

**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: TBD

Hearing Date: TBD

**MOVING INSURERS' MOTION FOR ENTRY OF AN ORDER SHORTENING THE
NOTICE AND OBJECTION PERIOD FOR MOVING INSURERS' MOTION TO
COMPEL AND FOR ADDITIONAL RELIEF AND IN THE
ALTERNATIVE MOTION IN LIMINE**

The Moving Insurers listed in the signature blocks below respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, shortening notice of the Motion to Compel so that it may be presented at the Court's earliest convenience.

The need for the Court to shorten notice and hear this motion on Monday or Tuesday is made urgent by the fact that the Debtors waited until Friday evening to announce for the first time that they intend to offer the declaration of a previously undisclosed witness who they say that they intend to produce on Tuesday.² This individual is not offered to reply to anything "new" offered in parties' objections to the RSA that the Court will hear. The relief sought by this Motion is needed to ensure that the discovery sought is provided *before* this deposition if it is to take place.

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.

² See Declaration of Salvatore Cocchiario, dated July 23, 2021 ("Cocchiario Decl."), Ex. 16 (July 23, 2021 email from Debtors' counsel to insurers' counsel announcing Mr. Devang Desai as a new witness).

The Moving Insurers respectfully request that the Court consider the Motion to Compel ahead of that deposition, but, if that is not feasible, at a minimum in advance of the July 29th hearing. [D.I. 5466] (the “July 29th Hearing”).

The discovery that is the subject of the Motion to Compel is essential to the Moving Insurers’ and this Court’s assessment of whether the Debtors can carry their burden of proof for approval of the Restructuring Support Agreement (“RSA”). The Motion to Compel sets forth the precise relief sought.

The Moving Insurers moved promptly: It was only through the testimony of Mr. Daniel Ownby, National Chair of the BSA, on July 19, that the Moving Insurers became fully apprised of the extent to which these documents were relied upon by BSA and its various boards. The excessive instructions to Mr. Ownby not to answer were unforeseeable until the Debtors’ counsel actually gave such instructions at Ownby’s deposition.

In an effort to run out the clock, the Debtors have complained that we did not move fast enough and that we did not wait long enough. But it is not an adequate remedy for the Debtors to wait until they are called out, stall as long as they could, and then allude to the possibility of a half-a-loaf supplemental production after all their witnesses were produced for deposition and opposition briefs were filed, while clock continues running down to the hearing date. The Debtors did just that in saying that they needed to talk again—after refusing to comply—then asserting that they could not make themselves available until end of day on Friday, July 23.

The Moving Insurers waited until Friday, but the Debtors would not commit to recalling Messrs. Ownby, Mosby and Whittman to continue their depositions no matter what they may supplement. The Debtors also refused the Moving Insurers’ request that they agree to be barred from offering testimony and evidence on the topics on which they failed to produce supporting

documents on which they instructed their deponents not to testify.

Accordingly, the Court is faced with an actual judicable dispute on an issue on which the Moving Insurers have been prejudiced and are continuing to be prejudiced.

RELIEF REQUESTED

The Moving Insurers respectfully request that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, shortening notice of the Motion to Compel so that it may be presented at the Court's earliest convenience.

AVERMENT PURSUANT TO LOCAL RULE 9006-1(e)

Pursuant to Local Rule 9006-1(e), the Moving Insurers hereby state that they have contacted Debtors' counsel prior to filing the Motion to Compel and this Motion to Shorten, and that that Debtors continue to reject attempts to resolve these issues in a timely manner and have refused our request to shorten notice. *See* Motion to Compel at 20-22 and related footnotes.

WHEREFORE, the Moving Insurers request entry of an order, substantially in the form annexed hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as is appropriate under the circumstances.

Dated: July 23, 2021

Respectfully Submitted,

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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: D.I. __

**[PROPOSED] ORDER SHORTENING NOTICE OF
MOVING INSURERS' MOTION TO COMPEL AND FOR ADDITIONAL RELIEF
AND IN THE ALTERNATIVE MOTION IN LIMINE**

Upon the motion (the "Motion to Shorten") of the Moving Insurers, for entry of an order shortening notice of *Moving Insurers' Motion to Compel and for Additional Relief and in the Alternative Motion in Limine* ; the Court having reviewed the Motion to Shorten and the Motion, and found that the relief requested in the Motion to Shorten is justified under the circumstances, it is hereby ORDERED that:

1. The Motion to Shorten is GRANTED.
2. The Motion will be heard at _____.
3. This Court retains jurisdiction to construe and enforce the terms of this Order.

Dated: July __, 2021
Wilmington, Delaware

THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

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.