

CERTIFIED TRANSCRIPT

**BOY SCOUTS OF AMERICA
OFFICIAL TORT CLAIMANTS COMMITTEE TOWN HALL
AUGUST 16, 2021**



Court Reporting • Video

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1 **LUCAS:** Good evening, everybody, this is John Lucas of Pachulski, Stang, Ziehl, and
2 Jones, and it's just after 5:00 Pacific, 8:00 Eastern here, and we're just going to let people log into
3 the Zoom here and get settled. Then we'll start about five minutes after the hour. Good evening,
4 everybody. People are still logging on here. We're going to give things a few minutes, until
5 about five minutes after the hour, before we get started. There's still a lot of people logging on.
6 Hey, good evening, everybody. We're just going to let everybody here get logged on. People are
7 still getting onto the Zoom, and we're going to start about five minutes after the hour. Hello,
8 everybody. We're going to get started here in just a minute. People are still logging onto the
9 Zoom. And the committee co-chairs and the committee professionals here will begin this
10 session. And I also see that a bunch of you are typing in questions, and I will either respond to
11 them here in the Q&A or we'll take note of them and we'll try to address them in the discussion
12 today.

13 **HUMPHREY:** Hey, everybody, welcome to the TCC's town hall. Doug, on a technical
14 note, you might want to have Deb get you down here instead of up there. But it's been a really
15 busy month. If you want to know what the life--a day in the life of a TCC member, while I am
16 on this town hall meeting with you, I have another computer right over there where the hearing
17 with Judge Silverstein is still going on, and they are arguing various merits of the RSA, which
18 we will discuss tonight. So, thank you for coming, appreciate you cutting out an hour out of
19 your time. We'll try to keep it to that. There are a lot of moving parts right now, and so I will let
20 you know when it gets to 9:00 p.m. Eastern standard time, or whatever time zone you are in, and
21 we will give you the option to jump off.

22 Like in past town halls, John Lucas will be looking at questions and interrupting from time to
23 time where they're relevant. If you want to remain anonymous in your question, you need to put
24 that question forth as an anonymous question. Otherwise, people will see your name. But we'll

1 try to get to all those, and the ones we don't get to, we typically do a Q&A after. So, reminder—
2 we're here to answer questions about the ongoing chapter 11, let you know where we are with the
3 Tort Claimants Committee, educate you about the bankruptcy process, inform you where we are
4 on the key developments, but we are not here to provide legal advice. We are just here to report
5 what has been going on in the case. And in the last week, I would say it often is changing on a
6 regular basis. So, a lot to cover. With that, Doug, do you have any comments?

7 **KENNEDY:** Yeah, I hope I'm showing up in the right view here, John. When I'm in speaker
8 view, it's a little bit different than gallery view. I hope everybody can see me. Yeah, I just want
9 to point out to everyone, I think what I want to do is sort of validate the feelings that a lot of us
10 have right now, including members of the TCC. And that is I remember back when we were
11 appointed and somebody said, you know, this could take a couple of years. And I remember
12 thinking, a couple of years, how could this take a couple of years? Well, now that we're in the
13 midst of bankruptcy, I see why it could take a couple years. This is a process. It's a process.
14 John's absolutely right.

15 We've been sitting on these hearings, and John and I are lay people when it comes to the law, and
16 sometimes it's incredibly frustrating to see these arguments over the smallest minutia. But I
17 think all the smallest little details add up. And there are times that we want to reach out and
18 strangle our computer screens, there are times we want to scream and yell and say get on with it,
19 but I will say that we're very fortunate in that we have attorneys that remind us that this is the
20 sausage-making when it comes to law and it comes to bankruptcy, and this is the process that
21 nobody likes to look at, but hopefully it produces a good sausage.

22 So, I just want to validate if you're feeling frustrated, I'm also watching some of the questions,
23 and the questions are, you know, when are we going to get paid, and when is the money going to
24 appear, and we get that. We absolutely get that, and we're fighting for the highest possible award

1 and compensation that can come. But fighting against us are the insurers, in a big way, and as I
2 was reminded by someone the other day, and they said, you know, any time the insurers are
3 fighting really hard, it means they've got a lot to lose, and that's the case.

4 So, we are really--part of what we're doing tonight, and Jim and John are going to offer fantastic
5 updates, but part of what John and I really want to do on behalf of the TCC is just remind
6 everybody that we are engaged. We are now almost to 400 meetings. We are engaged on
7 practically a daily basis to this point, and we're fighting hard, and it is going to take time. It's just
8 the reality. If we expect to receive a lot in compensation, it's going to take a lot to work through.
9 So, we know that there are cynical people out there we know that there are--all of you are
10 thinking about what happened then, what your life is going through now.

11 We know that there are volunteer Scouters out there. We read the forums, and we just want to
12 just reinforce everybody, we are fighting hard, hard, hard. We've got good professionals, and
13 we're just begging everyone to hang on and be patient, and we'll continue to update. And that's
14 where we are right now, so hang in there.

15 **HUMPHREY:** Yeah, so I would just say one thing before I turn it over to Jim and John, is
16 you know, we've been shoulder-to-shoulder with our professionals for the last 18 months on the
17 TCC, and there's lots of attorneys, and you log into these hearings and you see lots of people
18 with lots of opinions, and a lot of them are arguing facts and points of law. But we have really
19 great folks helping us. They understand the law, they have experience, probably more in sexual
20 abuse, than any other firms. And so we are very satisfied with the professional counsel that
21 we're getting for the TCC at this time. So, Jim, with that, turn it over to you.

