No. 25-490

In the
Supreme Court of the United States

LUJAN CLAIMANTS,

Petitioner,

v.

BOY SCOUTS OF AMERICA, ET AL.,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit

BRIEF IN OPPOSITION FOR RESPONDENTS COALITION OF ABUSED SCOUTS FOR JUSTICE AND FUTURE CLAIMANTS' REPRESENTATIVE

Robert S. Brady
Edwin J. Harron
YOUNG CONAWAY STARGATT & TAYLOR, LLP
1000 North King Street
Wilmington, DE 19801

Counsel for Respondent Future Claimants' Representative

Jonathan Y. Ellis
Counsel of Record
Grace Greene Simmons
MCGUIREWOODS LLP
888 16th Street N.W., Suite 500
Washington, DC 20006
(202) 828-2887
jellis@mcguirewoods.com

K. Elizabeth Sieg
MCGUIREWOODS LLP
800 East Canal Street
Richmond, VA 23219

Counsel for Respondent Coalition for Abused Scouts for Justice

December 4, 2025

QUESTIONS PRESENTED

1. Whether the court of appeals correctly concluded that petitioners' requested relief is statutorily precluded by 11 U.S.C. § 363(m).

2. Whether petitioners' requested relief is precluded by principles of equity under the equitable mootness doctrine.

CORPORATE DISCLOSURE AND STATEMENT OF INTEREST

Respondent the Coalition of Abused Scouts for Justice is an unincorporated, ad hoc association of abuse survivors represented by various plaintiffs' firms. Those firms are Andrews & Higgins, Eisenberg, Rothweiler, Winkler, Eisenberg & Jeck, P.C., Junnell & Associates, PLLC, and Slater Slater Schulman LLP. The Coalition has not issued stock and does not have a parent corporation, and no publicly held corporation holds any interest in the Coalition.

Respondent James L. Patton, Jr. was appointed as Legal Representative for Future Claimants by the bankruptcy court. Pet. App. 328a.

The firms representing additional survivors that support this brief in opposition are AVA Law Group, Crew Janci LLP, Hurley McKenna & Mertz, P.C., Marc J. Bern & Partners LLP, Merson Law, PLLC, Paul Mones PC, TorHoerman Law, LLC, Weller, Green, Toups & Terrell, LLP, and The Zalkin Law Firm. *See* p. 1 & n. 1, *infra*.

TABLE OF CONTENTS

Page

TABLE OF APPENDICES

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes & Rules

Other Authorities

INTRODUCTION

The survivors before the Court today experienced horrors that no child should ever go through. As innocent children, they joined the Boy Scouts, a hallowed American institution, to build character and make friends. They instead were sexually abused by adults they thought they could trust. These survivors have carried this abuse with them for a lifetime. At long last, they are finally receiving compensation for their harms. No amount of compensation will remedy the survivors' trauma or wipe the abuse from their memories. But for some survivors, the money is life-changing, allowing them to put their lives back together. For all, it gives a sense of closure—a recognition that the abuse happened, it was wrong, and those in charge are accepting responsibility.

The survivors fought hard in this bankruptcy to ensure that all victims are compensated fairly and equitably. Survivors overwhelmingly supported the confirmed plan, and more than half have received their first distribution of funds. Respondents the Coalition of Abused Scouts for Justice and the Future Claimants' Representative support the plan, as do the additional survivors represented by counsel identified below.[1] Petitioners are a tiny frac-

[1] Counsel representing the additional survivors include AVA Law Group, Crew Janci LLP, Hurley McKenna & Mertz, P.C., Marc J. Bern & Partners LLP, Merson Law, PLLC, Paul Mones PC, TorHoerman Law, LLC, Weller, Green, Toups & Terrell, LLP, and The Zalkin Law Firm. Each has authorized undersigned counsel to represent to this Court that they support and join the arguments in this brief.

tion of survivors, represented by a single firm, who mistakenly think they could have received more money had there not been a global resolution of these claims. They aim to send survivors back to square one and scrambling to reach the courthouse first. The Third Circuit rejected petitioners' efforts, dismissing their appeal under 11 U.S.C. § 363(m) because petitioners impermissibly sought to reverse a $1.65 billion insurance buyback that had not been stayed pending appeal.

Petitioners now ask this Court to review that procedural ruling, claiming that injustice lies behind it. It does not, as the courts below all recognized. And, in any event, this Court exercises its certiorari jurisdiction to resolve legal issues that have divided the lower courts, not to correct perceived error or even injustice. There is no division of authority implicated here. Petitioners' appeal would have been dismissed in every circuit. And even if there were a question that warranted this Court's review, this extraordinary case is a remarkably poor vehicle to resolve such procedural disputes.

