in the Kalamazoo County Circuit Court, Case No. 2019-0046-NO (the “Lawsuit”) against the Defendants stemming from the death of Gage Michael Samuel Wilson due to a sand dune collapse. The Foundation is a non-stock, non-profit corporation related to the BSA. Crossroads is a local council of the BSA.

5. The Lawsuit was automatically stayed as to the BSA when the Debtors filed for relief under chapter 11 of the Bankruptcy Code on February 18, 2020. To date, the Lawsuit has not been stayed as to the Foundation or Crossroads.

THE SETTLEMENT AGREEMENT

6. In order to avoid the expense of litigation with respect to defending the Lawsuit, the Parties entered into good-faith and arm’s-length negotiations. As a result of those negotiations, the Parties have entered into the Settlement Agreement.

7. Pursuant to the Settlement Agreement, the Plaintiff agrees to dismiss the Lawsuit with prejudice and without costs and release the BSA, the Foundation, and Crossroads, and each of their respective affiliates, employees, volunteers, officers, directors, advisors and agents from any and all claims relating to the Lawsuit on behalf of itself and the Estate of Gage Michael Samuel Wilson (the “Estate”) and the Estate’s and Gage Michael Samuel Wilson’s agents, heirs, relatives, assigns, parents (including Kimberly Gettys Wilson and Michael John Wilson), beneficiaries, third-party beneficiaries, attorneys, any and all potential claimants identified in Michigan’s Wrongful Death Act, MCL 600.2922, and anyone claiming by or through the Estate or Gage Michael Samuel Wilson (collectively, the “Plaintiff Parties”).

8. In exchange, the Defendants will pay the Plaintiff \$750,000 (the “Settlement Amount”). The Settlement Amount will be paid solely from available insurance. Specifically, the settlement amount will be paid by Old Republic Insurance Company (“Old Republic”) which issued primary and excess general liability insurance policies covering the time period in which the events that are the subject of the Lawsuit occurred.

9. Additionally, as set forth in the Settlement Agreement, within a reasonable time after the Effective Date (as defined in the Settlement Agreement), the Defendants shall also take certain other non-monetary actions such as (a) posting an Excavation Dangers safety moment on the BSA website; (b) updating their list of certain prohibited activities to include digging in sand dunes; (c) working with the Michigan Department of Natural Resources to post warning signs near the sand dunes at issue in this Lawsuit; and (d) providing sand dune safety training to volunteers and providing related information on applicable websites.²

² The Settlement Agreement also requires approval by the Kalamazoo County Circuit Court pursuant to MCL 600.2922(5). Accordingly, the Settlement Agreement will become effective only upon the latter of approval by this Court and approval by the Kalamazoo County Circuit Court.

RELIEF REQUESTED

10. By this Motion, the Debtors respectfully request that the Court enter an order, substantially in the form of the proposed order attached hereto as **Exhibit A**, (i) approving the Settlement Agreement and (ii) lifting the automatic stay, to the extent necessary, to permit Old Republic to pay the Settlement Amount.

BASIS FOR RELIEF REQUESTED

I. Legal Standard

A Approval of Settlements

11. Section 105(a) and Bankruptcy Rule 9019 authorize the Court to approve settlements of claims. Section 105(a) provides, in relevant part, that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). In addition, Bankruptcy Rule 9019 provides that, upon notice and a hearing, the Court “may approve a compromise or settlement.” Fed. R. Bankr. P. 9019(a).

12. Settlements and compromises are favored in bankruptcy proceedings as a means of “minimiz[ing] litigation and expedit[ing] the administration of a bankruptcy estate.” *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996); *see also In re World Health Alternatives, Inc.*, 344 B.R. 291, 296 (Bankr. D. Del. 2006). The Court should exercise its discretion to approve a settlement or compromise where it is “fair, reasonable, and in the interest of the estate.” *In re Louise’s, Inc.*, 211 B.R. 798, 801 (D. Del. 1997). The Court need only “canvass the issues and see whether the settlement falls below the lowest point in the range of reasonable.” *In re W.R. Grace & Co.*, 475 B.R. 34, 78 (D. Del. 2012). In determining whether a settlement or compromise should be approved, courts consider a number of factors, including “(1) the probability of success in the litigation; (2) the likely difficulties in collection; (3) the complexity of the litigation involved and

the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors. *In re Martin*, 91 F.3d at 393.