22 **STANG:** Thank you, John, and I would just add to that last part, and I appreciate what you
23 said about me and John and our colleagues at Pachulski, and the other professionals employed by
24 the committee. We also have an extremely experienced team of state court lawyers that we

1 consult with on practically a daily basis, too. And these are attorneys who represent,
2 collectively, thousands and thousands of clients in the Boy Scout matter, and over the course of
3 their careers, I daresay tens of thousands of people. They're an extremely important resource that
4 we turn to on a regular basis.

5 So, over the last three business days, the court has been conducting a hearing to determine
6 whether it should approve something that goes by the acronym "RSA." And RSA stands for
7 "restructuring support agreement." A restructuring support agreement is in effect a
8 memorandum, a memo of what a reorganization plan will look like. And it's available through
9 the Omni site, and it lays out, in a fair amount of detail, what a plan could be. I emphasize
10 "could" and not "will."

11 The parties to the RSA are the debtor, the ad hoc local council committee, the TCC, the
12 coalition, and the future claims representative. And if the court were to approve the RSA, those
13 signatories--and in the case of the coalition, the attorneys who make up the coalition, will work
14 towards getting a plan along the lines of the RSA confirmed by the bankruptcy court. And in the
15 case of the coalition, that the attorneys who signed off on the RSA--and there are some non-
16 coalition lawyers that did as well--that they will make a recommendation to the bankruptcy
17 court--I'm sorry. They will make a recommendation to their clients to vote yes on the ultimate
18 plan.

19 But it is an outline. It's a detailed outline, but if the court were to authorize the debtor to enter
20 into the RSA, then there's a lot of work still to be done. There is a disclosure statement, which is
21 an informational piece that the court has to approve to make sure that you have adequate
22 information to vote yes or no on the plan, and then there is the opportunity to vote on the plan
23 itself. And that will ultimately end in what we call a confirmation hearing. Those of you who
24 are regular viewers of these town halls know confirmation means court approval.

1 Probably as important as who is a signatory to the RSA is who is not a signatory to the RSA.
2 And if you think of the RSA as a work in process, then you'll appreciate that it's not the fully
3 baked cake, but partially baked. So, who is not a party to the RSA? Well, none of the individual
4 local councils are, but there is an ad hoc local council committee that purports to speak on behalf
5 of all the local councils, and over the last year and a half, John Lucas and I have found that in
6 general, if the ad hoc local council committee says that they can get certain documents produced,
7 or get certain cooperation by the local councils, it generally happens.
8 What we're waiting to hear, of course, is whether the local councils will support the contribution
9 that the ad hoc local council committee has recommended. But we'll get to that, if not tonight,
10 then at the next town hall. Who is not a signatory? The chartered organizations are not. The
11 school, the church, the mosque, the temple, the Kiwanis club--those entities that were the nucleus
12 for forming your troop, they are not signatories to the RSA.
13 There is work being done to try to get different chartered organization groups on board, but no
14 one has--no chartered organization has signed on. Also, no insurance carrier has signed on. And
15 so, is the RSA a paper tiger? The answer is no. Important constituencies have said this is the
16 direction that we would recommend to our clients, or in the case of the TCC, to survivors as a
17 whole. This document took a long time to negotiate. It was a negotiation with BSA, it was a
18 negotiation with the local councils, it was a negotiation, frankly, with the coalition. As someone
19 says, you know, a good deal is a deal that no one likes, well, there are aspects of this that are not
20 exactly what we wanted, and there are aspects of it, frankly, that all the other parties didn't like.
21 But this is how settlements get done.
22 So, the court had a hearing over the last three business days that included two days of witnesses
23 and one day of legal argument. Today was the day of legal argument, and the court just, at 8:15
24 Eastern time, terminated the hearing. It ended. All the issues have been discussed. The first two

1 days were taken up with testimony. The first day was a fellow named Brian Whitman who was a
2 financial advisor to the Boy Scouts of America. And he talked about different aspects of the
3 RSA, and why it made sense for the debtor to enter into it, what the process was for advising the
4 different boards and committees of BSA, that it was a deal that they should consider, and also
5 talked about some of the financial aspects of the RSA.

6 The second day of testimony was from one of the board members. I believe his name is Duvang
7 Desai [SP]. He is from the South Florida local council, he is an insurance attorney, and he's on
8 the various boards that--he's on the national committee, he's on the national board, and he's on an
9 informal group that BSA created called the bankruptcy task force. And he was explaining to the
10 court the process by which the board and committees made their decisions to enter into the RSA.
11 Not a professional advisor saying this is what I told them, but Mr. Desai was, if you will,
12 speaking on behalf of the client, BSA.

13 Prior to the two days of hearing, there were a number of days of depositions and document
14 productions. The depositions were being taken primarily by the insurance companies. The
15 documents were being demanded by the insurance companies. And to say that it was a
16 litigation--the expression "fubar" may be known to some of you--is an understatement. Lots of
17 objections to people answering questions, lots of invoking the attorney-client privilege, invoking
18 that certain testimony would have disclosed what happened during mediations.