Survivors need closure. Their lives were upended by abuse decades ago, and many have struggled to keep their life on track since. For most, this bankruptcy plan marks the only realistic opportunity to receive compensation and closure. Scores of survivors have already died during this bankruptcy, some from illness, some from old age, and some from suicide, as they could not bear to wait any longer. This litigation must finally come to an end. The Court should reject petitioners' request to setback this global resolution, decline their invitation to call for the

views of the Solicitor General, and deny the petition for certiorari without delay.

STATEMENT OF THE CASE

A. The Abuse

The Boy Scouts of America (BSA) is a "lionized institution." Pet. App. 404a. For nearly a century, "[b]oys and their families put their faith" in the organization. *Ibid.* Tens of thousands of Scouts instead experienced sexual abuse, including indecent exposure, bullying, molestation, forced oral copulation, sodomy, and rape. *Id.* at 421a. For some, these incidents were isolated. *Ibid.* Others were "groomed" and subjected to prolonged abuse. *Ibid.* This abuse changed the course of these individual's lives, leading many to drugs, alcohol, homelessness, and suicide.

Former Scouts kept these horrible secrets for decades. As children, many survivors hid their abuse, fearful of retribution from an adult in power; as adults, many survivors feared dredging up repressed memories. At last, in the 2000s, a few survivors stepped forward, starting "a trickle of seemingly isolated claims." Pet. App. 19a. That trickle turned into a flood as, over the next two decades, more and more victims emerged.

Hundreds of lawsuits were brought against BSA, alleging that the organization failed to keep them safe from known predators. Pet. App. 420a-24a. In 2010, a jury issued a multi-million-dollar verdict against BSA; BSA entered hundreds of settlements in the decade that followed for hundreds of millions of dollars. *Id.* at 19a. By 2020, facing new claims of abuse every day, and having a finite pool of resources from which to pay judgments and settlements, BSA filed for bankruptcy. *Ibid.*

Respondent the Coalition of Abused Scouts for Justice is an ad hoc coalition of tens of thousands abuse survivors that formed during the bankruptcy to represent the survivors' interests. Pet. App. 440a. Each survivor represented by the Coalition experienced sexual abuse while participating in the Boy Scouts, and each has filed a claim in this bankruptcy. For the past five years, the Coalition worked alongside the Committee of Tort Claimants, a panel appointed by the U.S. Trustee to represent survivors. *Id.* at 114a. The Coalition's goal is to maximize recovery, to ensure equitable distribution among survivors, and to secure a modicum of justice and closure for the survivors.

Respondent James L. Patton, Jr. serves as Legal Representative for Future Claimants. He was appointed to that position by the bankruptcy court. Pet. App. 328a. He seeks to protect the interests of future potential claimants, including the estimated 400 survivors who were either still minors at the time of bankruptcy or are unaware of their claims because of repressed memories. *Id.* at 230a, 232a-33a.

Petitioners are 75 individuals—approximately 0.09% of the survivors—who tragically experienced abuse at the hands of a single Guam priest, Father Louis Brouillard, between the 1940s to the 1980s. Petitioners call themselves the Lujan Claimants, as they are all represented by the law firm of Lujan & Wolff LLP. They brought claims against both BSA and the Archbishop of Agaña, alleging that Father Brouillard "abused them not only as a Scoutmaster, but also in his capacity as a Catholic priest in settings unrelated to Scouting." Pet. App. 125a. The Archdiocese underwent its own bankruptcy in 2019, and

petitioners received compensation as part of that proceeding. *Id.* at 201a-02a. Before the bankruptcies, claims of abuse arising from Father Brouillard's conduct settled, on average, for $57,000. *Id.* at 223a.

B. The Plan

Once BSA filed for bankruptcy, 82,209 survivors filed "claims" as "creditors." Pet. App. 19a. Based on unrebutted expert testimony, those claims were valued, in the aggregate, between $2.4 and $3.6 billion. *Ibid.* Over three years and "thousands of hours of mediated negotiations among more than a dozen stakeholder groups," BSA and its creditors engaged in "extraordinary" efforts to reach a global resolution of the claims. *Id.* at 103a.