B. The Automatic Stay

13. Upon the filing of a bankruptcy case, section 362 of the Bankruptcy Code automatically stays, among other things, the commencement or continuation of any proceeding against the debtor “to recover a claim against the debtor that arose before the commencement of the case.” 11 U.S.C. § 362(a). The automatic stay serves a number of important purposes that protect both debtor and creditor interests, including, among other things, “to forestall the depletion of the debtor’s assets due to legal costs in defending proceedings against it” and “to avoid interference with the orderly liquidation or rehabilitation of the debtor.” *In re Rexene Prods. Co.*, 141 B.R. 574, 576 (Bankr. D. Del. 1992) (quotations omitted).

14. Section 362(d) authorizes the Court to grant relief from the automatic stay for cause. 11 U.S.C. § 362(d). Although the Bankruptcy Code itself does not define “cause,” courts in this District often consider whether (i) the debtor will suffer “any great prejudice” from the continuation of the civil suit,” (ii) the prejudice to the non-bankrupt party by maintenance of the stay considerably outweighs the prejudice to the debtor if the stay is lifted, and (iii) the non-bankrupt party “has a probability of prevailing on the merits.” *Id.*; see also *In re Scarborough St. James Corp.*, 535 B.R. 60, 67–68 (Bankr. D. Del. 2015).

II. Argument

15. The Settlement Agreement should be approved because it fairly and efficiently resolves the Lawsuit with minimal burden to the estate. As noted above, the Settlement Amount will be paid solely by Old Republic. The settlement, moreover, will also avoid the uncertainty and expense of litigating the Lawsuit and eliminate the potential for additional expenses and a larger judgment in this wrongful death action. In addition, the BSA will be released under the Settlement

Agreement, eliminating any liability under a plan of reorganization. Accordingly, the BSA submits that the Settlement Agreement is reasonable and in the best interests of the Debtors' estates and their creditors. *In re Louise's, Inc.*, 211 B.R. at 801.

16. Additionally, the automatic stay should be lifted, to the extent necessary, to permit Old Republic to pay the Settlement Amount. The question of whether proceeds of an insurance policy are property of the bankruptcy estate is complex and the law is unclear as to the answer. *In re MF Glob. Holdings, Ltd*, 469 B.R. 177, 190 (Bankr. S.D.N.Y. 2012). Although it is "well-settled that a debtor's liability insurance is considered property of the estate . . . 'the courts are in disagreement over whether the proceeds of a liability insurance policy are property of the estate.'" *Id.* (quoting *In re Downey Fin. Corp.*, 428 B.R. 595, 603 (Bankr. D. Del. 2010)). However, even if the automatic stay does apply, cause exists here to the permit the payment of the settlement amount by Old Republic.

17. First, as noted in Old Republic's previously filed motion for relief from the automatic stay, the BSA and related entities are covered under both primary and excess policies issued by Old Republic.³ These policies provide coverage up to a limit of \$1.0 million per occurrence with no aggregate limits under the Old Republic primary policies and up to \$9.0 million per occurrence and \$9.0 million in the aggregate per year under the Old Republic excess policies. Accordingly, the Settlement Amount of \$750,000 falls entirely within the primary policy limit (which has no aggregate limit). Additionally, the Debtors and Old Republic estimate that approximately \$300,475.00 of defense costs have been incurred relating to the Lawsuit (which are also covered by the Old Republic primary and excess policies). Thus, when combined, the total

³ See *Old Republic Insurance Company's Motion Pursuant to Sections 105(a) and 362 of the Bankruptcy Code and Bankruptcy Rule 4001 for an Order Modifying the Automatic Stay to Permit Payments of Claims Against Non-Debtor Insureds and Related Defense Costs Under Insurance Policies* [D.I. 678].

settlement amount and defense costs will only erode the Old Republic excess layer of insurance available to pay covered claims for this particular policy year in the approximate amount of \$50,475.00.⁴