19 And I would say that it was a--not a smooth depiction of the process of reaching the agreement
20 on the RSA, at least from the Boy Scout side. And those of you who watched the testimony last
21 week may feel the same way. You know, it's not Perry Mason. There's--you have to--the
22 litigation process is not the best way to tell a story. And for those of you that participated, you
23 may have been a little surprised that the court started the hearing and went right into the first
24 witness. No one gave an opening statement to try to give an overview as to what the testimony

1 was going to be, to paint the picture, if you will, or at least to outline the picture, so that you
2 could then paint in the colors--that being the testimony. But that is the way the debtor wanted to
3 do it, and that's the way it proceeded.

4 Today was what we called closing argument, and to a large extent it was kind of a rehash of what
5 has been submitted to the court in writing. But that's what happens in courtrooms. Oftentimes,
6 because we think the court doesn't know how to read, we decide to tell the court what we wrote,
7 and it took all day. The hearing was probably close to eight hours, if my clock is right. So, what
8 were the issues that were the focus of today's hearing? John, before I go into this, are there any
9 questions coming up that you want me to address? Because I'm just going to go through the
10 three major topics that the court was handling today.

11 **LUCAS:** I think that you should go through those topics, but I really think that you should
12 try to be sort of brief, and try to sort of really encapsulate both of them. Because I think that a lot
13 of people have questions that aren't really sort of going to sort of the RSA and what's going on,
14 and they had more questions about sort of [inaudible]--

15 **STANG:** Okay. So, let me--I'll try to do this quickly.

16 **LUCAS:** Yeah.

17 **STANG:** The first issue the court took up was what's called the Hartford settlement. I said
18 before, none of the insurance companies have signed the RSA--that's true. We do not have a
19 single settlement with a single insurance company. And while monetary demands have been
20 made on the insurers, none of them have reached an agreement as to what is a fair amount for the
21 insurance company to pay. Hartford has offered to pay \$650 million, and it's a little complicated,
22 I'm not going to get into it, but there are arguments that the \$650 million is not real.
23 There are lots of opportunities for Hartford to reduce that amount based on other developments
24 in the case, and there has been a uniform rejection of that \$650 million offer by the coalition, by

1 the technique, and by the FCR. So, Hartford's pitch to the court was hey, the debtor promised to
2 put our deal in front of the creditors and let them vote. And if it's not going to do that, then there
3 shouldn't be an agreement with the local councils who are putting up \$600 million, there
4 shouldn't be an agreement with anybody, just the BSA, who's putting up 250.
5 So, that's the choice, Judge--make them present our \$650 million offer to the creditors, or really
6 scale back what creditors are going to be looking at in terms of the settlement that's on the table.
7 And that scale-back would be BSA's 250 million, not including the local council's offer of 600.
8 So, the court spent a lot of time today hearing from lawyers as to whether Hartford is entitled to
9 present the deal, the \$650 million deal, to all of you. She has not decided that.
10 We have told the BSA, we have told everyone who would listen that survivors will not accept
11 \$650 million from Hartford. Our analysis of Hartford's exposure for the claims that fall within
12 the years when it wrote the insurance is much, much, much higher than 650 million. So, that was
13 issue number one in front of the court today. Issue number two was whether BSA acted properly
14 from a procedural perspective in getting internal approval from its board of directors on the RSA,
15 and it got very complicated about what the standard--what the appropriate standard was for the
16 board to review the RSA, and the court is considering that.
17 Because at one standard, one might say it was easy for the board to say yes to the RSA, but at a
18 higher standard, a more demanding standard, if you will, maybe the RSA would not be approved
19 by the board. So, that was issue number two. A little esoteric, but therefore we got to spend a
20 lot of time on it today. The third issue was a provision in the RSA that says that the coalition
21 professionals, not your state court lawyers, but the coalition bankruptcy professionals, should be
22 paid by the BSA, to the tune of up to \$10 million to date, and then a budget of about \$1 million a
23 month going forward.
24 I want to make this very clear. The RSA does not relieve you of your contingency fee agreement

1 with your state court lawyer. This has to do with the payment of the firm that you may know as
2 Brown Rudnick, and other firms that your state court counsel brought in to provide advice to the
3 coalition itself. Whether they--it is appropriate for BSA to agree to pay those fees was before the
4 court, and that's another matter that she has taken under submission, when she concluded the
5 hearing a few minutes ago.

6 So, that's what has been occupying people over the last several weeks--the discovery process
7 leading up to the testimony on Thursday and Friday, by BSA representatives, on whether BSA
8 should be allowed to enter into this outline, the RSA, for the plan of reorganization. And just
9 one more takeaway, folks--if the court does approve the BSA entering into this restructuring
10 support agreement, you still will be getting a plan of reorganization to vote on, your vote will
11 still be counted, and the court will consider the votes at the confirmation hearing. This is really
12 an outline on how BSA is to proceed. So, John, with that, I think I've covered what the last few
13 days of court hearings have involved.

14 **HUMPHREY:** Mr. Lucas, I see a ton of questions. Have you sort of grouped them in any
15 [inaudible]--

16 **LUCAS:** Yeah, so I--and so the--you know, so thank you, John and Doug and Jim. I've
17 been trying to answer a bunch of questions and I have, and I think Doug and Deborah have done
18 the same. But one of the themes that keep coming up are really about what we call the trust
19 distribution procedures, and how we--or how the abuse claims will be valued. And scaling
20 factors which are in the discounting factors under statute of limitations of any particular state.
21 And so that's sort of, Jim and everybody, sort of a lot of people are asking.
22 You know, how do I arrive at my value, what does it mean if I'm in one state versus another state
23 and there are the discounts. And even a particular question about the \$3,500 election, if you will,
24 and some people, I think, are confused that they think that's all they're going to get.

