

No. 23A741

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IN THE

# Supreme Court of the United States

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LUJAN CLAIMANTS, *et al.*,

*Applicants,*

v.

BOY SCOUTS OF AMERICA, *et al.*,

*Respondents.*

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TO THE HONORABLE SAMUEL ALITO,  
ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT AND  
CIRCUIT JUSTICE FOR THE THIRD CIRCUIT

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On Application for a Stay of the Bankruptcy Plan Being Implemented in the United  
States Bankruptcy Court for the District of Delaware

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**AMICI CURIAE BRIEF OF BOY SCOUT CLAIMANTS FLORIAN  
GORSKI, THE ESTATE OF HARRY BABCOCK, DOUGLAS  
KENNEDY, ROBERT ZILLOX, CRAIG MILLER, KRISTOFER  
PYORRE, THEODORE W., AND FRANK S.  
IN OPPOSITION TO A STAY**

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## INTEREST AND IDENTITY OF THE AMICI

A tiny minority of victims -- 144 or 0.2% of roughly 82,000 Claimants -- ask this Court to delay the implementation of a Plan that will finally put this sad chapter of victims' lives behind them. Nearly four years ago, the Boy Scouts of America filed for bankruptcy. This filing led to tens of thousands of sexual abuse victims coming forward to tell their stories for the first time, knowing it was their final chance at gaining some measure of justice. Many men had concealed the dark secrets of their sexual abuse from their parents, spouses, and children for decades, only to share those secrets when this bankruptcy finally created a path to closure. This process required the victims to describe in detail their abuse, identify their abusers, and search attics, basements, and websites for evidence of that abuse. This process forced victims to relive some of the worst moments of their lives. Still, BSA abuse victims came forward.

As victims began to see progress towards the finality of the case, a small handful of alleged claimants now seek a stay, which will prolong the suffering and delay the closure necessary for victims to heal. Such a stay will hurt the vast majority of victims who support the BSA's Plan of Reorganization. A stay will harm the tens of thousands of victims who justifiably relied upon the effectiveness of the Plan. A stay will preclude hundreds, likely thousands of men from ever seeing justice: many victims are advanced in age and in failing health. Many men will die before a resolution is reached.

The *amici*, described below, provide a small sample that details how a stay harms victims. Each of the men described below timely filed a Proof of Claim in the Boy Scout Bankruptcy. Each individual has relied upon the Plan, and each finds himself at one stage or another along the Trust claim submission process. The amici are represented by counsel who

support the BSA's Plan, were deeply involved in its negotiation, and continue to work closely with their clients and the Settlement Trustee on implementing the Plan.

When Florian Gorski was ten years old, one of his adult scout leaders performed oral sex on him on repeated occasions and digitally penetrated him on two occasions. Despite the horrors of his childhood, Mr. Gorski overcame his abuse and started a logistics company in Chicago.

Mr. Gorski, now 77, is dying. He has advanced skin cancer, lymphoma, scleroderma, and congestive heart failure. Mr. Gorski's physician recently told him that he has less than six months to live. In the final months of his life, Mr. Gorski gathered photographs from his time in Scouting and underwent an extensive interview to complete the Questionnaire required by the Trustee. He completed the Trust's implemented process and received an award from the Trust on February 1, 2024. Mr. Gorski relied on the award, executed a release, and received his first round of compensation on February 14, 2024.

Since learning of his award, Mr. Gorski has spent some of his final days putting his affairs in order. Like hundreds if not thousands of other claimants, he may not survive the stay sought by the Applicants and supported by the eight law professors.

Harry Babcock timely filed a claim in 2020 but died of sepsis on May 10, 2022. Mr. Babcock and his wife Janice were married for 54 years, and Janice never knew the full extent of Harry's sexual abuse. At the end of his life, Mr. Babcock finally disclosed everything that happened to him to his wife of over five decades.

Mr. Babcock's Scoutmaster and Assistant Scoutmaster took turns molesting him about a dozen times over two summers. His Assistant Scoutmaster would fondle Mr. Babcock and his friend while on his boat off the coast of Long Island. Mr. Babcock's Scoutmaster molested him late at night when Mr. Babcock was in his tent.