18. Second, the Settlement Agreement will resolve the Lawsuit and avoid the uncertainty and expense of litigation which, as noted above, could exceed the settlement amount because the Parties have yet to complete fact discovery and will need to depose approximately seven expert witnesses. Moreover, the continued cost of litigation through trial would further erode the Old Republic excess policy beyond the current approximate erosion of \$50,475.00. *In re Almonacy*, No. 10-37235 DHS, 2011 WL 13659, at *3 (Bankr. D.N.J. Jan. 4, 2011) (“When an action seeks to recover from a debtor's insurance policy and the debtor is represented by the insurer, courts routinely grant stay relief because the burden on the estate is likely to be outweighed by the hardship on the plaintiff if the action is not permitted to continue.”). Additionally, Old Republic, not the Debtors, will pay the full Settlement Amount and the BSA will be fully released from any and all liability relating to the Lawsuit.

19. Accordingly, there is little prejudice, and indeed material benefit, to the Debtors if the stay is lifted to permit the settlement amount to be paid by Old Republic and the Settlement Agreement to be consummated.

NOTICE

20. Notice of this Motion will be provided to (i) the U.S. Trustee; (ii) counsel to the Creditors' Committee; (iii) counsel to the Tort Claimants' Committee; (iv) counsel to the Future Claimants' Representative; (v) counsel to the Ad Hoc Committee of Local Councils; (vi) counsel to JPMorgan Chase Bank National Association; (vii) counsel to the Plaintiff Parties; (viii) Old

⁴ The Debtors also note that they have significant additional excess insurance above the Old Republic excess layers during this policy period.

Republic Insurance Company; (ix) the other Defendants in the Lawsuit; (x) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Debtors submit that, in light of the nature of the relief requested herein, no other or further notice need be given.

CONCLUSION

21. For the above reasons, the BSA respectfully requests this Court enter an order (i) approving the Settlement Agreement, (ii) lifting the automatic stay, to the extent necessary, to permit payment of the settlement amount from applicable insurance and (iii) granting all other relief as is just and proper.

[Remainder of Page Intentionally Left Blank]

Dated: October 28, 2020
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Paige N. Topper

Derek C. Abbott (No. 3376)
Andrew R. Remming (No. 5120)
Eric W. Moats (No. 6441)
Paige N. Topper (No. 6470)
1201 North Market Street, 16th Floor
P.O. Box 1347
Wilmington, Delaware 19899-1347
Telephone: (302) 658-9200
Email: dabbott@mnat.com
aremming@mnat.com
emoats@mnat.com
ptopper@mnat.com

– and –

WHITE & CASE LLP

Jessica C. K. Boelter (admitted *pro hac vice*)
1221 Avenue of the Americas
New York, New York 10020
Telephone: (212) 819-8200
Email: jessica.boelter@whitecase.com

– and –

WHITE & CASE LLP

Michael C. Andolina (admitted *pro hac vice*)
Matthew E. Linder (admitted *pro hac vice*)
111 South Wacker Drive
Chicago, Illinois 60606
Telephone: (212) 881-5400
Email: mandolina@whitecase.com
mlinder@whitecase.com

*Counsel and Proposed Co-Counsel to the Debtors and
Debtors in Possession*

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)

Hearing Date:

November 18, 2020 at 10:00 a.m. (ET)

Objection Deadline:

November 12, 2020 at 4:00 p.m. (ET)

**NOTICE OF THE DEBTORS' MOTION FOR ENTRY OF AN ORDER
(I) APPROVING WILSON SETTLEMENT AGREEMENT AND (II) LIFTING
THE AUTOMATIC STAY, TO THE EXTENT NECESSARY, TO PERMIT
PAYMENT OF SETTLEMENT AMOUNT BY APPLICABLE INSURANCE**

PLEASE TAKE NOTICE that today, the above-captioned debtors and debtors in possession (the "Debtors") filed the *Debtors' Motion for Entry of an Order (I) Approving Wilson Settlement Agreement and (II) Lifting the Automatic Stay, To the Extent Necessary, to Permit Payment of Settlement Amount by Applicable Insurance* (the "Motion").

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion must be (a) in writing and served on or before **November 12, 2020, at 4:00 p.m. (ET)** (the "Objection Deadline"); (b) filed with the Clerk of the Bankruptcy Court, 824 N. Market Street, 3rd Floor, Wilmington, Delaware 19801; and (c) served so as to be received on or before the Objection Deadline by the undersigned counsel.

