

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

In re:

BOY SCOUTS OF AMERICA AND
DELAWARE BSA, LLC,

Debtors.¹

Chapter 11

Case No. 20-10343 (LSS)
(Jointly Administered)

**Related DI Nos: 13200, 13201, 13205,
13222**

**OPPOSITION OF THE HONORABLE BARBARA J. HOUSER (RET.), IN HER
CAPACITY AS TRUSTEE OF THE BSA SETTLEMENT TRUST, TO CLAIMANT
D.H.'S MOTION FOR CLARIFICATION OR MODIFICATION AND REQUEST FOR
TOLLING OF SUIT DEADLINE**

The Honorable Barbara J. Houser (Ret.) (the "Trustee"), in her capacity as Trustee of the BSA Settlement Trust (the "Trust"), hereby submits this Opposition (the "Opposition") to Claimant D.H.'s ("Claimant") *Motion for Clarification or Modification and Request for Tolling of Suit Deadline* [D.I. 13200] (the "Motion"), and respectfully states and alleges as follows:

PRELIMINARY STATEMENT

Claimant elected to participate in the Independent Review Option ("IRO"), governed by Article XIII of the Trust Distribution Procedures [D.I. 10296] ("TDP"). Article XIII provides claimants proceeding under the IRO with "the opportunity for . . . an independent, neutral third party . . . [to] make a settlement recommendation (the "Settlement Recommendation") to the Settlement Trustee seeking to replicate to the extent possible the amount a reasonable jury might award[.]" TDP at Art. XIII.A. "If the Settlement Trustee declines to follow the Neutral's recommendation as to the Allowed Claim Amount for an Independent Review Claim (a "Recommendation Rejection"), within forty-five (45) days after the holder being served notice of

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

the Recommendation Rejection, the holder of such Direct Abuse Claim may commence a lawsuit in any court of competent jurisdiction against the Settlement Trust to obtain the Allowed Claim Amount of the Direct Abuse Claim.” *Id.*

Here, the Neutral in Claimant’s case issued a Settlement Recommendation of \$31,221,475.00. Ex. 2 at 10. Despite seeking additional clarification from the Neutral regarding the justification for the Settlement Recommendation, Ex. 3, the Trustee could not conclude, based on the record, that the Settlement Recommendation was reasonable and consistent with the TDP. Ex. 5. The Trustee rejected the Settlement Recommendation on this basis. *Id.* Because the Trustee issued a Recommendation Rejection, Claimant must seek to obtain the Allowed Claim Amount of his Abuse Claim by asserting his Abuse Claim in any court of competent jurisdiction against the Settlement Trust.

Claimant argues that the TDP does not require him to pursue a suit against the Settlement Trust pursuant to Article XIII.A and asks this Court to “clarify” that his Abuse Claim can be liquidated and resolved via the dispute resolution procedures set forth in Section 8.16 of the Trust Agreement. Mot. ¶ 23. Alternatively, he asks this Court to modify the TDP to provide “some form of alternative dispute resolution or [process before] the Court” solely for IRO claimants whose Settlement Recommendations are rejected as unreasonably high. *Id.* ¶¶ 31, 37. Neither is permitted under the Plan Documents or the law.

The TDP does not provide different remedies for IRO claimants based on the reason for the rejection of their Settlement Recommendation, and the Trust Agreement does not provide that claimants can liquidate and resolve their claims pursuant to anything other than the processes set forth in the TDP. The Plan Documents unambiguously require Claimant to pursue his Abuse Claim against the Trust in the tort system in this scenario. Claimant’s request to liquidate and resolve his

Abuse Claim via another process constitutes a motion to modify the Plan, which neither he, nor this Court, has the authority to do. In any event, because the Claimant *has* an Abuse Claim pending in the tort system, his requested Plan modification is unnecessary, as the Trustee (and any responsible insurer that agrees to undertake the defense of the claim) may now resolve Claimant's Abuse Claim in the normal course, including through settlement, mediation or otherwise, to the extent reasonable, appropriate, and in compliance with the Trustee's fiduciary duties.

FACTUAL BACKGROUND

Claimant filed his IRO claim on February 14, 2024. The Neutral issued her Settlement Recommendation on March 7, 2025. Ex. 2 at 10. Upon receipt of the Settlement Recommendation, the Trustee provided notice to the applicable insurers pursuant to TDP Art. XII.K.(iii) on March 10, 2025, and insurers had 21 days to respond with their consent to or refusal to consent to the Settlement Recommendation. Trust Ex. D. After the March 31, 2025 deadline for the insurers to respond had passed, the Settlement Recommendation was sent to the Trustee, along with the hearing transcript and the insurers' objections, for the Trustee to consider whether to accept or reject the Settlement Recommendation. On May 29, 2025, after an initial review of the Settlement Recommendation, the Trustee requested clarification from the Neutral regarding the basis for calculating an award of \$31,221,475.00, "including any benchmark judgments or settlements or other evidence considered with respect to damages[,]" to assist the Trustee in her evaluation of the reasonableness of the recommendation. Ex. 3 at 1. The Neutral responded to the Trust's letter on June 13, 2025. Ex. 4. The Trustee then re-submitted the Settlement Recommendation along with the clarification to the insurers on July 2, 2025. Trust Ex. E. The insurers again had 21 days to indicate their consent by July 23, 2025, which they refused to give. Thereafter, the Settlement Recommendation was sent to the Trustee to consider

whether to accept or reject it. The Trustee rejected the Neutral's Settlement Recommendation on September 22, 2025, concluding that the Settlement Recommendation was neither reasonable nor consistent with the TDP. Ex. 5 at 1. Specifically, the Trustee concluded that (i) the benchmark decisions the Neutral relied upon did not support the substantial amount of the Settlement Recommendation, and (ii) the Neutral's use of the Claims Matrix from Article VIII of the TDP in determining the award amount, was inappropriate. *Id.* at 3.

On October 4, 2025, the Claimant submitted a "Notice of Dispute" to the Trust, seeking to invoke the alternative dispute resolution procedures of Section 8.16 of the Trust Agreement and requesting reconsideration of the Trustee's decision. Ex. G. On October 7, 2025, the Trustee notified Claimant by letter that (i) the TDP did not permit Claimant to seek reconsideration of the Trustee's decision, and that the dispute resolution process under Section 8.16 of the Trust Agreement had no application to the IRO claims process, (ii) the TDP provides Claimant with the right to assert his Abuse Claim against the Trust in any court of competent jurisdiction in light of the Trustee's rejection of the Settlement Recommendation, with the Trust standing in the shoes of BSA or other Protected Parties, and (iii) the Claimant had forty-five days from the Trustee's rejection of the Settlement Recommendation to commence such a suit, TDP at Art. XII.A., XIII.A. Ex. H.

The Trustee then received a letter from Claimant on October 17, delineating Claimant's plan to file suit before the Bankruptcy Court in relation to "ambiguities" between the Settlement Trust Agreement and the TDP and asking the Trustee to toll the forty-five-day deadline to file a tort action. Trust Ex. A. The Trustee responded to that letter the same day, disagreeing with Claimant's assertion of ambiguity and explaining that she did not have the authority to toll the deadline to file the tort action. Trust Ex. B. Instead, she offered to extend Claimant's eventual

deadline to serve the summons on the Trust following the filing of the tort action to obviate the need for an expedited hearing before this Court. *Id.*

The Claimant subsequently filed his motions before this Court one week later. The Trustee opposed Claimant's *Motion to Shorten Notice with Respect to the Motion for Clarification or Modification and Request for Tolling of Suit Deadline* [D.I. 13201] (the "Motion to Shorten"). This Court held a hearing on the Motion to Shorten on October 29, 2025. During the hearing, for the first time, Claimant's counsel clarified that Claimant had an open, pending suit against BSA that Claimant had filed pre-petition, and acknowledged that such claim could potentially be "rescucitate[d]" without prejudicing Claimant, assuming that discovery did not move forward before the Bankruptcy Court decided Claimant's Motion for Clarification. Hr'g Tr., *In re Boy Scouts of America and Delaware BSA, LLC*, at 7 (October 29, 2025) [D.I. 13227]. Upon learning that the Claimant had a prior pending suit against BSA (and others), the Trustee determined that that suit met the requirements of the TDP's 45-day deadline, subject to Claimant's agreement to substitute the Trust as defendant promptly upon this Court's resolution of this Motion. *See* D.I. 13222.

By virtue of the prior pending suit and the Claimant's agreement to substitute the Trust as defendant as described above, the Trust was able to tender the pending suit to the applicable insurers for defense, and the Trustee (or the defending insurer, to the extent that any insurer accepts defense) may now settle the suit in the normal course, to the extent reasonable, appropriate, and in compliance with Trustee's fiduciary duties and the parameters of the TDP.

RESPONSE²

Claimant seeks to invoke Section 8.16 of the Trust Agreement to obtain what amounts to a reconsideration of his Abuse Claim. However, the TDP unambiguously provides that his remedy is to pursue his Abuse Claim against the Trust in the tort system. Even if this Court were to find conflict between the TDP and the Trust Agreement, the parties' intention was clear at the time of drafting the IRO process. This Court should not contravene the intentions of the drafters, and it is not within the Court's power to modify the TDP in any case. Finally, as Claimant now has a mechanism for the settlement process he seeks, his request for relief is moot.