When Mr. Babcock finally told his wife about the abuse, he begged Mrs. Babcock to follow through with his Claim. Mrs. Babcock honored those wishes and relied upon the Boy Scout Bankruptcy Plan by hiring probate counsel to continue the Claim.

Doug Kennedy's sexual abuse included forced oral copulation and sodomy. He complained to others that his abuser was following him around, looking at him in the shower, and grabbing boys' genitals while in the pool. Nothing was done to address this abuse, but he did his best to move on in his life. He earned his Ph.D. and became a college professor.

Dr. Kennedy co-chaired the Tort Claimant's Committee throughout the Boy Scouts bankruptcy and testified in support of the Plan at the confirmation hearing before the Bankruptcy Court. In his capacity as Committee co-chair, Dr. Kennedy routinely communicated and still communicates with fellow child sexual abuse survivors about both the bankruptcy and each individual's experience. Since the Boy Scouts declared bankruptcy, over a dozen child sexual abuse survivors in this bankruptcy have indicated to Dr. Kennedy that they want to end their lives. When confronted with further delay, as the handful of Applicants seek, numerous survivors of child sexual abuse in scouting have explicitly told Dr. Kennedy that they do not know how much more they can take if this process drags out any longer. The legal delays exacerbate the severe trauma endured by the victim claimants.

When Robert Zillox was a little boy, his Cub Scout leader sexually abused him in western New York. For decades, Mr. Zillox buried the memories of that abuse, hoping to move on with his life. The Boy Scout bankruptcy left Mr. Zillox with a choice: seek justice by filing a claim or continue to suppress the memories of his abuse. Mr. Zillox chose to file a claim, but doing so has re-introduced the feelings of anger and shame he hoped were behind him. Mr. Zillox has done everything the Boy Scout Settlement Trust has asked of him. Mr. Zillox has submitted documents

supporting his claim and completed the required Questionnaire. Doing so was painful but necessary, and now Mr. Zillox awaits a decision from the Trust. Delay only leaves the wounds of Mr. Zillox's past open when now is the time for closure.

When Craig Miller was 10, his Scoutmaster sexually molested him at a Scout camp in the Santa Monica Mountains. Mr. Miller has lived with the memory of his abuse for decades. Wanting to serve others led him to a life in law enforcement, and Mr. Miller has been a Los Angeles County Deputy Sheriff for 30 years. Mr. Miller wants a resolution that will relieve him of the immense guilt, shame, and anxiety that he has held on to for over 50 years. Continued delay in reaching such a resolution is not in the best interest of Mr. Miller or the interest of the vast majority of sexual abuse survivors.

Scoutmaster Douglas Young abused Kristofer Pyorre and nine other boys, including Mr. Pyorre's brother, between 2014 and 2017. The abuse led to Young's criminal conviction for sexual abuse of minors. Mr. Pyorre relied upon the confirmed and effective Plan, elected to pursue an Independent Review of his claim within the Trust, and paid \$10,000.00 in administrative fees. Years have passed since Mr. Pyorre came forward, and continued delay only exacerbates the injuries suffered at the hands of Scoutmaster Young.

Theodore W.'s scout leader abused him between 1975 and 1980. Theodore experienced anal penetration and endured forced oral copulation on multiple occasions. This abuse changed him forever. For forty-plus years, Theodore has been afraid of the dark and suffers from nightmares and insomnia. Theodore tried to commit suicide by firearm and was hospitalized for suicidal ideation. His suicidal ideation and clinical depression are ongoing. Through the Questionnaire, Theodore told the Trustee about his abuse and lifetime of suffering. The process dredged up terrible memories, and Theodore now has suicidal thoughts almost daily. A stay in the

bankruptcy proceedings will only delay any possible recovery for Theodore. Theodore fears that if the implementation of the bankruptcy is stayed, he will not be able to move on, and his suicidal thoughts will continue.