PLEASE TAKE FURTHER NOTICE THAT only objections made in writing and timely filed and received, in accordance with the procedures above, will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON **NOVEMBER 18, 2020, AT 10:00 A.M. (ET)** BEFORE THE HONORABLE LAURIE SELBER SILVERSTEIN OF THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE.

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.

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.

Dated: October 28, 2020
Wilmington, Delaware

**MORRIS, NICHOLS, ARSHT & TUNNELL
LLP**

/s/ Paige N. Topper

Derek C. Abbott (No. 3376)
Andrew R. Remming (No. 5120)
Eric W. Moats (No. 6441)
Paige N. Topper (No. 6470)
1201 North Market Street, 16th Floor
P.O. Box 1347
Wilmington, Delaware 19899-1347
Telephone: (302) 658-9200
Email: dabbott@mnat.com
aremming@mnat.com
emoats@mnat.com
ptopper@mnat.com

– and –

WHITE & CASE LLP

Jessica C. K. Boelter (admitted *pro hac vice*)
1221 Avenue of the Americas
New York, New York 10020
Telephone: (212) 819-8200
Email: jessica.boelter@whitecase.com

– and –

WHITE & CASE LLP

Michael C. Andolina (admitted *pro hac vice*)
Matthew E. Linder (admitted *pro hac vice*)
111 South Wacker Drive
Chicago, Illinois 60606
Telephone: (212) 881-5400
Email: mandolina@whitecase.com
mlinder@whitecase.com

*Counsel and Proposed Co-Counsel to the Debtors
and Debtors in Possession*

Exhibit A

Proposed 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)

Ref. Docket No. ____

**ORDER (I) APPROVING SETTLEMENT AGREEMENT AND (II) LIFTING THE
AUTOMATIC STAY, TO THE EXTENT NECESSARY, TO PERMIT PAYMENT OF
SETTLEMENT AMOUNT BY APPLICABLE INSURANCE**

Upon the motion (the “Motion”)² of the Boy Scouts of America and Delaware BSA, LLC, the non-profit corporations that are debtors and debtors in possession in the above-captioned chapter 11 cases (together, the “Debtors”), for entry of an order (this “Order”), pursuant to sections 105(a), 362 and 363 of the Bankruptcy Code and Rule 9019, (i) approving that certain settlement agreement by and between the BSA, Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, and the National Boy Scouts of America Foundation, on the one hand, and Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson, on the other hand, as memorialized in that certain Settlement Agreement attached to the Motion as **Exhibit B**, and (ii) lifting the automatic stay, to the extent necessary, to permit payment of the settlement amount by applicable insurance; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and entry of this Order being a core proceeding within the meaning of 28 U.S.C. § 157(b)(2); and the Debtors

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

² All capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Motion.

having consented to the entry of a final order by this Court under Article III of the United States Constitution; and venue of this proceeding and the Motion in this District being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the Debtors' 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 all objections to the Motion, if any, having been withdrawn, resolved or overruled; and the relief requested in the Motion being in the best interests of the Debtors' estates, their creditors and other parties in interest; 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 after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Settlement Agreement is APPROVED and the Parties to the Settlement Agreement are authorized to take such action as is necessary to effectuate the terms of the Settlement Agreement.
3. To the extent necessary, the automatic stay of 11 U.S.C. § 362(a) is lifted for the parties to consummate the Settlement Agreement.
4. Notwithstanding Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry and the Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order.
5. The Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: _____, 2020
Wilmington, Delaware

THE HON. LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

Exhibit B

Settlement Agreement

SETTLEMENT AGREEMENT

Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson v Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, et al.