I. THE PLAN DOCUMENTS UNAMBIGUOUSLY PROHIBIT THE RELIEF CLAIMANT SEEKS

A. Plan Documents Must Be Enforced According to Their Terms.

A plan of reorganization is governed by principles of contract interpretation. *In re NorthEast Gas Generation, LLC*, 639 B.R. 914, 923 (Bankr. D. Del. 2022) (citing *In re Shenango, Inc.*, 501 F.3d 338, 344 (3d Cir. 2007)). The Confirmation Order and the Plan provide that Delaware law governs situations, such as here, where neither the Bankruptcy Code nor other federal law is applicable. Confirmation Order ¶ 71, D.I. 10316; Plan, Art. XII.H, TDP, Art. XIV.E. Delaware courts construe contracts to give effect to the intent of the parties. *Weinberg v. Waystar, Inc.*, 294 A.3d 1039, 1044 (Del. 2023) (citing *Salamone v. Gorman*, 106 A.3d 354, 368 (Del. 2014)). Under Delaware law, absent an ambiguity in the contract, the contract is enforced pursuant to its terms. *Allied Capital Corp. v. GC-Sun Holdings, L.P.*, 910 A.2d 1020, 1030 (Del. Ch. 2006).

² The Trustee attaches the Attorney's Guide to Independent Review Option ("Attorney's Guide") at the Court's request at Trust Exhibit C. Claimant makes no argument related to the Attorney's Guide in his papers. The Attorney's Guide also has no bearing on the applicability of the Trust Agreement versus TDP to IRO claims. The language of the TDP, as discussed herein, governs IRO claims.

Where a plan is silent or ambiguous, a bankruptcy court may clarify it. *Id.* However, courts should not twist unequivocal language in the guise of interpreting a contract. *Id.* A contract is ambiguous when the contested language is “susceptible to more than one reasonable interpretation.” *Weinberg*, 294 A.3d at 1044 (quoting *Manti Holdings, LLC v. Authentix Acquisition Co.*, 261 A.3d 1199, 1208 (Del. 2021)). “An interpretation is unreasonable if it produces an absurd result or a result that no reasonable person would have accepted when entering the contract.” *Id.* (quoting *Manti Holdings*, 261 A.3d at 1208) (internal quotation marks omitted). Disagreement over interpretation does not render terms ambiguous. *Id.* (citing *Manti Holdings*, 261 A.3d at 1208).

Similarly, a court determines if there is a gap in contract language through contract construction in the context of an implied covenant. *In re El Paso Pipeline Partners, L.P. Derivative Litig.*, C.A. No. 7141-VCL, 2014 WL 2768782, at *17 (Del. Ch. June 12, 2014); *Reklam v. Bellator Sport Worldwide LLC*, No. 16-285-JFB-SRF, 2017 WL 5172397, at *5 (D. Del. Nov. 8, 2017). Courts first determine whether there is true silence on the subject, and, if so, then determine “whether the implied covenant should be used to supply a term to fill the gap.” *El Paso*, 2014 WL 2768782, at *17.

Delaware courts are clear that “[n]ot all gaps should be filled.” *Id.* Filling a gap is only an “occasional necessity . . . to ensure that parties’ reasonable expectations are fulfilled,” and the Delaware Supreme Court has “admonish[ed] against a free-wheeling approach to the implied covenant.” *Id.* at *18 (citation omitted); *see also Oxbow Carbon & Mins. Holdings, Inc. v. Crestview-Oxbow Acquisition, LLC*, 202 A.3d 482, 507 (Del. 2019) (“[T]he ‘covenant is a limited and extraordinary legal remedy.’” (quoting *Nemec v. Shrader*, 991 A.2d 1120, 1128 (Del. 2010))). “Terms are to be implied in a contract not because they are reasonable but because they are

necessarily involved in the contractual relationship so that the parties must have intended them and have only failed to express them because they are too obvious to need expression.” *El Paso*, 2014 WL 2768782, at *18 (quoting *Cincinnati SMSA Ltd. P’ship v. Cincinnati Bell Cellular Sys. Co.*, No. C.A. 15388, 1997 WL 525873, at *5 (Del. Ch. Aug. 13, 1997), *aff’d*, 708 A.2d 989 (Del. 1998)). The court does not supply terms as an equitable remedy for events that “could have been anticipated, but were not, that later adversely affected one party.” *Oxbow Carbon*, 202 A.3d at 507 (quoting *Nemec*, 991 A.2d at 1128). The court interpreting the agreement “cannot use an implied covenant to re-write the agreement between the parties, and ‘should be most chary about implying a contractual protection when the contract could easily have been drafted to expressly provide for it.’” *Nationwide Emerging Managers, LLC v. Northpointe Holdings, LLC*, 112 A.3d 878, 897 (Del. 2015) (quoting *Allied Capital*, 910 A.2d at 1035) (citing *Cincinnati*, 1997 WL 52873 at 993).

B. The Plan Documents Unambiguously Prohibit Reconsideration of Claimant’s IRO Claim.

The TDP and Trust Agreement both state unequivocally that the TDP provides the sole and exclusive mechanism for valuing and resolving Abuse Claims. *See* Trust Agreement Section 1.2 (“For the avoidance of doubt, all Abuse Claims asserted against the Debtors in the Chapter 11 Cases shall be resolved exclusively in accordance with the TDP.”); TDP Art. I.D (“These TDP and any procedures designated in these TDP, including the Individual Review Option, shall be the sole and exclusive methods by which an Abuse Claimant may seek allowance and distribution on an Abuse Claim that is subject to the Channeling Injunction with respect to the Protected Parties.”)

Article XIII of the TDP sets forth the process for resolving IRO claims. It provides that “an independent, neutral third party . . . [will] make a settlement recommendation (the “Settlement Recommendation”) to the Settlement Trustee seeking to replicate to the extent possible the amount a reasonable jury might award[.]” TDP at Art. XIII.A. Article XIII further provides that, “[i]f the

Settlement Trustee declines to follow the Neutral's recommendation as to the Allowed Claim Amount for an Independent Review Claim (a "Recommendation Rejection"), within forty-five (45) days after the holder being served notice of the Recommendation Rejection, the holder of such Direct Abuse Claim may commence a lawsuit in any court of competent jurisdiction against the Settlement Trust to obtain the Allowed Claim Amount of the Direct Abuse Claim." *Id.*

Claimant argues that the remedy set forth in Article XIII for rejected Settlement Recommendations conflicts with the alternative dispute resolution procedures set forth in Section 8.16 of the Trust Agreement. It does not. Section 8.16 applies to disputes "arising under. . . th[e] Trust Agreement," to which the Debtors, the Trustee, the STAC, and the FCR are the only parties. Trust Agreement, Section 8.16(a). Examples of disputes to which 8.16 would apply are delineated throughout the Trust Agreement. *See, e.g.,* Trust Agreement, Sections 5.3(a), 6.89b(ii)(B), 7.7(b)(iii) (providing expressly that disputes between the STAC and FCR regarding a successor Trustee, or regarding other matters requiring consent of the STAC or FCR, shall be resolved "pursuant to Section 8.16"). Nowhere does the Trust Agreement suggest that Section 8.16 provides a shadow process for valuing and resolving claims outside of the TDP framework. To the contrary, as noted above, the Trust Agreement states expressly that claims are to be resolved exclusively in accordance with the TDP. Trust Agreement, Section 1.2 ("For the avoidance of doubt, all abuse claims asserted against the Debtors in the Chapter 11 Cases shall be resolved exclusively in accordance with the TDP.") *See also* Trust Agreement, Sections 2.1(d)(ii), (xxi), (xxvii).

Claimant attempts to introduce a gap or ambiguity into the TDP by arguing, without factual support, that the parties negotiating the Plan "never considered" that the "Recommendation of a meritorious claim might be rejected as being unreasonably large"—in essence, suggesting that the

tort system remedy under Article XIII was only intended to apply to Abuse Claimants seeking to “appeal a bad result [presumably from the Neutral] in the IRO process.” Mot. ¶¶ 31–32. The Plan Documents and the record both belie this argument.