1 **STANG:** Okay. So, let me start maybe using a timeline as a way of explaining all of this.
2 When you get your plan of reorganization in the mail--we're presuming that will happen; that the
3 court will approve a disclosure statement, that the court will have BSA send out a plan. When
4 that will happen, the disclosure statement hearings start the end of this month. If the last few
5 days was any indicator, that's going to take a few days, not necessarily serially. It may be over
6 the course of a week or two, because the court does have other matters. When will we have a
7 confirmation hearing--way too early to give you a specific week of a month, but if BSA had its
8 way, I would think probably sometime in, John, what, mid to late November.

9 **LUCAS:** I would say that if BSA had its way--this is sort of the timeline that we have—
10 there would be a disclosure statement hearing on August 25 and 27, and let's say the disclosure
11 statement was approved on the 27. That would mean that we'd have a confirmation hearing at
12 the very end of October or the very beginning of November, and the voting for the plan would be
13 due probably about mid-October.

14 **STANG:** Okay. And then the confirmation hearing itself is a process unto its own, and we
15 can't really sit here today and predict how long it will take. I mean, it's not going to take months,
16 but it would certainly take several court days, if not, you know, more than a week. So, you will
17 get a plan, and in that package with the disclosure statement, you will get a ballot. That ballot
18 will ask you to vote yes or no on the plan. As part of the ballot, you will be asked if you would
19 accept \$3,500 in complete, total satisfaction of your claim. And you would be asked, in
20 exchange for that \$3,500, to release the Boy Scouts of America, to release the local council that
21 was involved with your troop, to release the chartered organization that was involved with your
22 troop, and anyone who could conceivably have liability to you for what happened to you.
23 And you may not know the name of your local council, you may not know the name of your
24 chartered organization, but if you check that box saying that you will take the \$3,500, you have

1 given a release to those entities, even if today you cannot identify them. So, when would you get
2 the \$3,500? Well, it's not entirely clear, but you would be, in effect, first in line to, when monies
3 become available, because we refer these payments to--some people call it a quick pay. The
4 more technical term used in bankruptcy is a "convenience payment," because it's just, for lots of
5 different reasons, convenient to pay someone the \$3,500 and be done.

6 You would have to actually sign the proof of claim yourself, as opposed to have your attorney
7 sign it, and to the extent you have not completed it, you would have to, according to the RSA,
8 substantially complete it. And if you do those two things and you check "I will accept \$3,500,"
9 you will be, in effect, first in line to get paid. Now, you're under no obligation to check that box.

10 You don't have to take \$3,500 in satisfaction of your claim. You should talk to your attorney or
11 advisor as to whether, given how much money the trust has, what the other timing considerations
12 are, the strength of your case, the strength of your claim, to decide if you want to take that
13 option.

14 So, let's assume you don't take that option. What happens? Your claim will go into what we call
15 the trust distribution procedures--the TDPs. Under certain circumstances, if you wanted to go to
16 court and sue--not the bankruptcy court, but back to the state court where you filed your lawsuit--
17 where you could file your lawsuit. The settlement trustee will decide, like a traffic cop, red
18 light, green light, and through negotiation with your attorney you will--you may have the
19 opportunity to go to state court and have your claim valued--to have your claim valued.

20 And if that happens, you can sue on account of the Boy Scout abuse, the local councils could be
21 defendants, the chartered organizations could be defendants. But you're just getting your claim
22 valued. We're not talking about collecting money from that process. Collecting money from that
23 process is kind of a different subject. Right now, we're talking about valuing your claim. So,
24 let's say you're not going to go to court to have your claim valued. What happens?

1 You will get a communication from the settlement trustee asking you for more information about
2 your claim. The claim form was a good form. John and Doug and the seven other members of
3 the committee worked very hard to make that a form that was something that you could fill out,
4 given where you were in your journey to dealing with your abuse, but not demanding too much.
5 But we're now in a different stage in the game. And at this stage, that claim may require more
6 information to be valued.

7 So, you'll get a questionnaire from the settlement trustee saying please fill out this additional
8 questionnaire, and we will start a process of evaluating your claim. This is where your attorney
9 gets to, or you get to supplement what you've provided. You know, what does that new
10 questionnaire look like? Hasn't been drafted yet. The settlement trustee hasn't been appointed
11 yet. But there will be that process.

12 So, now we have the complete information for John Doe, and then we look to the TDP and say,
13 okay, how do we value the claim? Well, the TDP has different tiers of abuse, and those tiers
14 have what's called a base amount, and they have a maximum amount. So, for a penetration
15 claim, the starting number is \$600,000. That number can go up to a maximum, I believe it's \$2.7
16 million, or it can go down. The main objective factor that could bring your claim down is the
17 statute of limitations.

18 There are other factors--credibility. The trustee might want to talk to you about your claim.
19 There may be inconsistencies within your claim. There are a number of different things that
20 could bring the claim value down, but those are kind of subjective. They're identified in the
21 TDP. You can go and look and read and see what people thought a factor to reduce your claim
22 could be. But the one that really sticks out in people's minds is the statute of limitations. So,
23 let's talk about that.