As creditors, the survivors actively participated in the restructuring and negotiated with BSA and its affiliates to ensure that all possible assets were placed on the table to afford compensation. Survivors did so through the Coalition, the Committee of Tort Claimants, and the Future Claimants' Representative. Pet. App. 230a, 405a, 440a. Individual survivors also submitted more than 1000 letters to the bankruptcy court, sharing their heartbreaking stories. *Id.* at 405a.

Eventually, the survivors individually voted on the reorganization plan that emerged. In the first vote, an overwhelming majority—73.57%—of voting survivors voted to approve the plan. Pet. App. 49a n. 17, 451a. After amendments were made to respond to objections from the dissenting survivors, that percentage rose to 85.72% in favor of the final plan. *Id.* at 50a n. 17, 481a. The Coalition supported the plan and the compensation and reforms it establishes, as did the Future Claimants' Representative

and the Tort Claimants Committee. *Id.* at 114a, 455a, 485a.

1. Compensation and reforms

The plan is designed to "provid[e] an equitable, streamlined, and certain process by which abuse survivors may obtain compensation." Pet. App. 114a. It does so by creating a trust, beneficially owned by the survivors, that assumed liability for all abuse claims and receives, administers, and distributes trust assets. *Id.* at 458a. The trust represents "the largest sexual abuse compensation fund in the history of the United States," *id.* at 102a, and provides for equitable distributions among all survivors, rather than favoring a select few who win a race to the courthouse or the most generous jury, *id.* at 620a n. 499.

Under the plan, survivors may choose one of four mechanisms for receiving compensation. The first—the expedited distribution—immediately provides a survivor with $3,500, as long as he or she submitted a timely claim and personally signs it, as full satisfaction of his or her claim. Pet. App. 21a, 460a. This path was chosen by more than 6,000 survivors; more than 5,600 have received payment, for a total of nearly $19 million. Hon. Barbara J. Houser (Ret.), Scouting Settlement Trust Reaches 75% Milestone (Nov. 26, 2025), https://perma.cc/CTA6-SA67 (Trust Letter); Monthly Program Statistics (Program to Date as of Nov. 4, 2025), https://perma.cc/85ZV-8RBV.

The second mechanism—the claims matrix—involves "a more rigorous and individualized assessment of abuse claims" and correspondingly higher compensation. Pet. App. 21a. A survivor who chooses this path submits a

questionnaire about his or her abuse, provides supporting documentation, and agrees to interview with the trustee and healthcare professionals. *Id.* at 46a-61a. The trustee reviews the claims for three basic qualifying criteria: (1) Are particular acts of abuse identified, along with date and location? (2) Is the abuser identified by name or other information that allows the trustee to determine the abuser's relationship to the Boy Scouts? (3) Did the alleged abuse relate to scouting, such that BSA or one of its affiliates may bear legal responsibility? *Id.* at 461a-62a.

Claims that meet the criteria are put into a matrix "that assign[s] monetary values" for "particular types of abuses." Pet. App. 22a. These values are based on "BSA's historical abuse settlements and litigation outcomes," and "were designed … to emulate the tort system and to replicate the values that Abuse Claims would have received had they been litigated outside of" bankruptcy. *Id.* at 263a. Each survivor is assigned a range accordingly: $600,000 to $2.7 million for penetration, $450,000 to $2.025 million for oral contact, $300,000 to $1.35 million for masturbation, $150,000 to $675,000 for unclothed touching, $75,000 to $337,500 for clothed touching or exploitation for child pornography, and $3,500 to $8,500 for other sexual abuse that did not involve touching. *Id.* at 462a-465a.

Within each range, a survivor's award is scaled based on individualized aggravating and mitigating factors. Bkcy. Ct. Dkt. 8813, at 169-73. Aggravating factors include the duration and frequency of the abuse, the use of threats or force, the presence of multiple perpetrators, the number of alleged victims for the survivor's abuser, and the impact of the abuse on the victim, including on

mental and physical health, interpersonal relationships, academic and vocational capacity, and legal difficulties. *Id.* at 169-71. Mitigating factors include the presence of a preexisting familial or other non-Scouting relationship, other settlements or judgments received by the survivor, and relevant statutes of limitations. *Id.* at 171-73. If a survivor is dissatisfied with the matrix determination, he or she may request reconsideration from the trust. Pet. App. 22a-23a.

The claims matrix has proven to be the most common pathway. Some 58,000 survivors have chosen it. Determinations have been issued on 75% of those claims, more than 43,000, and initial distributions have been made to more than 30,000 individuals, for a total of nearly $300 million. Trust Letter; Monthly Program Statistics.