Nothing in the TDP (or the Trust Agreement) provides for different remedies for IRO claimants based on the reason for the Trustee’s rejection of the Settlement Recommendation, nor is the TDP silent as to Claimant’s remedy. To the contrary, Article XIII.A provides a single remedy for all claimants whose Settlement Recommendation was rejected by the Trustee: to pursue their Abuse Claim against the Trust in the tort system.³

In addition, the record is clear that the negotiating parties *did* anticipate a scenario in which a Settlement Recommendation would be rejected as unreasonably high. As the Debtors explained in responding to insurer objections to the IRO process during confirmation, “The Independent Review Option provides an opportunity for increased recoveries, relative to the TDP’s Trust Claim Submission, to holders of particularly high-value Direct Abuse Claims.” *See Debtors (I) Memorandum of Law in Support of Confirmation of Third Modified Fifth Amended Chapter 11 Plan of Reorganization for Boy Scouts of America and Delaware BSA, LLC and (II) Omnibus Reply to Plan Confirmation Objections* ¶ 101, D.I. 9114 (“Debtors’ Confirmation Brief”). “[B]ecause of the potential for higher recoveries and increased exposure, the Independent Review Option requires a more exacting and rigorous process than the Trust Claim Submission.” *Id.* ¶ 99. “The fact that the Neutral is only issuing a Settlement Recommendation provides additional procedural guardrails to the process. This structure provides the Settlement Trustee (and

³ As this Court has held previously, “[s]ilence . . . does not make the Plan ambiguous, rather it leaves nothing to be interpreted or clarified.” *See* D.I. 11789 at 30 n.90. (citing *In re Ampace Corp.*, 279 B.R. 145, 153 (Bankr. D. Del. 2002) (plan providing a time limit in which trustee could object to claims without language providing that the deadline could be extended leaves “nothing in the Plan for the Court [to] interpret or clarify,” “absent such [extension] language, unless the Plan is otherwise modified in accordance with § 1127(b), both parties are bound by the terms of the Plan and the Objections Deadline contained therein.”)).

unquestionable third-party neutral in Judge Houser) an opportunity to independently evaluate the Settlement Recommendation and decide whether it is appropriate.” *Id.* ¶ 103.

Consistent with the notion that the Trustee acts as an “additional procedural guardrail” to the IRO process, Article XIII.K contemplates expressly that the Trustee will evaluate the “reasonableness” of the Settlement Recommendation. TDP, Art. XIII.K.iv (affirming Trustee’s rights against participating insurers in the event they refuse to pay a Settlement Recommendation she has deemed “reasonable”). This reasonableness determination ensures that the Trustee—consistent with her fiduciary duties—can preserve the value of any available insurance proceeds for the IRO claim at issue. Specifically, to the extent any Responsible Insurer refuses to consent to a Settlement Recommendation (and, not surprisingly, the insurers have refused to consent to every Settlement Recommendation to date other than those for \$0), the Trustee can settle the claim without violating any consent-to-settle clauses in the policies if the Settlement Recommendation was reasonable and non-prejudicial to the insurers.⁴

The record reflects that the Debtors and creditor constituencies drafted the IRO process with great care to maximize the Trust’s ability to access excess insurance proceeds for IRO claims under applicable law. *See* Debtors’ Confirmation Brief ¶ 99. Accordingly, the parties clearly contemplated that the Trustee could, and would, reject a Settlement Recommendation that was unreasonably high, or otherwise not consistent with the TDP, in order to maintain the integrity of the IRO process and reduce risk to its insurance assets. In that scenario, the claimant would be

⁴ *See, e.g., Re: Brightview Enter. Sols. LLC v. Farm Fam. Cas. Ins. Co.*, No. 20-7195, 2020 WL 6074474, at *2 (D.N.J. Oct. 15, 2020) (alteration in original) (“Where the insurer acts in bad faith in not settling, ‘an insured [is] permitted to [s]ettle the tort claims . . . and then recover from the insured the amount paid in settlement . . . up to the policy limits, provided that such sums were reasonable and were paid in good faith.’”) (quoting *Fireman’s Fund Ins. Co. v. Sec. Ins. Co. of Hartford*, 367 A.2d 864, 871 (N.J. 1976)); 1 Allan D. Windt, *Insurance Claims & Disputes: Representation of Insurance Companies & Insureds* § 3:9 (6th ed. 2021) (“If . . . the insured settles a case for a sum that the insurance company would have been obligated to pay in settlement, the company is not prejudiced by the unauthorized settlement.”).

entitled to litigate their Abuse Claim against the Trust in the tort system. The Trustee (and, to the extent provided under applicable law, any insurer that accepts the defense of the Abuse Claim) would then have the power to settle the Abuse Claim in the normal course if appropriate. The Trustee could then seek coverage for any resulting settlement or judgment, without any litigation risk as to “reasonableness” of the initial Settlement Recommendation. And, the Responsible Insurers would have more incentive to agree to settle the Abuse Claim for a reasonable amount, because the filing of an Abuse Claim in the tort system (i) unequivocally triggers their defense obligations—in a way that, to date, many insurers have argued the IRO process does not, and (ii) they are now subject to the risk of an adverse jury verdict in the tort system.

The Debtors and the creditor constituencies considered a scenario where a Settlement Recommendation could be rejected as unreasonably high and still chose to provide that the remedy for such claimants was to pursue their claim in the tort system. Therefore, there is no ambiguity, gap, or inconsistency in the Plan Documents to reconcile.

II. NEITHER CLAIMANT NOR THIS COURT MAY MODIFY THE TDP

Alternatively, Claimant requests that, to the extent this Court finds no conflict between the TDP and Trust Agreement, the Court modify the TDP to provide for “some form of alternative dispute resolution or [other process before] the Court” in such instances. Mot. ¶ 37. Such modification is forbidden by the Bankruptcy Code and the Plan.

It is well-established that “a confirmed plan binds all parties in interest and may only be modified by the plan proponents or [a] reorganized debtor.” *In re Boy Scouts of Am.*, 772 F. Supp.3d 496, 512 (D. Del. 2025) (citing 11 U.S.C. §§ 1127(b), 1141(a); *Kravitz v. Samson Energy Co., LLC (In re Samson Res. Corp.)*, 590 B.R. 643, 649 (Bankr. D. Del. 2018); *In re Vencor, Inc.*, 284 B.R. 79, 85 (Bankr. D. Del. 2002)). Neither the Plan Proponents nor the Reorganized Debtor have sought such relief here, and thus, Claimant’s requested relief is improper on this ground alone.

See also 7 Collier on Bankruptcy ¶ 1127.03[2][a] (“Courts are not permitted to make *sua sponte* postconfirmation modifications.”).

Such modification is also prohibited by the Plan Documents themselves. No provision of the Plan, TDP, or Trust Agreement permits the Court, on its own or on the initiative of a creditor, to amend the Plan. Rather, the TDP permits the Trustee to amend the TDP in certain limited circumstances, none of which are applicable here. *See* TDP, Art. XIV.B; Trust Agreement § 4.1 (“The TDP shall be subject to amendment or modification only to the extent expressly set forth in the TDP.”).

III. CLAIMANT NOW HAS A MECHANISM FOR SETTLEMENT, AND THEREFORE HIS REQUEST IS MOOT

In any event, given developments since the Court’s hearing on Claimant’s Motion to Shorten, Claimant’s Motion is now moot. As noted above, Claimant has now met Article XIII’s requirement to commence an Abuse Claim against the Trust within 45 days of the rejection of the Settlement Recommendation. Therefore, his requested Plan modification is unnecessary, as the Trustee (and any responsible insurer that agrees to undertake the defense of the claim) may now resolve his Abuse Claim in the normal course, including via mediation, settlement, or otherwise, to the extent reasonable, appropriate, and in compliance with the Trustee’s fiduciary duties. Such an approach is consistent with the TDP and does not require this Court to insert an additional claims review mechanism into the Plan—a mechanism that could impede the Trust’s ability to access the Debtors’ insurance to resolve Claimant’s Abuse Claim as intended by the IRO process.

CONCLUSION

The Trustee respectfully requests that this Court deny Claimant’s Motion for Clarification or Modification and Request for Tolling of Suit Deadline.

Dated: November 6, 2025
Wilmington, DE

A.M. SACCULLO LEGAL, LLC

/s/ Mark T. Hurford

Mark T. Hurford (DE Bar No. 3299)
27 Crimson King Drive
Bear, DE 19701
Telephone: (302) 836-8877
Facsimile: (302) 836-8787
Email: mark@saccullolegal.com

- AND -

GILBERT LLP

Kami E. Quinn (admission *pro hac vice*)
Emily P. Grim (admission *pro hac vice*)
Michael B. Rush (admission *pro hac vice*)
Brittney M. Welch (admission *pro hac vice*)
700 Pennsylvania Avenue, SE
Suite 400
Washington, DC 20003
Telephone: (202) 772-2200
Facsimile: (202) 772-3333
Email: quinnk@gilbertlegal.com
grime@gilbertlegal.com
rushm@gilbertlegal.com
welchb@gilbertlegal.com

*Attorneys for the Honorable Barbara J. Houser
(Ret.), in her capacity as Trustee of the BSA
Settlement Trust*

TRUST EXHIBIT A



Dondra Bass O'Neal

Attorney at Law
Admitted in GA and FL

October 17, 2025

VIA EMAIL ONLY TO GRIME@GILBERTLEGAL.COM

Emily P. Grim, Esquire
Gilbert LLP
700 Pennsylvania Avenue, SE
Suite 400
Washington, DC 20003

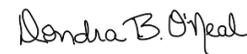
**RE: Claimant No. : SST-365510
Our File No. : 14-1712/001**

Dear Ms. Grim:

I am writing to you in your capacity as counsel for the Boy Scouts of America Settlement Trust and the Honorable Barbara J. Houser (Ret.), in the above-referenced matter. We intend to file a motion with the Bankruptcy Court in *In re: Boy Scouts of America and Delaware BSA, LLC*, Case No. 20-10343, seeking clarification or modification regarding conflicting provisions and gaps between the Settlement Trust Agreement and the Trust Distribution Procedures. Specifically, there are conflicting provisions contained in Section 8.16 of the Settlement Trust Agreement and Article XIII of the Trust Distribution Procedures. We would like to have the motion heard on the next scheduled court date of November 13, 2025. However, there is a deadline of November 6, 2025, for Claimant to file suit against the Settlement Trust pursuant to Article XIII of the Trust Distribution Procedures, which deadline is to be addressed in the motion.