24 Statutes of limitation are determined by state law. Every state is different. Some states are

1 similar to one another, but this is driven by state law. And some states have very liberal statutes
2 of limitation. For example, California right now does not have a statute of limitations for child
3 sexual abuse. As of last Saturday, nor did New York. New Jersey doesn't. Guam doesn't.
4 There are a number of locations that--Louisiana, you have almost three years now to file a claim--
5 -file a claim in the state court, no matter when you were abused.
6 And then you've got other states which are--you know, I'd hate to make it sound like we're being--
7 -doing shortcuts in our language, but they're dead on arrival. You know, if you're over, say 35
8 years old--I'm just thinking of one state in particular--you just will not be successful with
9 prosecuting your claim in state court. Just very unlikely.
10 So, we sat down with the coalition, with the FCR, with the debtor, and said okay, let's take the 50
11 states plus the handful of territories and put them in buckets. Which states have, in effect, no
12 statute of limitations, which have really weak ones, meaning in favor of the survivors, and then
13 kind of worked our way down to some states where, as we said, you're kind of DOA. And you'll
14 look--you'll see in the TDP as we gave percentage ranges for the discounting that should be
15 applied to a claim.
16 Now, why did we do that? We understand--and John and Doug and the other seven guys, you
17 know, they get it better than anyone. And by the way, they come from a range of states. There's
18 a committee member who's in a DOA state. Now, you know, so we have the full range, folks.
19 The fact of the matter is an insurance company assesses the likelihood that it will have to pay out
20 on a claim, and one of those things is the statute of limitations. And frankly, survivors from a
21 state that's wide open, their lawyers are saying, you know, why are we in effect subsidizing
22 survivors from states that have really, really tough statutes.
23 And so, creating these buckets of states with percentage discounts--and it's all in the TDP--is a
24 reflection of what can we reasonably expect to get from the BSA, from the local councils, from

1 the chartered organizations, and from the insurance companies. And it is a harsh--a bad—
2 uncomfortable reality that, as someone once said to me, "So, I wasn't lucky enough to be abused
3 in California?" And I understand the sentiment, and the answer is, from a legal perspective,
4 there's a difference in how the claims are going to be treated.

5 So, that's one of the diminishing factors, but there are factors that can increase you from 600,000
6 to 2.7, and those are laid out in the TDPs as well. They're not quite as objective as the statute of
7 limitations adjustment, but they're in there for you to consider. So, in the TDP process the
8 trustee will look at your questionnaire, will look at the different factors, you'll be notified of what
9 comes out of the TDP process, and that will be the value of your claim.

10 And under certain circumstances, if you don't like the value, you can ask the trustee to reassess
11 it, which he will do. You can explain to him why he got it wrong, if you will. But at the end of
12 the day, the TDP process, either by you going to court at the front end, which is what we talked
13 about, or through the TDP process itself, you will get a number. Let's say it comes out to \$1
14 million. That is not a guarantee that you will get \$1 million. What it does is it tells you what
15 your share of the pot is going to be.

16 And the trustee, because he's not going to wait for 82,000 claims to get processed, is going to be
17 estimating, guesstimating, and working with advisors as to making payments along the way. As
18 more claims are getting processed, the ones that got their number will start to get, hopefully,
19 depending on the results of insurance company disputes, some money. At the end of the day, are
20 you going to get \$1 million? It really depends on what happens in our fights with the insurance
21 carriers.

22 It could be--and I'm not--please, do not take this as an estimate of what I think the result will be.
23 You could get 30 percent of a million, and we're done, because of the different fights we're
24 having with the carriers. Or you could get a much higher percentage. But the number that

1 comes out of the TDP is the value of your claim, and then we will be working through the assets
2 that we're getting through Boy Scouts of America, the assets we're getting from the local
3 councils, and recoveries against the carriers to supplement and get you as much money as we
4 can.

5 So, I know that went on, John, for quite a few minutes, but it's kind of the nature of the beast.

6 **HUMPHREY:** Well, you know, it is complicated, folks, and you know, when we sit here
7 and talk about states where the statute of limitations is not very favorable to survivors, I can tell
8 you that every member of the TCC's stomach just goes completely upside-down. But that is the
9 law, and that's where we are. I've seen a number of questions about mental health and needing to
10 talk to somebody. You know, your health insurance should have a number that you can call.

11 There are nonprofit health hotlines for mental health all over the United States. You can almost
12 google it and get one.

13 You know, we are not mental health professionals, and we certainly acknowledge that the
14 COVID process has probably intensified the way we all feel. I've seen some questions on if you
15 pass away prematurely. I would say that you should talk to an attorney who has drafted your
16 will, and if not, you should draft a will and mention your claim in it, so that your state knows
17 about it.

18 **KENNEDY:** And John, I think it's fair for us also to mention a lot of the questions are really,
19 really personal and individual to people's specific situations.

20 **HUMPHREY:** Yeah.

21 **KENNEDY:** And again, just as a reminder, the TCC's professionals represent the entire class,
22 not individuals. So, it breaks my heart that we just can't answer--no one can really answer some
23 of these questions, because they're so personal.

24 **HUMPHREY:** Right.