If a survivor is dissatisfied with the matrix determination even after reconsideration, he or she may pursue a third path for compensation—the tort-system alternative—by bringing suit against the trust and any non-settling insurers in a "court of competent jurisdiction." Pet. App. 23a, 466a. If the survivor obtains a court judgment, judgment runs against the trust. Bkcy. Ct. Dkt. 8813, at 179. The trust will immediately pay the survivor up to the amount he or she would have received under the matrix. Pet. App. 23a. Any additional compensation "is subordinate in right of distribution to the prior payment in full of all other allowed abuse claims." *Ibid.* To date, only a handful of survivors have chosen the tort-system alternative.

Finally, survivors can choose a fourth option—the independent-review option—designed for individuals that

experienced the most severe abuse and thus seek recovery above that available through the claims matrix. Pet. App. 23a, 467a. Under this path, a survivor seeks an "individualized evaluation of his claim by a neutral third party," namely, a retired judge on a panel maintained by the trust. *Id.* at 23a. After an independent evaluation of the claim, the judge makes a settlement recommendation to the trustee. *Ibid.* The recommendation "seeks to replicate the amount a reasonable jury would award taking into account relative shares of fault and the standard of proof applicable under … state law." *Id.* at 467a. The trustee can accept the recommendation and immediately pay the survivor; if she does not, the survivor is permitted to sue the trust to liquidate his or her claim. *Id.* at 23a-24a. This path has been taken by about 200 survivors; nearly all have sat through their hearings, almost 130 have received decisions on their claims, and more than 50 have received nearly $800,000 in initial distributions. Trust Letter; Monthly Program Statistics.

Beyond providing important compensation to the abuse survivors, the plan also establishes essential new youth protection measures to ensure that these horrors do not repeat. Pet. App. 475a-80a. BSA has hired "a Youth Protection executive with extensive experience in the prevention of childhood abuse" and "form[ed] a Youth Protection Committee." *Id.* at 118a.[2] BSA is also "conducting an extensive review and update of existing poli-

---

[2] *See* Scouting Am., *The Boy Scouts of America (BSA) Announces Appointment of New Youth Protection Executive* (Apr. 19, 2023), https://perma.cc/68KK-JAPU; Scouting Am., *BSA Launches New Youth Protection Committee to Help Ensure Safe Scouting* (Oct. 4, 2023), https://perma.cc/Z8QE-B4HJ.

cies," and will enhance its procedures for reporting incidents. *Id.* at 118a, 478a. It recently installed "a place of remembrance of all child Abuse survivors" at one of its camp sites and has plans underway for three similar installments. *Id.* at 478a-79a. And BSA has established a "survivor-focused path to Eagle Scout," providing another opportunity for abuse survivors to obtain that prestigious accomplishment. *Id.* at 478a-79a. Most importantly, Scouts are now being taught "how to recognize and report inappropriate behavior." *Id.* at 478a. Survivors have "play[ed] a key role in shaping" these protections, including serving on the Youth Protection Committee and on BSA's national executive board. *Id.* at 117a-18a. The goal is to create "an environment where sexual abuse can never again thrive or be hidden from view." *Id.* at 405a.

2. Funding

The trust is funded by BSA, its insurers, and other associated entities. The trust currently has rights to approximately $2.5 billion in noncontingent assets, including $1.6 billion in proceeds from BSA's sales of insurance policies back to certain issuing insurers. Pet. App. 20a. Most of those proceeds, $1.4 billion in all, are being held in escrow pending a final resolution of this case. *Id.* at 58a. But those remaining proceeds, plus interest, would be released into the trust within days of this Court's denial of certiorari. Additionally, the trust has rights to up to another $4.2 billion in insurance from non-settling insurers that chose not to buy back their policies. *Id.* at 137a.

Boy Scouts is a multi-tiered organization, and each level of the hierarchy has contributed to the trust. BSA sits at the head, "set[ting] the content and structure of the

Scouting program." Pet. App. 414a. Beneath BSA are 250 Local Councils, separately incorporated non-profits with "jurisdiction over a set geographical area within the United States." *Ibid.* Local Councils, in turn, work with tens of thousands of additional non-profits and public entities like churches, schools, and community organizations, called Chartered Organizations, that "provide facilities for Scout meetings and other infrastructure at the local level" and offer "assistance with selection of troop leaders and volunteers." *Id.* at 418a. BSA has contributed $219 million in cash and property. Pet. App. 447a. Local Councils have contributed $640 million in cash and property. *Id.* at 116a. Chartered Organizations have contributed $30 million. *Id.* at 117a.