Frank S. is 89 years old. Between 1946 and 1948, Frank's Scout leader forced him to perform oral sex on him in the basement of St. Patrick's Church after scout meetings. Frank's friends learned of the abuse and teased Frank. Frank's abuse caused anger, bitterness, anxiety, and depression in Frank over the last 75 years. The emotional toll of the abuse estranged Frank from his family and ended his marriage. Frank has completed his Scouting Settlement Trust Questionnaire, and it is ready for submission. Given his advanced age and health conditions, it is doubtful that Frank will live long enough to see the claim through, should this Court grant a stay.

#### ARGUMENT

Victims are dying, and their rights are expiring with them. Victims relied upon the orders of lower courts and the precedents of various courts nationwide in voting favorably on the Boy Scouts of America bankruptcy Plan. That Plan is now being implemented, victims are steps away from closure, and only 144 out of 82,000 victims seek a stay from this Court. The application for a stay should be denied.

Christopher Hurley and his firm Hurley McKenna & Mertz (HMM) represent approximately 4,000 claimants who timely filed proofs of claim in this bankruptcy. Since the Effective Date and release of a Claims Questionnaire by the Trustee, about 3,300 of those 4,000 individuals sat for detailed interviews about some of the most sensitive secrets they kept for decades. Of those 3,300 that have sat for interviews, about 1,500 HMM clients have completed the process, signed their Questionnaire forms, and await a decision from the Trustee.



Unfortunately, though, many of HMM's clients did not have the opportunity to see their claims through. HMM has identified 197 individuals who died between timely filing a Proof of Claim Form by the November 2020 deadline and completing a Trust Questionnaire. Given that HMM represents roughly 5% of the total claimants, the number of deceased victims probably approaches 4,000 or more. More will die without obtaining justice if this Court stays the Plan.

Often, victims hiring HMM and other law firms never disclose to their families the existence of their Claim because doing so would require disclosing their abuse. When those individuals die, their deaths pose a myriad of ethical questions, including whether attorneys should inform surviving family members of abuse when the Decedent never did. Unlike most traditional cases, when a victim of sexual abuse in Scouting dies, their claim often dies with them.

The firms seeking a stay represent about 144 victims. HMM alone represents 197 victims *who have died* while the BSA Bankruptcy was pending. The equities rest with delivering compensation and finality before more victims die. It is time for victims to begin the healing process. This Court should not allow attorneys representing a small subset of aggrieved victims to derail the implementation of a Plan that delivers closure to the overwhelming majority of victims supporting the Plan.

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## DECLARATION OF FLORIAN GORSKI

1. I am 77 years and reside in Mokena, Illinois. My physician has diagnosed me with skin cancer, lymphoma, scleroderma and congestive heart failure, along with other health issues.
2. My physician has certified under penalties of perjury that there is a “substantial medical doubt” that I will survive beyond six months.
3. I was sexually abused by an adult leader in Scouting. My abuse included oral sex and two instances of digital penetration.
4. Despite the difficulties caused by my abuse, I was able to start a logistics company on the southside of Chicago.
5. Over the last several months, I have taken a number of steps towards finalizing my Boy Scout Trust submission, including: a) undergoing a detailed interview about my abuse; b) finding a submitting photographs of myself in scouting; c) answering the follow-up questions of my attorney; d) signing under oath my Claim Questionnaire; e) reviewing my award with my attorney; f) executing a Settlement Release with the Trust.
6. Once I received my award, I consulted with my accountant about the award and how to plan my final affairs.
7. Given my age and health conditions, I do not want any further delays in these proceedings. I and other victims have suffered enough.
8. I declare under penalties of perjury of the State of Illinois, that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Florian Gorski \_\_\_\_\_  
Florian Gorski

## DECLARATION OF JANICE BABCOCK

1. I am 77 years old and reside in Raleigh, North Carolina.
2. My husband of 54 years, Harry Babcock, died of sepsis on May 10, 2022.
3. In September 2020, Harry timely filed a Proof of Claim in the Boy Scouts Bankruptcy.
4. For decades, I did not know the extent of the abuse that Harry suffered during his childhood.
5. Eventually, at the very end of Harry's life, he finally disclosed the extent of his abuse.
6. He disclosed his abuse, at least in part, because he wanted me to follow through with his claim and see it through to the end. He begged me to do so.
7. I understand that, in order to continue with Harry's claim, I need to be appointed as the Administrator of his Estate. I hired probate counsel to assist me and recently received copies of the documents appointing me Administrator.
8. I know Harry would have wanted to see justice during his lifetime and, unfortunately, he did not. I do not believe that further delay is good for me or good for the many victims of sexual abuse that filed claims in this case.
9. I declare under penalties of perjury of the State of North Carolina, that the foregoing is true and correct to the best of my knowledge and belief.