1 **KENNEDY:** And the other thing I just wanted to mention--I'm glad I'm--I'm really glad you
2 mentioned the questions, John--is a number of people have asked questions about the IV files.
3 These are the files that the Boy Scouts kept of volunteers that were declared ineligible, and we'll
4 be talking about that more at another time. But the TCC has advocated, and part of the
5 agreement was that there would be a robust procedure for those files being reviewed and seeing
6 the light of day. So, just want to let everybody know, trust us, the nine of us are very committed
7 to something happening with those files as well.

8 **HUMPHREY:** Yeah, we fought pretty hard for that. That was a deal-killer for us, and we
9 know that it's important to you guys.

10 **KENNEDY:** Yeah.

11 **HUMPHREY:** And the last thing I would say before I turn it over to John is we've talked
12 on many occasions about being represented in the state where you live, or where your abuse
13 occurred, and you should continue to seek that out. We can't give you advice on the laws of
14 various states, but if you have questions, that's where I would go. John?

15 **LUCAS:** And so one of the other things that a number of people brought up is that they
16 were--people are hoping and wanting that we have more updates, let's say on the
17 www.TCCBSA.com website. And one thing I want to say, that we had scheduled this meeting I
18 think two or three times prior to this, and this RSA hearing process has been going on for quite a
19 while, and we have continued to delay it because we wanted to bring sort of some definitive
20 news here to the group. And so but today we sort of drew a line, and we wanted to communicate
21 to everybody. But, you know, we will do our best here to update the website and to have the
22 town halls and not have them delayed. And so I wanted to communicate that.

23 **HUMPHREY:** And I would personally ask you guys for feedback. The TCC-BSA, or the
24 BSA Survivors at PSZJLaw.com, like, tell us if that's what you want. I mean, if you want us to

1 get on a regular schedule, and if we're in the middle of a hearing and we don't have any material
2 answers for you, do you want us to get on a town hall meeting and say we have nothing material
3 to report, or do you just want us to put a report up. Our feeling is if we didn't have anything
4 material to report, we might just frustrate everybody.

5 **STANG:** Right, and I'd just add it wasn't for lack of trying. There have been mediation
6 sessions going on over the last month, I don't know, we've had six, seven days of mediation in
7 New York, and then there was Chicago, then New York again. And it really was a situation
8 where we didn't have anything definitive, which was unfortunate. But you're right, John--and
9 both Johns--we want to make sure that we're as responsible as we can. John, unless you have a
10 specific question, I'd just like to lay out what's happening in the next week.

11 **HUMPHREY:** Yeah. That's good, go ahead.

12 **LUCAS:** Okay, one thing, though--one thing I will say, because, you know, Jim was going
13 through what he called the RSA motion, and I just do want to report to everybody that the
14 hearing did conclude about 15 minutes ago, and the court said that she would provide a ruling
15 here in the very, very near term. And so, she'll either do something written, she'll post it on the
16 docket, or she will have a hearing and she will just read it into the record

17 **HUMPHREY:** And if that gets posted--

18 **STANG:** Sometimes [inaudible]--

19 **HUMPHREY:** --we'll put it on the TCC-BSA website, if it gets posted.

20 **STANG:** Right. So, what does this week look like? On Thursday and Friday there will be
21 another mediation session in New York. The mediation session will cover principally two
22 things. First, negotiations with chartered organizations, and I'll lay out for you how those are
23 being organized in a moment. And then further discussions with insurance carriers.

24 So, the chartered organizations, some of them have formed more committees along the lines of

1 religious beliefs. So, there is--actually, it's not a committee. We have the Church of Latter-Day
2 Saints, which has approximately 2,400 claims against it, that has been the subject of ongoing
3 mediations and discussions. And we expect that the church will be at the mediation, and will
4 want to engage in offers and counter-offers. The Catholics and the Methodists, interestingly,
5 have kind of--I say interesting only because they're somewhat dissimilar faiths--have come
6 together and seem to be acting in kind of a coordinated way.

7 At least they--in terms of their Delaware lawyer, they've hired the same attorney. So, you have a
8 Catholic ad hoc committee that consists of a number of dioceses, and an insurance company
9 called Catholic Mutual, which has--which is, in effect, owned by Catholic diocese around the
10 country. That's the Catholic committee. There is a Methodist committee. I'm not really sure
11 exactly who the members are on the Methodist committee, but they have retained counsel, and
12 both the Catholics and the Methodists have indicated a desire to try to reach settlements.

13 And then there are other religious groups. I know the Episcopal church has appeared through an
14 attorney, and there may be other religious groups that have a material number of claims against
15 their parishes or their churches or their diocese, such that they want to come in and see if they
16 can reach a resolution for their exposure.

17 There are I believe I was told close to 40,000 chartered organizations, and so when you speak to
18 the Catholic attorneys, the attorneys for the Catholic committee, they will tell you, oh, it's not the
19 diocese of Los Angeles that's the chartering organization, it's St. Monica's parish, or St. Anne's
20 down the street. I think that's how you get to the 40,000. But we're trying to see if there's a
21 dynamic where we can take these religious groups and get some centralized conversation going
22 with them, understanding that some religions are more top-oriented in terms of how they are run
23 than others. The hierarchy is not--in some faiths is more at the top than others.