Therefore, I am writing to request your agreement to toll the deadline for the above-referenced claimant to file suit against the Settlement Trust until after the motion has been heard and ruled upon. **Please let me know as soon as possible of your agreement.** Otherwise, we will have to seek an expedited hearing in Bankruptcy Court prior to the November 6, 2025, deadline.

Yours truly,


Dondra B. O'Neal

/dbo

cc: Hon. Barbara J. Houser (Ret.)
c/o Pachulski, Stang, Ziehl & Jones
Email: Trustee@scoutingsettlementtrust.com



Dondra Bass O'Neal

Attorney at Law
Admitted in GA and FL

Brown Rudnick, LLP

Attn: David J. Molton, Esq., Barbara J. Kelly Esq.

Email: dmolton@brownrudnick.com; bkelly@brownrudnick.com

Pachulski, Stang, Ziehl & Jones LLP

Attn: Richard M. Pachulski Esq., Debra Grassgreen Esq., John Lucas Esq.

Email: rpachulski@pszjlaw.com; dgrassgreen.com@pszjlaw.com; jlucas@pszjlaw.com

Wilmington Trust, N.A.

Attn: Haley Owen

Email: howen@wilmingtontrust.com

Morris James, LLP

Attn: Ross Antonacci, Esq.

Email: RAntonacci@morrisjames.com

James L. Patton, Jr.

Young Conaway Stargatt & Taylor, LLP

Email: jpatton@ycst.com

Ken Enos, Partner

Young Conaway Stargatt & Taylor, LLP

Email: kenos@ycst.com

Adam P. Slater, Esq.

Email: aslater@sssfirm.com

jschulman@sssfirm.com

jsmith@sssfirm.com

Sean Thomas Higgins, Esq.

ANDREWS & THORNTON

Email: shiggins@andrewsthornton.com

Kenneth Rothweiler

Email: Ken@erlegal.com

Jordan Merson

Email: jmerson@mersonlaw.com

Paul Mones

Email: paul@paulmones.com



Dondra Bass O'Neal

Attorney at Law
Admitted in GA and FL

Christopher Hurley
Email: churley@hurley-law.com

Irwin Zalkin
Email: irwin@zalkin.com

Attention: Joseph Zirkman, General Counsel
Email: Joseph.Zirkman@scouting.org

White & Case LLP
Attn: Laura E. Baccash and Blair M. Warner
Email: laura.baccash@whitecase.com, blair.warner@whitecase.com

Judge Michael J. Reagan (Ret.), Claims Administrator
Email: ClaimsAdminMR@scoutingsettlementtrust.com

David M. Klauder, Esq.
Email: dklauder@bk-legal.com

TRUST EXHIBIT B



700 Pennsylvania Avenue, SE
Suite 400
Washington, DC 20003
O 202.772.2200
F 202.772.3333
GilbertLegal.com

Emily P. Grim
202.772.3926
grime@gilbertlegal.com

October 17, 2025

VIA ELECTRONIC MAIL

Dondra Bass O’Neal
Bass Law, LLC
1138 E. 72nd Street
Savannah, Georgia 31404
dondra@bassinjurylaw.com

Re: CORR to Settlement Trust re. Tolling Request

Dear Ms. O’Neal:

We write on behalf of the Honorable Barbara J. Houser (Ret.), in her capacity as Trustee of the BSA Settlement Trust (the “Trust”)¹, in response to your October 17, 2025 letter. We do not agree that there are ambiguities between the Settlement Trust Agreement and the Trust Distribution Procedures (“TDP”). As stated in our October 7, 2025 letter, the Trust Agreement does not govern whether and how a claimant may challenge the outcome of an IRO proceeding.

As to your request for a tolling agreement, the TDP unfortunately does not provide the Trustee with the discretion to extend the 45-day deadline for a claimant to commence a suit against the Trust in a court of competent jurisdiction. TDP Article XII.A. However, to the extent you choose to file such a suit before the applicable deadline, the Trust will agree to extend the time in which service must be effectuated on the Trust until 10 days after the Bankruptcy Court enters a dispositive order on the motion you intend to file. This should obviate the need for any expedited hearing.

The Trustee reserves all rights.

¹ Unless otherwise noted, all capitalized terms used herein shall have the meaning ascribed to them in the Third Modified Fifth Amended Chapter 11 Plan of Reorganization (With Technical Modifications) for Boy Scouts of America and Delaware BSA, LLC, *In re Boy Scouts of America*, No. 20-10343 (LSS) (Bankr. D. Del. Sept. 6, 2022), ECF No. 10296, available at https://casedocs.omniagentsolutions.com/cmsvol2/pub_47373/aecb7dbb-0270-4442-8db6-f657d052676f_10296.pdf.

October 7, 2025
Page 2

Regards,

Emily P. Grim

Emily P. Grim

TRUST EXHIBIT C

Attorney’s Guide to Independent Review Option (“IRO”)

Version 7, Effective Date: August 30, 2024

I. Purpose

- a. The Independent Review Option (“IRO”) provides Direct Abuse Claimants (“Claimants”) with the opportunity to have an independent, neutral third party, selected from a panel of retired judges with tort experience maintained by the Settlement Trust, make a Settlement Recommendation (the “Settlement Recommendation”) to the Settlement Trustee. The Settlement Recommendation is intended to replicate, to the extent possible, the amount a reasonable jury might award for the particular Direct Abuse Claim, taking into account the relative shares of fault that may be attributed to any parties potentially responsible for the Direct Abuse Claim “under applicable law and applying the same standard of proof that would apply under applicable law.” *TDP Article XIII A.*
- b. The purpose of the IRO is consistent with that of the Trust Distribution Procedures (“TDP”), which is to achieve maximum fairness and efficiency in resolving Abuse Claims by applying the following guiding principles:
 - i. objective claim eligibility criteria;
 - ii. clear and reliable proof requirements;
 - iii. administrative transparency;
 - iv. a rigorous review and evidentiary process that requires the Settlement Trustee to determine Allowed Claim Amounts in accordance with applicable law;
 - v. prevention and detection of fraud; and
 - vi. independence of the Settlement Trust and the Settlement Trustee. *TDP Article I B.*
- c. The IRO is described in Article XIII of the TDP, which can be found at this [link](#).

II. Definitions¹

- a. “**Claims Administrator**” means the Hon. Michael J. Reagan (Ret.), or any other person acting on behalf of the Settlement Trust, to oversee the IRO Process and the Claims processed through it.
- b. “**Complaint**” means the pleading filed² by the Claimant setting forth the claims on which a Settlement Recommendation shall be made by the Neutral following the IRO Hearing.

¹ Capitalized terms not defined in the Attorney’s Guide to IRO shall have the same meaning ascribed to them in the TDP.

² When a pleading or other document is required to be “filed” in accordance with the terms of the Attorney’s Guide to IRO, the filing is to occur in the Claimant’s Portal. Filing instructions are available on Settlement Trust website.

- c. **“IRO”** means the Independent Review Option.
- d. **“IRO Hearing”** means the virtual or in-person evidentiary hearing conducted by the Neutral through which the Claimant’s claims are determined. In order to minimize Claimants’ travel costs, virtual IRO Hearings are recommended by the Settlement Trust. In-person IRO Hearings will be conducted in the county of residence of the Neutral.
- e. **“IRO Process”** means the entire hearing process involving a Claimant electing the IRO.
- f. **“Initial Submission Date”** means the date on which the Claimant and Responsible Insurers must file their initial evidentiary submissions in cases where the Claimant has elected to proceed solely on the written record.
- g. **“Neutral”** means an independent, neutral third party, selected from a panel of retired judges with tort experience maintained by the Settlement Trust, who will preside over the IRO Process.
- h. **“Party”** means any individual or entity making an appearance in the IRO Process, including, without limitation, the Claimant, and the Responsible Insurer(s).
- i. **“Proceeding on the Written Record”** means the Claimant’s claim will be presented to and determined by the Neutral by the submission of documentary and/or electronic evidence in lieu of an in-person, virtual, or hybrid hearing.
- j. **“Trust Claims Questionnaire”** means the questionnaire that must be submitted by the Claimant in the claims processing portal in order to initiate a Claim against the Settlement Trust.

III. IRO Election and Payment of First \$10,000 Administrative Fee

- a. On or before February 16, 2024, at 5:00 pm ET, Claimant shall have:
 - i. submitted a completed Trust Claims Questionnaire with the IRO election box checked; and
 - ii. Paid \$10,000 to the Settlement Trust in the manner set forth on the Settlement Trust’s website.
- b. The Settlement Trustee has the authority to waive this administrative fee “in appropriate cases, based on the circumstances of the Direct Abuse Claimant.” *TDP Article XIII G(ii)*.
 - i. A separate fee waiver request, supported by another Affidavit and related financial information, will be needed to request a waiver of the second \$10,000 administrative fee.
 - ii. If the Claimant is dissatisfied with the Settlement Trustee’s decision on the requested waiver of the first \$10,000 administrative fee, the Claimant can request a review of this decision by the Bankruptcy Court. If the Bankruptcy Court waives the fee, the claim will proceed in the IRO Process without payment of the first \$10,000 administrative fee. If the Bankruptcy Court denies the fee waiver, the Claimant must pay the first \$10,000 administrative fee promptly after the denial or the Claimant will not be permitted to proceed further with the IRO Process.