Further, BSA has long had insurance coverage for abuse claims, and BSA, the Local Councils, and most of the Chartered Organizations have all assigned their insurance rights to the trust. Pet. App. 447a-48a. As noted, certain insurers—the settling insurers—have chosen to buy back those insurance policies from BSA for $1.6 billion. In exchange for the contributions to the fund, and as a term of the insurance buy-back sales, the plan provides those contributing entities and the settling insurers releases from the abuse claims, preventing survivors from suing those entities. *Id.* at 20a-21a. As the lower courts recognized, the plan and its multi-billion-dollar compensation fund are "only possible because of" these releases. *Id.* at 119a. No perpetrator of abuse is released under the plan. *Id.* at 584a.

C. The Proceedings Below

The bankruptcy court confirmed the plan in September 2021, after holding nearly 60 hearings and a 22-day

confirmation trial and issuing 300 pages of opinion and supplemental findings. Pet. App. 404a-781a; *see id.* at 103a. The court of appeals praised the bankruptcy trial as "commendably thorough and inclusive" and the confirmation opinion as "meticulous[]." *Id.* at 25a.

Two years later, the district court affirmed the confirmation order in its own thorough opinion. Pet. App. 94a-293a. The court found that the plan serves the best interests of the survivors. Pet. App. 217a. It observed that the plan treats abuse survivors equally, *id.* at 227a; that survivors are likely to be paid in full for their claims under the plan, *id.* at 128a; and that survivors will receive more under the plan than they would if the BSA and its affiliates were liquidated, *id.* at 218a-19a. The court also upheld the releases of the Local Councils, Chartered Organizations, and the settling insurers under then-prevailing Third Circuit precedent, reasoning that they were substantively necessary and fair and were the result of a fair and transparent process. *Id.* at 174a, 180a, 182a.

The following month, in April 2023, petitioners moved the district court to stay the confirmation order pending further appeal. The court denied the request, reasoning that petitioners' claimed injury is "outweighed" by the injuries to "the other 99.8% of abuse claimants whose claims remain in limbo." S. Ct. Stay App. 49a n. 2, No. 23A741. The Third Circuit likewise denied a stay. *Id.* at 33a. The plan became effective on April 19, 2023.

After this Court granted certiorari in *Harrington v. Purdue Pharma L.P.*, 144 S. Ct. 44 (2023), petitioners again moved to stay the plan pending appeal. The district court denied a stay. S. Ct. Stay App. 28a. It reiterated that staying the plan would put "the claims of the 99.8%

of abuse claimants who did not object … back into limbo," and it emphasized that for those claimants, "a delay in distributions is a tangible and substantial harm." *Id.* at 26a-27a. "Abuse survivors with claims against BSA are a largely aged group who should not continue to wait for compensation or closure." *Id.* at 27a. The Third Circuit likewise denied the request. *Id.* at 9a. So did this Court. 144 S. Ct. 883 (2024).

The court of appeals subsequently dismissed petitioners' appeal of the confirmation order. Pet. App. 1a-91a. The majority concluded that 11 U.S.C. § 363(m) precluded the court from reaching the merits of petitioners' attacks on the plan because it would require reversing the bankruptcy court's authorization of the insurance policies buybacks. Pet. App. 37a, 42a-44a. Judge Rendell concurred, disagreeing with the majority's application of Section 363(m), but reasoning that the court was precluded from reaching the merits of petitioners' appeal under the doctrine of equitable mootness. *Id.* at 78a (Rendell, J., concurring).

REASONS FOR DENYING THE WRIT

It is time for this chapter of horrors to end. Abuse survivors waited decades to hold the Boy Scouts of America accountable and now have spent the last five agonizing years fighting for a global resolution that equitably compensates all survivors—not just those that are first to reach the courthouse. The survivors have shared intimate details about their abuse with the trust, many for the first time ever. And most survivors have received their initial distributions, the first meaningful compensation for the harms they suffered as vulnerable children.

But closure and final distributions cannot occur until this Court denies review and this litigation ends.

Petitioners seek to upend the plan and reopen wounds for tens of thousands of other survivors. The Coalition and Future Claimants' Representative agree with the Scouting respondents that petitioners' appeal is barred by Section 363(m) and that none of this Court's traditional criteria for granting certiorari is satisfied. *See* Scouting Br. in Opp. 14-19, 21-24, 30-34. The Coalition and Future Claimants' Representative write to highlight several reasons why, even if the questions presented warranted this Court's review, this case would be a remarkably poor vehicle to resolve them. In short, neither petitioners nor their amici provide any plausible basis for imposing the devastating human toll that a grant of certiorari or call for the views of the Solicitor General would entail. The petition should be denied.