24 So, we'll have conversations with the chartered organizations. The chartered organizations, in

1 addition to having insurance with the Boy Scouts, pre-1976, had their own attorneys with the
2 local councils, and of course they have their own insurance separate and apart from the Boy
3 Scout activities that they may have sponsored. So, you just get a flavor for the complication of
4 this. It's not just one insurance company that you're talking to when you're talking about the
5 Church of Latter-Day Saints exposure. You could be talking about three or four insurance
6 companies, depending on when the abuse occurred.

7 So, that's going on on Friday. What's also going on on Friday is more discussions with the
8 insurance carriers. The insurance breaks out into two types. One is called primary insurance.
9 That's the insurance that's on the hook for the initial money that you might get if you got a
10 settlement or a judgment. And then we have excess carriers. So for example, a primary carrier
11 may be liable for the first \$500,000 of the claim, and then another insurance company, called an
12 excess carrier, would be responsible for anything above 500, maybe up to a million.

13 And so we--your approach to these carriers depends on whether they are a primary carrier,
14 because those are the ones who are on the front line of the risk, and the excess carriers. Because
15 if your claim is worth less than half a million, that excess carrier doesn't want to have anything to
16 talk to you about. Because you haven't reached their level, if you will. You'd have to be at
17 \$501,000. So, we have made--we have had negotiations with primary carriers, we have had
18 negotiations with excess carriers, and as I said at the beginning of this, Hartford has offered \$650
19 million. Hartford is both a primary carrier, and if you didn't think it was complicated enough,
20 they're also an excess carrier. Sometimes, excess to themselves, which is even more interesting.

21 But we are in negotiations with all of the carriers. We have made demands on some of them, and
22 there are some we have not made demands on. Probably the largest carrier that's worth talking
23 about besides Hartford is an insurance company called Century. Century has approximately 40
24 percent of the exposure on the abuse claims, but Century is a company that is no longer actively

1 selling insurance. It is part of a larger insurance conglomerate, but Century itself is in what we
2 call run-off, which means they are still dealing with claims on insurance policies, but they're not
3 out there selling new insurance.

4 And when you have a company in run-off, its attitude towards settlement is very, very different.
5 As you can imagine, they're tougher to deal with, because they're not in the market anymore.
6 Century has asserted that it cannot afford to pay the full amount of its exposure, if you just
7 computed the value of the claims using the TDP values as a guideline. We are in constant
8 discussion with Century to get a better understanding of its true financial condition, and it is a
9 significant part of the insurance picture, and a significant part of our insurance negotiations.

10 **HUMPHREY:** And Jim, can you comment for a minute--I think I saw a question that let's
11 assume that all we have going into plan confirmation is what the BSA national and the local
12 councils have contributed. And one of the questions is how will I know what to vote if I don't
13 know what the insurance companies may come forth with. And I think explaining the transfer of
14 all of those policies to the trust, and then what the trust will actually do.

15 **STANG:** Sure. So, it's a good question, and this is partly why having your own attorney
16 can be really helpful. The Boy Scouts--we're going to have this thing called the settlement trust,
17 and the settlement trust is going to get the \$250 million of cash and property from the Boy
18 Scouts, and assuming the local councils step up, it's going to get \$600 million from the local
19 councils, cash and real estate and a promissory note. That's part of the 600 million. That's going
20 to be delivered to the settlement trust. What they're also delivering to the settlement trust is their
21 interest in the insurance policies, so that now, while BSA is the insured, the litigation against the
22 insurance companies will be controlled by the settlement trustee who is going to be advised by a
23 seven-lawyer--I mean, not lawyer--a seven-person advisory committee that includes people from
24 the coalition and people from the TCC who will give guidance to the trustee on litigation strategy

1 and on some issues would have the right to direct the trustee as to what to do.

2 The reason that the chartered organization settlement is still an important piece of the puzzle is
3 that for the period after 1975, there are really three companies on each insurance policy—
4 meaning three insureds, not three insurance companies, but three entities that are insured: BSA,
5 the local council, and the chartered organization. So, if you wanted to settle with an insurance
6 company, that insurance company wants peace from all three. It wants peace from the BSA,
7 that's now under the control of the settlement trustee; it wants peace from the local councils,
8 that's under the control of the settlement trustee, by virtue of these assignments; and then they
9 want peace from the chartered organizations--I have to be careful which finger I hold up.

10 That's why we're negotiating with the chartered organizations, is to see if there's a fair resolution
11 so that the settlement trustee, when approached by an insurance company for a global settlement
12 of that insurance company's risk, can actually deliver peace to the insurance company. So, that's
13 a big part of the negotiation to try to reach a resolution in the case.

14 **HUMPHREY:** So, John, are there any more questions? We're running about five minutes
15 against the hour.

16 **LUCAS:** A number of people have asked about the allegations or the assertions about
17 potentially fraudulent claims, and sort of what, if anything, is going to be done with that, and
18 how that might be handled.

19 **STANG:** Okay. So, I really hate the term "fraudulent claim," because it's really a label that
20 is being applied to a host of claims that are clearly not fraudulent, but might be incomplete in
21 terms of the claim form. Where's--what's the genesis of this, how did this story get started? The
22 story got started because at the time of the bankruptcy, BSA was only being sued by a couple of
23 hundred people, and lo and behold, by the time you got to the bar date, there were I think it's now
24 whittled down, getting rid of duplicates and the like, about 82,500 people.