IV. Filing of a Complaint

- a. Within 7 days of (1) the payment of the initial \$10,000 administrative fee to the Settlement Trust (or the waiver of such fee if it has been waived by either the Settlement Trustee or the Bankruptcy Court, but note the time has passed for a waiver of the first \$10,000 administrative fee) and (2) the submission of the Claims Questionnaire (whichever comes last), the Claimant shall file a Complaint that contains at least the following:
 - i. a clear, plain statement of the claims asserted;
 - ii. the facts alleged to support each pled claim, including the relevant dates of the acts supporting each pled claim;
 - iii. the entity or entities whom the Claimant alleges would be liable in the tort system for each pled claim; and
 - iv. any other specific requirements set forth in Article XIII, G of the TDP.
- b. If there are any inconsistencies between the Trust Claims Questionnaire and the Complaint, the Complaint shall be deemed the controlling document in the IRO Process.
- c. The Complaint shall also contain a statement either consenting to a virtual IRO Hearing or requesting an in-person IRO Hearing. Electing a virtual IRO hearing is irrevocable and cannot be converted to an in-person hearing since a neutral who accepts only virtual hearings may be assigned the IRO claim. Irrespective of whether an in-person or virtual hearing is elected, the Claimant may still elect to proceed solely on the written record as described in Section XVII of the Attorney's Guide to the Independent Review Option.
- d. Every Complaint must be accompanied by a completed IRO Complaint Cover Page Form, which is a fillable form that can be found at this [link](#).
- e. If a Claimant has previously filed a lawsuit in state or federal court asserting these claims, the Claimant may file the same complaint as his IRO Complaint, so long as it satisfies the requirements set forth in paragraph IV a above and is accompanied by a completed IRO Complaint Cover Page Form.

V. Notice to Chartered Organizations and Responsible Insurers

- a. Within 28 days of the filing of the Complaint, the Settlement Trust, acting through the Claims Administrator, shall provide written notice to the applicable Responsible Insurers that issued policies to the Debtors or Local Councils based upon the allegations set forth in the Complaint.
- b. Within 7 days of the filing of the Complaint, the Settlement Trust, acting through the Claims Administrator, shall (i) provide written notice to any applicable Chartered Organization that may have liability for the claim based upon the allegations set forth in the Complaint, and (ii) request that such Chartered Organization provide written notice to any applicable Responsible Insurer that issued policies directly to that Chartered Organization with 28 days of receiving such notice.

VI. Deferral Request by Claimant

- a. A Claimant's attorney (or an unrepresented Claimant) can request a deferral of the IRO Process after payment of the first administrative fee for good cause. Such deferral request shall be filed in the Claimant's Portal. In the case of a represented Claimant, no request for deferral should be made without the Claimant's consent

and the request shall include a representation that the Claimant agrees with the request.

- b. If a request for deferral is filed, the request must set forth, in detail, the factual basis upon which the Settlement Trust can determine if good cause has been shown. Any such facts shall be supported by written Declaration signed under penalty of perjury by the declarant. Upon the filing of a deferral request and supporting Declaration, all subsequent deadlines set forth herein shall be suspended until the request for deferral is determined by the Settlement Trust.
- c. The Settlement Trust will promptly consider requests for deferral and provide notice to the Claimant and any Responsible Insurers of the disposition of the deferral request by a filing in the Claimant's Portal.
- d. If a deferral is granted, all subsequent deadlines shall recommence immediately upon the conclusion of the deferral period.

VII. Selection of, and Communications with, the Neutral

- a. Within 14 days following the provision of notice of the filing of the Complaint to the applicable Responsible Insurers, the Settlement Trust shall select the Neutral. If, for any reason, the Neutral who is selected is unable to fulfill the Neutral's duties, a successor Neutral will be assigned by the Settlement Trust.
- b. Upon the Neutral's selection, the Settlement Trust, acting through the Claims Administrator, shall provide written notice to the Claimant and the Responsible Insurers of the Neutral's name.
- c. All communications to the Neutral by a Party, and from the Neutral to a Party, shall be via the Claimant's Portal and shall be available for viewing by any other Party participating in the IRO Process. *Ex parte* communications outside of the Claimant's Portal is prohibited.
- d. If an in-person IRO Hearing was requested in the Complaint, the Claims Administrator will provide the location where it will be held through the Claimant's Portal prior to the Virtual IRO Scheduling Conference (*see* section XI, below).
- e. If a Party believes the Neutral is not qualified to serve as the Neutral or should be disqualified from serving as the Neutral, a challenge to the Neutral shall be filed within 7 days following the later of (i) the deadline to file the Notice of Intent to Participate, Answer or other responsive pleading by the Responsible Insurers, or (ii) the provision of notice in the Claimant's portal of the selection of the Neutral.
 - i. A challenge to the Neutral shall:
 1. state the specific grounds justifying the challenge, and
 2. be supported by a factual Declaration signed under penalty of perjury establishing the facts underlying the grounds for the challenge.
 - ii. Any other Party may join in the challenge or oppose the challenge by filing a written statement in support of, or opposition to, the challenge within 7 days following the filing of the challenge.
 - iii. The Settlement Trust shall consider the issues raised by the challenge and either confirm the Neutral's appointment or appoint a successor Neutral to preside over the IRO Process within 14 days from the filing of the initial challenge.

- iv. Any challenge not made in accordance with this section shall be deemed waived.

VIII. Notice of Intent to Participate, Answer, or Other Responsive Pleading by Responsible Insurers

- a. If a Responsible Insurer elects to participate in the IRO Process, it must file either:
 - (i) a notice of intent to participate in the IRO Process;
 - (ii) an answer to the Complaint, or
 - (iii) some other responsive pleading to the Complaint (a “**Responsible Insurer Filing**”) within 21 days of it being put on notice of the filing of the Complaint. To the extent its Responsible Insurer Filing is an answer or other responsive pleading, the Responsible Insurer shall assert substantive defenses that would otherwise be available in the tort system to the pled claims.
- b. To the extent possible, Responsible Insurers shall file joint or consolidated responses or other pleadings where their interests are aligned throughout the IRO Process.
- c. If the Responsible Insurer(s)’s defenses rely on or intend to rely on evidence not produced by the Claimant, the Claimant may take discovery related to any such supporting evidence in accordance with Section XII.

IX. Statement of Other Issues by the Claims Administrator

- a. In the absence of a Responsible Insurer Filing, the Claims Administrator shall file a statement of the issues that may affect the Neutral’s Settlement Recommendation within 28 days after the Responsible Insurers were put on notice of the filing of the Complaint. Each such issue shall be considered by the Neutral in formulating her Settlement Recommendation.
 - i. Issues that may be identified by the Claims Administrator in his statement of the issues include, without limitation, standing, statute of limitations, prior settlements with other parties, relative liability of other non-settling parties, and any other issue identified for consideration by the Neutral in the TDP.
 - ii. To be clear, this statement is intended to highlight issues that must be addressed by the Neutral in her Settlement Recommendation, not to influence the outcome of the IRO Hearing.
- b. If a Responsible Insurer Filing is filed, the Claims Administrator may still file a statement of the issues he believes should be addressed by the Neutral in formulating her Settlement Recommendation, and each such issue shall be so considered. This statement, if filed, shall be filed within 7 days of the deadline for the Responsible Insurers to file the Responsible Insurers Filing.

X. Deferral Request by Responsible Insurer

- a. A Responsible Insurer may seek a deferral of the IRO Process for good cause following its Responsible Insurer Filing. Such deferral request shall be filed in the Claimant’s Portal and supported by a written Declaration (signed under penalty of perjury) setting forth the factual basis for the requested deferral.
- b. Upon the filing of a deferral request and supporting Declaration, all subsequent

deadlines set forth herein shall be suspended until the request for deferral is determined by the Settlement Trust.

- c. The Claimant shall have 7 days to respond to the deferral request by a filing in the Claimant's Portal.
- d. The Settlement Trust will promptly consider requests for deferral and provide notice to the Claimant, the Neutral, and all Responsible Insurers of the disposition of the deferral request by a filing in the Claimant's Portal.
- e. If a deferral is granted, all subsequent deadlines shall recommence immediately upon the conclusion of the deferral period.
- f. All Responsible Insurers are expected to adequately staff their participation in the IRO Process so that deferral requests are not based upon counsel unavailability except under extraordinary circumstances.