/s/ Janice Babcock \_\_\_\_\_  
Janice Babcock

## DECLARATION OF ROBERT ZILLIOX

1. My name is Robert Zillox and I am 58 years old.
2. I was sexually abused by my Cub Scout leader in western New York between 1974 and 1975 when I was just a little boy.
3. The fact that the abuse occurred so many years ago has never disappeared but was suppressed and buried in my attempt to move on with my life.
4. The impact the abuse had back at the time it occurred has not been lost. I have had to undergo counseling to deal with serious episodes of anxiety, depression, and the varied symptoms of post-traumatic stress disorder once again.
5. My decision to file a bankruptcy claim and re-visit the memories and the effects of such abuse re-introduced feelings of anger, shame, which I thought I had resolved and from which I had moved on.
6. To stay the bankruptcy proceedings and to delay outcomes of victim/survivors would further delay and deny the closure needed to move on with my life and the lives mentally and emotionally of so many who have been left with the scars of the sexual abuse at issue.
7. Therefore, I respectfully ask that the court deny this request for a stay in the bankruptcy proceedings.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.



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Robert Zilliox  
*BSA Claimant and Abuse Survivor*

**DECLARATION OF CRAIG MILLER**

1. My name is Craig Miller, and I am 64 years old and I am a Los Angeles County Deputy Sheriff and have been involved in law enforcement for 30 years.
2. In or around 1969 when I was 10, I was sexually abused by my Boy Scout leader in my hometown of Pacific Palisades, California.
3. I can recall the abuse inflicted upon me like it was yesterday.
4. The abuse occurred at a local Scout camp located in the Santa Monica mountains.
5. This horrific memory has been with me my entire life and has caused me irreparable harm, extreme mental anguish, feelings of shame, guilt, and anxiety.
6. As of this date, there have been thousands of sexual abuse claims filed against the Boy Scouts of America.
7. I and I know the overwhelming majority of my fellow scout claimants want to see the BSA bankruptcy proceed along its current path and not be stalled as I have waited for justice now for four years since the BSA filed for bankruptcy.
8. I respectfully ask that the court deny this request for a stay in the bankruptcy proceedings.

I declare under penalty of perjury under the laws of the State of New York that the foregoing is true and correct.

*Craig W Miller*

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Craig Miller  
*BSA Claimant and Abuse Survivor*

## DECLARATION OF KRISTOFER PYORRE

I, Kristofer Pyorre, hereby declare as follows:

1. I was born in 2002. I am currently 21 years old.
2. Between approximately 2014 and 2017, when I was approximately 12 to 14 years old, I was a Boy Scouts in Troop 420 in Lebanon, Oregon.
3. My Scoutmaster in Troop 420 was Douglas Young, Jr.
4. Throughout my participation in scouting, I was repeatedly, sadistically sexually abused by Scoutmaster Douglas Young. I estimate that I was abused on hundreds of separate occasions, which included the most invasive types of sexual abuse contemplated under the Trust Distribution Procedures, including sadomasochism and my perpetrator taking photographs and videos of the abuse.
5. In January of 2018, Douglas Young was criminally convicted for his sexual abuse of me and nine (9) other boy scouts from our troop in the criminal case of *State of Oregon vs Douglas James Young, Jr.*, Linn County Circuit Court (OR) Case No. 17CR16884. One of the other boy scouts for which Douglas Young was convicted of sexual abuse was my younger brother. It is my understanding that Young was ultimately sentenced to more than 23 years in prison.