1
2 And so the insurance companies go how could this possibly have happened? How could we
3 have gone from a couple of hundred to 82,500? Clearly these people are lying. And what they
4 don't want to deal with is the reality that A, there was a deadline, and sometimes people do react
5 to deadlines; the claim form itself started a process for asserting your claim, but it's not like filing
6 a lawsuit in state court. And as I said earlier, the TCC tried very hard to come up with a claim
7 form that was accessible to you, that could start you on the path of talking about the abuse, if you
8 had not done so previously.

9 So, what do they mean by fraud? Well, A, it was made up. Or B, for example, I know my
10 abuser's name was Bill, but I don't know his last name. That gets thrown into the bucket of
11 fraudulent claims, because people want to--the people who are antagonistic to us want to use the
12 word "fraud," and so they're just lumping a lot of stuff into the F bucket. And that's just an
13 example. The incomplete name, the--and you folks who have been on more than one of these
14 have heard us plead, tell us when you were abused, tell us the state.

15 Those fell into the fraud bucket, if you didn't fill out the right part of the claim form. John Lucas
16 and people in my office looked at 40,000 claims, folks. We turned the pages on 40,000 claims to
17 fill out the state and the date, because you may have written it in the narrative, but didn't put it in
18 that little grey cell that said where were you abused, type--put in the two initials of your state.

19 And so we have filled out a number of claims just by doing that. But of course the insurance
20 companies don't want to do that, because they'd prefer to say the claims are fraudulent. The--

21 **HUMPHREY:** And we'll remind everybody to go to the Omni site on the BSA-TCC site.

22 **STANG:** So--

23 **HUMPHREY:** Or TCC-BSA site.

24 **STANG:** I'm sorry, John, yeah. So, the RSA says that the settlement trustee will have a

1 process to ferret out fraudulent claims--again, using that term--I'm using that term broadly.

2 There also will be the opportunity to fill out more a more complete questionnaire which will fill
3 in information that will get us out of the fraud bucket. We're really relying on the settlement
4 trustee, who has a lot of experience in dealing with what we call mass tort cases to work with
5 state court counsel to discern and figure out what's indicative of a fraudulent claim, and that will
6 be part of the process of evaluating the questionnaires that are submitted.

7 There's also some, if you will, conventional wisdom that all these fraudsters out there will take
8 the \$3,500 and run. And I don't want to discourage people from taking the \$3,500 by putting a
9 label on it, because it's not a fraud bucket. It is for people who, for various reasons, are satisfied
10 with that amount. But you know, what you're hearing from the insurance carriers is that's
11 enticing to people who've lied. So, again, I want to be careful here. I'm trying to explain to you
12 the dynamic of what's going on amongst the parties. If you did decide to take the \$3,500, it is
13 not a question of the legitimacy of your claim. It is purely a matter of your personal
14 circumstance, where you may say enough, I'll do that, and not take myself through the rest of the
15 TDP process. So please, folks, I didn't mean to step on any toes there.

16 **HUMPHREY:** So, we're up against the hour, folks, and let me just wrap this up by telling
17 you we certainly understand your frustration. I've seen that frustration in a number of questions.
18 It's going to take some time. And just because something is in this RSA today does not
19 necessarily mean it will be in the final plan, nor does it mean other things that we negotiate don't
20 get in there that are favorable to survivors. So, it's a fluid process. I chuckled at one question
21 about too much micro detail and not enough macro detail, and look, the TCC has struggled with
22 that for 18 months.

23 Sometimes we joke about okay, they're back and they're making the sausage, time for us to leave.
24 So, we try to strike a balance for you guys in between sausage-making and telling you what we

1 think you need to hear. So, it is a delicate balance. Our guys do the best they can, and we are
2 very fortunate, actually, to have professionals that speak English and can go deep. So, with that,
3 Doug, you have anything else before we close?

4 **KENNEDY:** The only other thing I wanted to add, John, and I think you're absolutely right, is a
5 number of people were asking about the statutes of limitation in their site--in their state, and
6 again, these are questions you should be discussing with your lawyer. But if you go to
7 ChildUSA.org--again, ChildUSA.org--that's a really good site for keeping updated on what the
8 current and any movement is on your statute. So, but again, these are questions best asked
9 [inaudible] lawyers, and please, stay strong, everybody. There's going to be a lot more of these
10 town halls when John and I are going to be trying to, you know, get through the weeds with the
11 help of our--with our professionals.

12 **HUMPHREY:** Yeah, so we'll try to do a little bit better job on the TCC-BSA, when we
13 get updates. You can always send emails to BSASurvivors@PSZJLaw.com. Thanks a lot for
14 your time tonight. Have a really great Monday. Thanks to Jim and John and Doug for being
15 with us. We'll see you next time.

16 **KENNEDY:** Yeah, thank you, folks.

17 **HUMPHREY:** Bye-bye.

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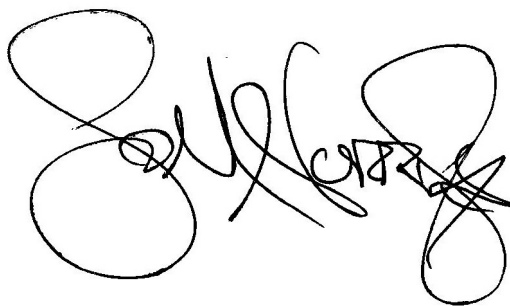
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