XI. Virtual IRO Scheduling Conference

- a. Within 14 days after the deadline for the filing of a statement of the issues by the Claims Administrator, the Neutral shall hold a virtual scheduling conference with the Claimant, the participating Responsible Insurers, and the Claims Administrator (if the Claims Administrator chooses to participate) addressing:
 - i. Discovery must be conducted in compliance with the terms of the Document Appendix, which does **NOT** allow the service of discovery requests upon the Trust.
 - ii. Timing and logistics of the IRO Hearing or cases submitted on the written record; and
 - iii. Any other issue raised by a Party or the Neutral.
- b. Following the conclusion of the Scheduling Conference, the Neutral will enter a scheduling order, in the form approved by the Trustee.
- c. If the Hearing in an IRO case or the Initial Submission Date in a case to be submitted on the written record is changed, Claimant's counsel shall upload a notice in the Claimant's portal as follows:

"The [IRO Hearing Date] [Initial Submission Date] has been changed to MM/DD/YYYY"

XII. Discovery

- a. Discovery in the IRO Process is governed by the Document Appendix. *TDP Article XIII H*. For more information on the Document Appendix and supplemental discovery, please refer to Section 12, *Discovery, Document Requests, and the Document Appendix*, within the Frequently Asked Questions on the Scouting Settlement Trust website.
- b. Except as set forth below, all discovery shall be completed within 90 days of the conclusion of the IRO Scheduling Conference (the "Discovery Period").
 - i. Upon the reasonable request of a Responsible Insurer or in the discretion of the Neutral, a Claimant "shall be subject to up to a single sworn six-hour interview, mental health examination, or supplemental signed and dated interrogatory responses." *TDP Article XIII G (vii)*. Only one of these methods of Claimant discovery is allowed even if multiple Responsible

Insurers are participating in the IRO process. The interview of the Claimant may be recorded stenographically, by videography, or both, subject to objection to be considered by the Neutral.

- c. Only the Neutral, for good cause shown, may extend the Discovery Period.
 - i. Any party may seek an extension of the Discovery Period by filing a written motion prior to the expiration of the Discovery Period and it shall be supported by a factual Declaration (signed under penalty of perjury) establishing the required “good cause” for the requested extension.
 - ii. Within 7 days of the filing of such motion, any party or the Claims Administrator may file a written response supporting or objecting to the requested extension.
 - iii. The Neutral shall issue a decision granting or denying the requested extension within 7 days following the deadline for the filing of any party’s or the Claims Administrator’s response.
 - iv. To the extent the extension of the Discovery Period causes the date for the IRO Hearing to be rescheduled, the Neutral shall announce the new IRO Hearing date when issuing the discovery extension decision.
- d. To the extent discovery is sought from a Local Council or Chartered Organization in accordance with the provisions of the Document Appendix, the Discovery Period will be extended for a reasonable period of time determined by the Settlement Trust, acting through the Claims Administrator, in order to account for any delays associated with compliance with the terms of the Document Appendix.
 - i. The Settlement Trust shall give notice to all Parties of the length of the initial extension in the Claimant’s Portal. Further extensions may be granted by the Settlement Trust as reasonably necessary to permit the requested discovery to be completed. Notice of any further extension shall be given to all Parties in the Claimant’s Portal.
 - ii. To the extent this extension(s) of the Discovery Period causes the date for the IRO Hearing to be rescheduled, the Settlement Trust shall consult with the Neutral and a new IRO Hearing date will be established with notice provided to all Parties in the Claimant’s Portal.
- e. Following the close of the Discovery Period, the Claimant has the option of electing to proceed with a hearing or to submit solely on the written record.
- f. After pursuing discovery, the Claimant can elect not to have the Neutral review his claim under the IRO process and may switch to the Trust Distribution (“Matrix”) process. *TDP Article XIII G(ii)*. At that point the Claimant’s order of claim processing will be based on the date he informed the Trust of his decision to switch to the Matrix process.
 - i. If the Claimant chooses to switch to the Matrix process, he does not need to pay the second \$10,000 administrative fee. The first \$10,000 administrative fee remains non-refundable.

XIII. Payment of Second \$10,000 Administrative Fee

- a. Unless the fee has been waived by either the Settlement Trustee or the Bankruptcy Court, the Claimant shall pay the second \$10,000 Administrative Fee to the

Settlement Trust no later than 5:00 pm ET 14 days in advance of the initial setting of the IRO Hearing or the Initial Submission Date if proceeding on the written record. The fee shall be paid to the Settlement Trust in the manner set forth on the Settlement Trust's website or in an email from the Settlement Trust's administrator reminding counsel of the due date. Failure to timely pay the fee may result in a cancellation fee charged by the Neutral and a transfer of the claim to the matrix procedure.

- i. The Settlement Trustee has authority to waive this second \$10,000 Administrative Fee "in appropriate cases, based on the circumstances of the Direct Abuse Claimant." *TDP Article XIII G(ii)*. For fee waiver request instructions, please contact iro_support@scoutingsettlementtrust.com.
- ii. All fee waiver requests with supporting documentation must be submitted to the Trust no later than 30 days before the second \$10,000 Administrative Fee is due.
- iii. If the Claimant is dissatisfied with the Settlement Trustee's decision on the requested waiver of the second \$10,000 administrative fee, the Claimant can request a review of this decision by the Bankruptcy Court. If the Bankruptcy Court waives the fee, the claim will proceed in the IRO Process without the payment of the second \$10,000 administrative fee. If the Bankruptcy Court denies the fee waiver, the Claimant must pay the second \$10,000 administrative fee promptly or the Claimant will not be permitted to proceed.
- iv. If (i) the Settlement Trustee has not decided a waiver request, or (ii) the Bankruptcy Court has not completed its review of a denial of a waiver request in time for a scheduled IRO Hearing to proceed, the Neutral shall have the discretion to continue the IRO Hearing for a reasonable time as determined by the Neutral after consultation with the Claims Administrator.

XIV. Briefing Requirements for IRO Hearings and Cases Submitted on the Written Record

- a. The Claimant shall file a brief addressing each pled claim at least 14 days before the commencement of the IRO Hearing or if the case is proceeding on the written record, the initial submission date
 - i. The briefing shall include, without limitation:
 1. A discussion of the elements of each pled claim, the applicable burden of proof, and the governing law;
 2. The evidence expected to be admitted during the IRO Hearing or Initial Submission Date if the case is proceeding solely on the written record, establishing each element of each pled claim;
 3. Responsive argument(s) to any defenses raised by either a Responsible Insurer or the Claims Administrator;
 4. Benchmark judgments or settlements relevant to the damages claimed. *TDP Article XIII G(vi)*.
- b. A Responsible Insurer may file a brief responding to the issues raised in the Claimant's brief and supporting its defenses no later than 7 days following the filing of the Claimant's brief. If there are multiple Responsible Insurers, they shall file a

consolidated brief unless leave to file separate briefs is given by the Neutral upon a showing of good cause.

- c. **The Claimant may file a reply brief no later than 5 days following the filing of a Responsible Insurer brief.**
- d. No brief shall exceed 14 pages in length absent leave from the Neutral in advance of the filing of the required brief. Good cause must be shown in order for leave to be granted.
- e. **Determination of Responsible Insurers' Defenses.**
 - i. Responsible Insurers' defenses will not be ruled upon prior to the commencement of the IRO Hearing or, if the Claimant elects to proceed solely on the written record, the submission of the written evidentiary materials. Instead, Responsible Insurers' defenses will be considered in the Neutral's Settlement Recommendation .

XV. Exchange of Witness Lists Requirements for IRO Hearings and Cases Submitted on the Written Record

- a. A list of witnesses the Claimant intends to present (including a short description of the expected testimony) at the IRO Hearing shall be filed 14 days prior to the commencement of the IRO Hearing or Initial Submission Date if proceeding solely on the written record. If a witness will testify through the submission of deposition testimony excerpts, the proposed deposition excerpts shall be provided to the participating Responsible Insurer(s) simultaneously with the filing of the witness list. In cases proceeding to hearing, if the witness will testify live, it shall be so noted on the witness list.
- b. The participating Responsible Insurer(s) shall file its witness list (including a short description of the expected testimony and in cases proceeding to IRO Hearing, whether the witness will testify live, through deposition excerpts and/or declaration or affidavit) 7 days following the filing of the Claimant's witness list, along with any objections to the Claimant's proposed deposition excerpts or any cross-designations of deposition excerpts.
- c. If the participating Responsible Insurer(s) submits cross-designations of deposition excerpts, the Claimant shall have 2 days from receipt to object to them.
- d. If a witness is testifying live at an IRO Hearing, upon receipt of the witness list described in Paragraph XV a and/or b above, the non-tendering party may request contact information for a particular witness, which must be immediately provided so that a voluntary interview or deposition can be scheduled prior to the IRO Hearing. If the witness refuses to submit to either a voluntary interview or deposition, the Neutral shall have the authority to exclude the witness testimony at the IRO Hearing or recess the IRO Hearing for a reasonable time to allow the non-tendering party adequate time to prepare for cross-examination.
- e. If a witness is providing direct testimony by affidavit or declaration, the proposed affidavit or declaration shall be provided to the non-tendering party at least 7 days in advance of the IRO Hearing or 14 days in advance of the Initial Submission Date.
 - i. In cases other than those submitted on the written record, upon request of the non-tendering party, the affiant or declarant shall be available for cross-examination and re-direct examination at the IRO Hearing, or by agreement, in a prehearing deposition, or the affidavit or declaration,

absent extraordinary circumstances, will not be considered by the Neutral. If the parties have agreed to utilize a prehearing deposition, the non-tendering party may submit deposition excerpts at the hearing in lieu of live cross-examination.