6. In May of 2018, a civil lawsuit was filed on my behalf against the Boy Scouts of America and the Cascade Pacific Council of the Boy Scouts of America in state court in Oregon. That case is: *Andrew Dow, Brian Doe, and Carl Doe v. Boy Scouts of America and Cascade Pacific Council*, Multnomah County Circuit Court (OR) Case No. 18CV22349. A date-certain civil trial was set in my case for June 1, 2020.
7. After my case had been pending for nearly two full years and about three months before we were set to begin trial in my case, the Boy Scouts filed for bankruptcy and my case was removed to federal court and stayed.
8. I have now been involved in litigation and awaiting resolution of my claims against the Boy Scouts of America and Cascade Pacific Council for nearly six years.
9. The BSA Settlement Trust was recently paid \$10,000 to facilitate an Independent Review of my case.
10. I have been eager to get my case resolved for many years.
11. Throughout the nearly six years that this litigation has been pending, I have continued to struggle with significant mental health symptoms as a result of the sexual abuse I suffered in Scouting. These symptoms cause challenges and impairments in many areas of my life. Without the compensation that is owed to me, I am left to shoulder these burdens largely on my own. I am

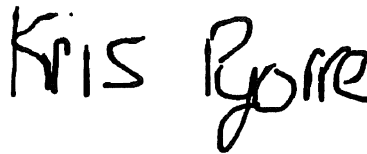


very frustrated to learn that this process may be further delayed by a stay of the Boy Scout's bankruptcy plan.

12. Every additional delay in the resolution of my claims causes me additional stress and frustration and exacerbates the injuries I have suffered as a result of sexual abuse in scouting.

I hereby declare the above statements are true and correct to the best of my knowledge and belief, and I understand that they are made for use as evidence in court and are subject to penalty for perjury.

Dates this 14<sup>th</sup> day of February 2024.

A handwritten signature in black ink that reads "Kris Pyorre". The signature is written in a cursive, slightly slanted style.

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Kristofer Pyorre

## DECLARATION OF CHRISTOPHER HURLEY

1. I have been admitted to practice law in the State of Illinois since 1984.
2. I began representing sexual abuse victims in litigation over 20 years ago.
3. I currently represent approximately 4,000 sexual abuse victims who timely filed claims in the Boy Scouts of America bankruptcy. Our firm represents approximately 5% of all claimants.
4. Since the plan's effective date and the release of the trustee's questionnaire, attorneys from my firm, alongside a team of paralegals and social workers, conducted interviews of thousands of survivors of sexual abuse. As of today's date, approximately 3,300 of our 4,000 clients have undergone a detailed interview about some of the most sensitive topics imaginable: their sexual abuse and the ramifications of that abuse. This process is ongoing. Approximately 1,500 of our clients have completed the Questionnaire required by the Trustee and are awaiting her decision.
5. Further, most of our clients have had to search for memorabilia or other evidence of their time in Scouting in order to prove their participation. This can include obtaining signed affidavits from friends and family, a traumatizing event because many clients had never disclosed their abuse to their family. This process has served as a new injury for many of our clients and serves as a painful reminder of their abuse.
6. On numerous occasions over the last several years we have had clients call and threaten suicide. This has occurred with such frequency that we have had to train staff on how to respond. We maintain a list of suicide helplines and mental health resources that we routinely refer clients to.

7. Many of our clients are elderly, and we continually learn that one or another has died.

Sometimes the victim's family or friends inform us of the death when we reached out to try to set up interviews with the client. On other occasions, when we lost communication with a client, we confirm the claimant's death through database or online searches. To date, our firm has identified 197 clients who have died between the time of filing their Proof of Claim and today's date.

8. The deaths of claimants in sexual abuse cases pose difficult questions for lawyers.

Sometimes the family knows of the claim and therefore, of the abuse. Often though, Claimants have hidden their claim from their family because such secrecy is necessary to avoid disclosure of their abuse. We are then confronted with ethical questions about disclosure after their death of an individual's sexual abuse.

9. Delay will inevitably result in additional victims dying before receiving compensation and closure. And for those who survive, additional delay and uncertainty will cause a new injury for the vast majority of our clients.

10. I declare under penalties of perjury of the State of Illinois, that the foregoing is true and correct to the best of my knowledge and belief.



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