Kalamazoo County Circuit Court Case No. 19-0046-NO

This Settlement Agreement (“**Agreement**”) is made and entered into on September ____, 2020 by and between Plaintiff Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson (the “**Plaintiff**”), on behalf of the Estate of Gage Michael Samuel Wilson (the “**Estate**”) and the Estate and Gage Michael Samuel Wilson’s agents, heirs, relatives, assigns, parents (including Kimberly Gettys Wilson and Michael John Wilson), beneficiaries, third-party beneficiaries, attorneys, any and all potential claimants identified in Michigan’s Wrongful Death Act, MCL 600.2922, and anyone claiming by or through the Estate or Gage Michael Samuel Wilson (collectively, the “**Plaintiff Parties**”), on the one hand, and (1) Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council (“**Crossroads**”); (2) the Boy Scouts of America (the “**BSA**”); and (3) the National Boy Scouts of America Foundation (the “**Foundation**” and, collectively with Crossroads and the BSA, the “**Defendants**”). This Agreement settles all claims against all the Defendants and the Releasees (as defined below), relating to the lawsuit pending in the Kalamazoo County Circuit Court, Case No. 2019-0046-NO (the “**Lawsuit**”), and any and all claims that could have been filed against the Defendants and the Releasees related to the matters set forth in the Lawsuit. This Agreement is intended to memorialize the terms of the settlement.

Accordingly, in consideration of their mutual promises and other good and valuable consideration hereby acknowledged by the Plaintiff, on behalf of itself and the Plaintiff Parties, and the Defendants (collectively, “the **Parties**”), the Parties agree as follows:

1. Effective Date

This Agreement shall only become effective (the “**Effective Date**”) fourteen (14) days after the latter of (A) an order of the United States Bankruptcy Court for the District of Delaware (the

SETTLEMENT AGREEMENT

Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson v Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, et al.

Kalamazoo County Circuit Court Case No. 19-0046-NO

“Bankruptcy Court”) (i) approving the Agreement pursuant to Federal Rule of Bankruptcy Procedure 9019 and (ii) approving the payment of the Settlement Amount (as defined below) by Old Republic Insurance Company pursuant to section 362 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the **“Bankruptcy Code”**) becomes a final non-appealable order; and (B) approval by the Kalamazoo County Circuit Court pursuant to MCL 600.2922(5).

2. Settlement Terms

The Defendants agree to pay Wilson a total of seven hundred fifty thousand dollars (\$750,000.00) (the **“Settlement Amount”**) within fourteen (14) days of the Effective Date. The Defendants further agree that, within a reasonable time after the Effective Date:

- (a) The BSA shall post the Excavation Dangers safety moment, a copy of which is attached as **Exhibit A**, on the BSA website;
- (b) The BSA shall update the list of prohibited activities to include digging in sand dunes;
- (c) The BSA and Crossroads will strive to work with the Michigan Department of Natural Resources to post warning signs near the sand dunes at issue in this Lawsuit; and
- (d) Crossroads shall provide sand dune safety training to volunteers and provide related information on its website.

In exchange for payment of the Settlement Amount and the above-described non-monetary provisions, the Plaintiff agrees to dismiss the Lawsuit with prejudice and without costs and provide the releases set forth below.

SETTLEMENT AGREEMENT

Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson v Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, et al.

Kalamazoo County Circuit Court Case No. 19-0046-NO

3. Release

In exchange for the consideration provided to Plaintiff in this Agreement, Plaintiff, on behalf of itself and the Plaintiff Parties, irrevocably and unconditionally releases, acquits and forever discharges all of the Defendants in the Lawsuit and all of their subsidiaries, parents, affiliates, managing agents, employees, volunteers, servants, consultants, agents, directors, officers, independent contractors, representatives, insurance carriers and attorneys of Defendants, and all persons acting by, through, under or in concert with any of them, and each of their respective heirs, successors, and assigns (hereinafter collectively referred to as "**Releasees**"), or any of them, from all claims asserted in the Lawsuit, as well as any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees and costs actually incurred) of any nature whatsoever, known or unknown, suspected or unsuspected, including, but not limited to any claims the Plaintiff Parties had, have, or may have, known or unknown, in connection with any facts, matters, property, transactions, or things between all Parties and between the Plaintiff Parties and the Releasees, including but not limited to, anything arising from, relating to, or in connection with the matters set forth in Lawsuit. The Plaintiff, on behalf of itself and the Plaintiff Parties, acknowledges and agrees that the non-Defendant Releasees are express intended third-party beneficiaries of this agreement for purposes of MCL 600.1405 and are entitled to enforce the release contained in this Agreement against the Plaintiff Parties. For the avoidance of doubt, the Releasees shall include without limitation those intended third-party beneficiaries identified on the attached **Exhibit B**. Notwithstanding the foregoing, the

SETTLEMENT AGREEMENT

Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson v Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, et al.