- ii. In cases submitted on the written record, upon request of the non-tendering party, the affiant or declarant shall be made available for deposition prior to the Initial Submission Date and in sufficient time for the transcript to be available on the Initial Submission Date, or the affidavit or declaration, absent extraordinary circumstances, will not be considered by the Neutral.

XVI. Exchange of Exhibit Lists Requirements for IRO Hearings and Cases Submitted on the Written Record

- a. A list of exhibits the Claimant and the Responsible Insurer(s) intends to introduce at the IRO Hearing, or Initial Submission Date if proceeding on the written record, shall be filed 14 days before the commencement of the IRO Hearing or Initial Submission Date.
 - i. Materials used solely for impeachment on cross-examination are not subject to the 14-day disclosure requirement.
 - ii. Electronic copies of all listed exhibits shall be provided to all non-tendering parties within 24 hours of the filing of the Exhibit List.
- b. Any objection to any such exhibit shall be filed 7 days in advance of the commencement of the IRO Hearing or Initial Submission Date if proceeding on the written record.
- c. Any exhibit to which no objection was timely filed shall be provided to the Neutral by upload to the Claimant's Portal at least 2 days before the commencement of the IRO Hearing or Initial Submission Date if proceeding on the written record.
- d. There is a 2GB per upload limit to the Claimants portal but no limit on the aggregate number of uploads.
- e. The admissibility of an exhibit or deposition testimony to which an objection was lodged timely shall be determined by the Neutral at the IRO Hearing, along with the admissibility of any other written exhibit. If an objection is overruled, the introducing party must be prepared to provide an electronic copy of the exhibit to the Neutral by upload to the Claimant's Portal immediately following the Neutral's ruling. In cases submitted on the written record, the Neutral will rule on objections as part of the Settlement Recommendation.

XVII. The Burden of Proof

- a. The burden of proof applies equally to cases involving an IRO Hearing as well as those proceeding on the written record.
 - i. The Claimant bears the burden of proof to establish each claim pled consistent with applicable state law requirements. The Responsible Insurers bear the burden of proof to establish each defense pled consistent with applicable state law requirements
 - ii. The Claimant must satisfy the requirements set forth in Article XIII, G of the TDP.
 - iii. The Claimant shall introduce competent evidence, which shall be admitted

by the Neutral under the Federal Rules of Evidence subject to the provisions below:

1. The Neutral shall assess the admissibility of all evidence even if no other Party participates in the IRO Hearing.
2. The Neutral shall admit evidence that would otherwise be inadmissible under the Federal Rules of Evidence if the Neutral finds that the evidence is probative and material to any element of any claim or defense pled. In determining the probative and material value of the evidence, the Neutral shall accord the evidence such weight as is appropriate.
3. With respect to a document that was obtained by any Party from the Document Repository, a rebuttable presumption shall exist that the document is admissible in evidence without further foundation testimony being introduced.
 - a. If the presumption is rebutted, the burden will be on the Party seeking the document's admission to lay a proper foundation for its admission.
 - b. Documents obtained from the Document Repository shall be identified in the Party's exhibit list with its unique document identifier from the Document Repository.

XVIII. Administration of IRO Hearings

- a. Virtual IRO Hearings will be conducted over Zoom and will be recorded.
- b. If a Party chooses to have a stenographer transcribe the proceedings, they are entitled to do so at their own expense. If the Parties agree, the stenographic transcript will be the official record, and the proceedings do not need to be recorded via Zoom. If the Parties do not agree, the Zoom record will be the official record. At least 14 days before the commencement of the IRO Hearing counsel shall file a statement in the Claimant's portal indicating whether a stenographer will be reporting the proceedings and whether that will be the official record of the **IRO Hearing**.
- c. Participation in the IRO Hearing
 - i. Claimant and Claimant's counsel, in addition to any witnesses called by Claimant, shall be deemed participants on behalf of Claimant.
 - ii. The participating Responsible Insurer and its counsel, in addition to any witnesses called by the participating Responsible Insurer, shall be deemed participants on behalf of the participating Responsible Insurer. However, the Neutral shall have the discretion to determine how many participants per Responsible Insurer shall be allowed to participate in the event there are multiple participating Responsible Insurers.
 - iii. The Neutral shall have the discretion to limit or stop the examination of any witness, including the Claimant, if the Neutral determines that the examination is being conducted in a harassing or unprofessional manner.
 - iv. The Neutral shall have the discretion to limit the presentation time for all participating Parties.
- d. Close of the Evidentiary Record
 - i. Each Party participating in the IRO Hearing shall state on the record when

it has concluded its presentation of evidence to the Neutral.

e. Closing Arguments

i. Each Party participating in the IRO Hearing shall have no more than 60 minutes to make its closing argument to the Neutral in support of its legal position, unless for good cause, the Neutral extends the time limits for closing arguments.

1. If the Claimant wishes to reserve time for a rebuttal argument, it shall announce the amount of time being reserved at the commencement of its opening argument. The aggregate of both opening and rebuttal arguments cannot exceed 60 minutes, unless extended by the Neutral.

f. Duration

i. The IRO Hearing shall not exceed 8 hours in length, including breaks, absent a showing of good cause.

ii. If an IRO Hearing is continued and such continuance results in a cancellation fee charged by the Neutral, the party causing the continuance (and not the Settlement Trust) will be responsible for paying the cancellation fee. Neutrals have varying cancellation fees that will be disclosed on request.

XIX. Administration of Cases Proceeding on the Written Record

- a. If a Claimant elects to proceed solely on the written record, the participating Responsible Insurer(s) shall proceed solely on the written record as well.
- b. Within 14 days after the close of discovery, the Claimant shall upload in his portal his intention to proceed solely on the written record. If discovery has closed at the time these rules become effective, Claimant shall have 14 days from the effective date to upload in his portal his intention to proceed solely on the written record. If an IRO Hearing date was set in the initial scheduling order, unless changed by the Neutral, that date will be the Initial Submission Date for the simultaneous filings by the Claimant and Responsible Insurers of their initial written evidentiary submissions. If no IRO Hearing date was included in the initial scheduling conference, the Neutral will set an Initial Submission Date for the initial filings.
- c. 14 days after the Initial Submission Date, the Claimant and Responsible Insurers may file their opposition evidentiary responses to their opponent's initial evidentiary submissions.
- d. Seven days after the filing of the opposition evidentiary responses to the initial evidentiary submissions the parties may, but are not required, file written evidentiary reply submissions. No sur-replies will be permitted unless solicited by the Neutral.
- e. The written submissions should address, at a minimum, the topics outlined in Article XIII G (iii) of the TDP and Article XIV.a of these rules.
- f. Closing arguments, not to exceed 14 pages in length, may be simultaneously filed by the Claimant and Responsible Insurers within 14 days of the last evidentiary submissions.
- g. The time for the Neutral to review the written submissions is limited to 8 hours so counsel is wise to use indexes for written documents and upload organized snippets of videography rather than large, unindexed video files.

- h. Duration
 - i. The time for the Neutral to review all evidentiary submissions shall not exceed 8 hours in length, absent a showing of good cause.
 - ii. If a case submitted on the written record is continued and such continuance results in a cancellation fee charged by the Neutral, the party causing the continuance (and not the Settlement Trust) will be responsible for paying the cancellation fee. Neutrals have varying cancellation fees that will be disclosed on request.
- i. The Neutral shall make a Settlement Recommendation based upon the written submissions of the participating parties within 30 days of the closing argument deadline unless counsel agrees to extend the deadline an additional 30 days.
- j. The Claimant's counsel shall upload a "Notice" in the Claimant's portal as follows: "The deadline for the Neutral to make a Settlement Recommendation to the Settlement Trustee is: [•]"

XX. Settlement Recommendation to the Settlement Trustee

- a. Cases proceeding to IRO Hearing
 - i. In cases involving **IRO Hearings** where a stenographer is transcribing the proceedings:
 - 1. In order to have access to the stenographic record prior to writing the Settlement Recommendation, the Neutral will set a date certain, after conferring with the stenographer, no later than 60 days after the closing of the **IRO Hearing** for uploading the Settlement Recommendation to the Claimant's portal. If the transcript will not be completed in time for the Neutral to meet the 60-day deadline, an additional 14 days is permitted, but no additional extensions are appropriate. Counsel for the Claimant shall upload a notice in the Claimant's portal as follows:
"The deadline for the Neutral to make a Settlement Recommendation to the Settlement Trustee is: [•]"
 - ii. In cases involving **IRO Hearings** where the official record is the Zoom recording and there is no stenographic transcript:
 - 1. Absent agreement of the Parties who participated in the IRO Hearing, the Neutral shall have 30 days following the conclusion of the IRO Hearing to make a Settlement Recommendation to the Settlement Trustee. With the agreement of all parties who participated in the IRO Hearing, the Neutral may have an additional 30 days within which to make a Settlement Recommendation. Counsel for the Claimant shall upload a notice in the Claimant's portal as follows:
"The deadline for the Neutral to make a Settlement Recommendation to the Settlement Trustee is: [•]"
- b. In Cases Proceeding to IRO Hearing and Cases Submitted on the Written Record
 - i. The Settlement Recommendation shall replicate, to the extent possible, the amount a reasonable jury might award for the Direct Abuse Claim, taking into account the relative shares of fault that may be attributed to

