

## **Remarks on BSA Bankruptcy**

On February 18, 2020, the Boy Scouts of America and its wholly-owned affiliate Delaware BSA, LLC filed for bankruptcy in Delaware bankruptcy court. It is a Chapter 11 bankruptcy, which allows businesses time to restructure or reorganize their debts, while the business continues to operate. The case is known as *In re Boy Scouts of America, et al.*, No. 20-10343 (Bankr. D. Del.).

Only the Boy Scouts of America and Delaware BSA filed for bankruptcy – the local councils that are financially independent organizations did not file. The primary purpose of the bankruptcy is to enable the Boy Scouts to deal with asserted and unasserted claims related to childhood sexual abuse. Just to give you an idea of the magnitude of the potential claims in this case, the Coalition of Abused Scouts for Justice, which has filed a notice of appearance, claims that it represents approximately 28,000 abuse survivors.

The bankruptcy court established **November 16, 2020** as the deadline for filing abuse proofs of claim. We believe that the abuse claims will be paid through a “Victim’s Compensation Trust.”

**November 16, 2020** is also the deadline for other types of creditors to file claims against the Boy Scouts, a so-called general proof of claim. This includes chartered organizations or other entities (for example dioceses and individual congregations) that have or could potentially have claims against the Boy Scouts, including claims for indemnification, contribution, or claims against the proceeds of any of the Boy Scouts’ insurance policies.

In this regard, it is important to note that since January 1984, the Boy Scouts of America provided primary general liability insurance protection for all chartered organizations. This means that congregations or dioceses that are or have been chartered organizations for the Boy Scouts should consider protecting their rights and filing a general proof of claim, even if they have not yet been threatened with a lawsuit related to their involvement with the Boy Scouts. If dioceses or congregations have received notice of a claim or information suggesting that a claim may be imminent, they should consider notifying their insurance carrier and also filing a general proof of claim prior to **November 16,**

October 19, 2020

**2020.** Claims filed after this date, or claims that are not filed, will be permanently barred. If dioceses or congregations have questions about this filing or are uncertain about how to proceed, they should consult with an attorney.

Now, what is a creditor's proof of claim? It is a written statement setting forth a creditor's claim or potential claim. Filing a proof of claim is required to be able to vote on the Chapter 11 reorganization plan (unless you are already listed in the bankruptcy schedules as having an undisputed, non-contingent and liquidated claim). It is also how dioceses or congregations might seek payment or contribution from the Boy Scouts should scouting abuse claims (occurring on or before February 18, 2020) be brought against them.

When a claim is based on a writing, the Bankruptcy Rules require that a copy of the writing be filed with the proof of claim. This means that congregations and dioceses with actual or potential claims should consider starting to look for whatever documentation they can find right away. I will be sending out copies of two certificates of insurance from the Boy Scouts from the 1990s that could be relevant to your analyses. We are also working with Church Insurance on a draft of a claim description that could be a helpful starting point for dioceses and congregations who have been involved with the Boy Scouts. This will be shared with the Chancellors Network as soon as it is ready. The General Proof of Claim for this case may be found here:

[https://casedocs.omniagentsolutions.com/CMSVol2/pub\\_47373/823244\\_BSA\\_GeneralPOC.pdf](https://casedocs.omniagentsolutions.com/CMSVol2/pub_47373/823244_BSA_GeneralPOC.pdf). The Bar Date Order which sets forth the proof of claim filing deadlines and requirements may be found here:

[https://casedocs.omniagentsolutions.com/cmsvol2/pub\\_47373/820848\\_695.pdf](https://casedocs.omniagentsolutions.com/cmsvol2/pub_47373/820848_695.pdf).

A proof of claim may be filed by first class mail, overnight courier, hand delivery or through the website established by the Boy Scouts of America Claims and Noticing Agent (Omni Agent Solutions) at

<http://www.omniagentsolutions.com/bsaclaims>.

Remember, all proofs of claim must be **RECEIVED** by the Claims and Noticing Agent on or before the Bar Date, **November 16, 2020 at 5 p.m. (Eastern time)**. After this, claims will be barred.