Kalamazoo County Circuit Court Case No. 19-0046-NO

claims released herein do not include any claim of breach of the terms of this Agreement or to any other claims that cannot lawfully be released.

4. General Release

It is understood and agreed that this is a full, complete and final general release of any and all claims, and that the Plaintiff, on behalf of itself and the Plaintiff Parties, agrees that the foregoing release applies to all unknown, unanticipated, unsuspected and undisclosed claims, demands, liabilities, actions or causes of action, in law, equity or otherwise, as well as those which are now known, anticipated, suspected or disclosed.

5. Disclaimer of Liability

The Parties agree and acknowledge that this Agreement is not to be construed as an admission of liability or wrong-doing by any Party, but is entered into in compromise of disputed claims.

6. Non-Disparagement

Plaintiff, on behalf of itself and the Plaintiff Parties, agrees that the Plaintiff Parties shall not make, publish, or cause any statement to be made in any form about the Defendants or the non-Defendant Releasees that is false, disparaging, casts the Defendants or the non-Defendant Releasees in a negative light, or would harm the Defendants or the non-defendant Releasees, or that would reasonably be expected to lead to unwanted or unfavorable publicity to the Defendants or the non-Defendant Releasees or detract from the reputation of the Defendants or the Releasees.

SETTLEMENT AGREEMENT

Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson v Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, et al.

Kalamazoo County Circuit Court Case No. 19-0046-NO

7. Joint Drafting

Each of the Parties has joined in and contributed to drafting this Agreement and each of the Parties agrees that there shall be no presumption favoring or burdening any Party based upon draftsmanship.

8. Authorization

With the exception of the BSA as a chapter 11 debtor requiring Bankruptcy Court approval of its entry into this Agreement, the Parties expressly warrant and represent that the execution of this Agreement is fully authorized by each of them; that the person or persons executing this Agreement have the necessary and appropriate authority to do so; and that there are no pending agreements, transactions, or negotiations to which any of them are a party that would render this Agreement or any part thereof void, voidable, or unenforceable.

9. Applicable Law

This Agreement shall be interpreted in accordance with the laws of the State of Michigan. The Parties expressly consent to personal jurisdiction in Michigan.

10. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

11. Complete Agreement

This is the entire agreement between the Parties. This Agreement may not be modified in any manner except in writing signed by the Plaintiff and authorized executives of the Defendants. The Parties acknowledge that they have not made any representations or promises to each other than those contained in this Agreement.

SETTLEMENT AGREEMENT

Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson v Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, et al.

Kalamazoo County Circuit Court Case No. 19-0046-NO

12. Voluntary, Knowing Agreement

This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of any Party, with the full intent of releasing all claims that the Parties have against each other. The Parties acknowledge that:

- (a) They have read this Agreement;
- (b) They have been represented by legal counsel of their own choice in the preparation, negotiation and execution of this Agreement;
- (c) They understand the terms and consequences of this Agreement and of the release and waivers it contains;
- (d) They have not relied upon any representations or statements made by the other Party that are not specifically set forth in this Agreement; and
- (e) They are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

Dated: October 22, 2020

By: /s/ Kathryn Marie Hall
Kathryn Marie Hall, Personal
Representative of the Estate of Gage
Michael Samuel Wilson

Dated: _____, 2020

Boy Scouts of America

By: _____

Its: _____

SETTLEMENT AGREEMENT

Kathryn Marie Hall, as Personal Representative of the Estate of Gage Michael Samuel Wilson v Michigan Crossroads Council, Inc., Boy Scouts of America d/b/a Southern Shores Field Service Council, et al.

Kalamazoo County Circuit Court Case No. 19-0046-NO

Dated: October 27, 2020

National Boy Scouts of America Foundation

By: /s/ Chasity McReynolds

Its: President

Dated: October 22, 2020

Michigan Crossroads Council, Inc., Boy Scouts of America

By: /s/ Donald D. Shepard Jr.

Its: Scout Executive/CEO