- any parties potentially responsible for the Direct Abuse Claim under applicable law and applying the same standard of proof that would apply under applicable law.
- ii. The Settlement Recommendation of a Neutral in one case is not precedential, nor relevant to, any other Neutral's exercise of discretion in making a Settlement Recommendation to the Settlement Trustee. Settlement Recommendations made by Neutrals may not be cited in other cases and since the proceedings are confidential, may not be disseminated, even with redaction.
 - iii. Within 7 days of the Settlement Trustee's receipt of the Settlement Recommendation, the Settlement Trustee shall provide written notice to the Responsible Insurers and request, within 21 days, their consent or refusal to consent. Failure to respond timely will be deemed a refusal to consent to the Settlement Recommendation.
 - iv. The Settlement Trustee shall review all Settlement Recommendations and either accept or reject such recommendations. The Settlement Trustee maintains an inventory of settlement recommendations that are ripe for consideration and addresses them as promptly as time permits. Notice of the Settlement Trustee's decision shall be given in writing to all Parties who participated in the IRO Hearing.
 - v. If the Settlement Trustee accepts the Settlement Recommendation:
 1. The Accepted Settlement Recommendation shall become the allowed amount of the Claimant's claim against the Debtors, other Protected Parties and Chartered Organization;
 2. The Claimant shall assign its claim against any Chartered Organization and all other rights and claims arising out of its claim to the Settlement Trust as a condition to receiving the Accepted Settlement Recommendation.
 3. The Settlement Trust shall have the right and power to assert and/or resolve any such claims assigned to it consistent with the Plan.
 - vi. If the Settlement Trustee rejects the Settlement Recommendation:
 1. The Claimant may commence a lawsuit in any court of competent jurisdiction against the Settlement Trust to recover on its claims within 45 days.
 - a. If the lawsuit is dismissed or the claim is denied, the Claimant's Allowed Claim Amount will be zero.
 - b. If the matter is litigated, the Allowed Claim Amount shall be equal to the settlement or final judgment amount obtained in the tort system less any payments actually received and retained by the Direct Abuse Claimant.
 - vii. Notwithstanding the above, any amount of an Accepted Settlement Recommendation or Allowed Claim Amount for an Abuse Claim that proceeds under this IRO in excess of a multiple of five times the Maximum Matrix Value in the applicable tier set forth in the Claims Matrix shall be subordinate and junior in right for distribution from the Settlement Trust to

the prior payment by the Settlement Trust in full of all Direct Abuse Claims that are Allowed Abuse Claims as liquidated under the TDP (excluding Claims liquidated under the Article XIII of the TDP (regarding the IRO) or under Article XII of the TDP (regarding Tort Election Claims)).

XXI. Ramifications for Failure to Comply

- a. If, after notice and a reasonable opportunity to be heard, the Settlement Trustee determines that an attorney or a Claimant has repeatedly failed to comply with the terms governing the IRO Process as set forth herein, the Settlement Trustee may file a motion with the Bankruptcy Court seeking the imposition of appropriate sanctions, including, without limitation, disallowance of the claim, for such failures. In addition, with respect to an attorney's repeated failures, the Settlement Trustee may report such failures to the applicable licensing authorities.

XXII. Amendment of the Attorney's Guide to IRO

- a. The Settlement Trustee may amend the requirements set forth in the Attorney's Guide to IRO without notice. When an amendment is made, a subsequent version of the Attorney's Guide to IRO will be posted on the Settlement Trust website. Parties participating in the IRO Process shall comply with the latest version of the Attorney's Guide to IRO from its Effective Date through the remainder of the IRO Process.

TRUST EXHIBIT D

BSA Settlement Trust
223 N. Guadalupe Street # 301
Santa Fe, NM 87501

Scouting Settlement Trust - Independent Review Option (IRO)
Claimant: [REDACTED] (SST-365510)

**Settlement Trustee's Notice to, and Request for Consent to, Settlement
Recommendation From the
Responsible Insurers Pursuant to Article XIII J (iii) of the TDP**

Under Article XIII J (iii) of the TDP, upon the Settlement Trustee's receipt of the Settlement Recommendation from the Neutral, the Settlement Trustee "shall provide notice and seek consent from any applicable Responsible Insurer."

On March 7, 2025, a Settlement Recommendation was filed by Judge Gail S. Tusan (the "Settlement Recommendation") in the Claimant's IRO portal (the "Portal"). Within 21 days from today's date, please upload to the Portal, using the "Response to Request for Consent" document type, your consent to, or your refusal to consent to, the Settlement Recommendation. Your failure to respond timely shall be deemed to be your refusal to consent to the Settlement Recommendation.

By: Hon. Barbara J. Houser (Ret.)

Trustee, Scouting Settlement Trust

Date: March 10, 2025

TRUST EXHIBIT E

BSA Settlement Trust
223 N. Guadalupe Street # 301
Santa Fe, NM 87501

Scouting Settlement Trust - Independent Review Option (IRO)

Claimant: [REDACTED] (SST-365510)

Settlement Trustee's Third Notice to, and Request for Consent to, Settlement Recommendation from the Responsible Insurers Pursuant to Article XIII J (iii) of the TDP

On January 3, 2025¹, Judge Gail S. Tusan (Ret.) made a settlement recommendation to the Trustee in the amount of \$0, concluding the claim was time-barred. (See Document Id 23:59:15.586.)

Also on January 3, 2025, the *Settlement Trustee's Notice to, and Request for Consent to, Settlement Recommendation from the Responsible Insurers Pursuant to Article XIII J (iii) of the TDP* was uploaded to the Portal. (See Document Id 17:31:29.514.)

Claimant, on January 7, 2025, filed his Response to Settlement Recommendation, claiming error in the Neutral's conclusion his claim was time-barred. (See Document Id 18:23:26.303).

On January 8, 2025, the Neutral solicited responses from the Participating Insurers to the Claimant's Response to Settlement Recommendation. (See Document Id 00:30:56.678.)

Between January 15, 2025, and January 28, 2025, the Participating Insurers filed responses to the Neutral's solicitation, which included challenges to the procedural posture of the claim, indicating there was no authority for the filing of a motion to reconsider. This prompted a response, on February 5, 2025, by Judge Michael J. Reagan (Ret.), who is primarily responsible for the IRO in which he indicated the Claimant's motion was not improper and could be considered by the Neutral. (See Document Id 16:56:06.005.)

Also on February 5, 2025, the Neutral acknowledged she was free to consider the motion to reconsider and self-imposed a date of March 7, 2025, to render a decision. (See Document Id 02:06:36.691.)

On March 7, 2025, the Neutral reversed her earlier decision that the claim was time-barred and made a settlement recommendation to the Trustee in the amount of "\$31,221,475.00 in damages." (See Document Id 23:58:15.640).

On March 10, 2025, the Trustee, for the second time, uploaded the *Settlement Trustee's Notice to, and Request for Consent to, Settlement Recommendation from the Responsible Insurers Pursuant to Article XIII J (iii) of the TDP* to the Portal. (See Document Id 21:09:48.139.)

¹ The document is dated January 3, 2025, but was actually uploaded January 2, 2025, according to the docket.

Between March 24, 2025, and March 31, 2025, the Participating Insurers filed responses to the second *Settlement Trustee's Notice to, and Request for Consent to, Settlement Recommendation from the Responsible Insurers Pursuant to Article XIII J (iii) of the TDP*.

The Trustee, on May 29, 2025, at Document Id 00:48:21.421 wrote to the Neutral, in pertinent part: "I write to request additional information regarding the █████ Settlement Recommendation so that I may sufficiently evaluate the Recommendation in compliance with my obligations under the Trust Distribution Procedures (the "TDP").

Specifically, the Trustee requested the Neutral "... provide an explanation of the basis on which you determined that a reasonable jury would award Mr. █████ \$31,221,475.00 (including \$29,763,750.00 in non-economic damages), including any benchmark judgments or settlements or other evidence considered with respect to damages."

On June 13, 2025, Judge Tusan filed a response to the Trustee's request for clarification (See Document ID 20:13:05.820).

Consequently, the Trustee submits the *Settlement Trustee's Third Notice to, and Request for Consent to, Settlement Recommendation from the Responsible Insurers Pursuant to Article XIII J (iii) of the TDP* regarding the Neutral's June 13, 2025 clarification that was solicited by the Trustee.

Within 21 days from today's date, please upload to the Portal, using the "Response to Request for Consent" document type, your consent to, or your refusal to consent to, the March 7, 2025, Settlement Recommendation as clarified by the Neutral on June 13, 2025.

Your failure to respond timely shall be deemed to be your refusal to consent to the Settlement Recommendation.

By: Hon. Barbara J. Houser (Ret.)
Trustee, Scouting Settlement Trust
Date: July 2, 2025