I. The Court of Appeals' Section 363(m) Ruling Does Not Warrant Review.

Petitioners frame this case as presenting two questions. In truth, it presents only one: Does Section 363(m) bar petitioners' appeal? And that question does not warrant this Court's review.

For one, as the Scouting respondents explain, the court of appeals got it right. Under Section 363(m), the court of appeals may not "affect the validity" of "a sale or lease of [the debtor's] property" where (1) the appeal is from "an authorization under subsection (b) or (c) of this section of a sale"; (2) the purchase was made "in good faith"; and (3) the sale was not "stayed pending appeal."

Here, the insurance policies were authorized for sale under Section 363, the insurers bought back those policies in good faith, and the sales were not stayed pending appeal. *See* Scouting Br. in Opp. 30-31. No court of appeals would have permitted petitioners' appeals to escape Section 363(m)'s bar. *See* Scouting Br. in Opp. 14-19.

In any event, this case would be an exceedingly poor vehicle for addressing Section 363(m) for several independent reasons.

A. The survivors need and deserve closure.

First and foremost, it would be devastating to survivors to reopen this bankruptcy or to allow petitioners' appeal to delay final resolution any further. "Review on a writ of certiorari is not a matter of right, but of judicial discretion." S. Ct. R. 10. The Court should exercise that discretion here and deny review. The plan addresses unspeakable abuse by providing survivors real and tangible recompense. Nothing could fully compensate survivors for the trauma they endured. But under the circumstances, the survivors, including petitioners and their amici, will receive fair and equitable compensation for their harms, as the bankruptcy and district courts concluded. And they will receive some measure of closure from the horrors they endured. There is simply no likelihood of any better alternative path that would justify further delay.

1. The survivors before the Court today suffered "abject horrors during their childhood" at the hands of trusted adults. App. 10a. Most survivors experienced this abuse decades ago. *Id.* at 2a, 6a-7a. But many kept the abuse secret from loved ones. Some sought to forget the

abuse ever happened to them. Others "felt guilt [and] shame," and "did not think that anyone would believe" them. *Id.* at 2a. As one survivor put it, "as a man I felt pressure to be always strong and not weak." *Ibid.* For more than 85 percent of survivors, this bankruptcy was the first time that they ever revealed these horrors. Pet. App. 494a.

These former Scouts' "lives were upended and placed off course by" the abuse. App. 10a. To this day, "[m]any are struggling from the challenges of life and the impact of the abuse, which they carry with them every day." *Id.* at 23a. The abuse led some survivors to use "drugs and alcohol … to try to forget." *Id.* at 2a. Others "experienced homelessness" and "attempted suicide" due to the emotional trauma. *Id.* at 2a. Many still experience lasting devastation decades later—"nightmares, feelings of weakness, fear of being alone, fear of being around strangers, problems in romantic relationships, a hard time communicating with significant others, and fear of being in crowded areas." *Id.* at 2a-3a. Survivors "carry these memories with [them] at all times, to work and in [their] romantic relationships." App. 3a; *see, e.g.,* CA3 Gorski Amicus Br. 5-9 (sharing a sample of these tragic stories).

2. Survivors are "trying to heal from this sexual abuse." App. 2a. Survivors, represented by the Coalition, the Future Claimants' Representative, and the Tort Claimants Committee, fought hard for justice and compensation to help facilitate that healing. Negotiations lasted for years, and the survivors participated at every stage to ensure that BSA and the Local Councils, Chartered Organizations, and settling insurers provided as

much funding as possible to compensate each and every individual that suffered abuse as part of the program.

The result is the largest compensation fund for sexual abuse in history. The trust holds over $2 billion in non-contingent assets, with at least $4.2 billion more in contingent assets. *See* p. 10, *supra*. The survivors can receive compensation through one of the four pathways, electing to receive thousands in expedited distribution, receiving up to $2.7 million through the claims matrix, or securing additional compensation through the independent review or the tort-system alternatives. *See* pp. 6-9, *supra*.

Petitioners and their amici are dissatisfied with the compensation that the plan provides and worry that the trust will not ultimately pay out the full value of their claims. Pet. 16; Joy Br. 5-10. The Coalition and Future Claimants' Representative sympathize with these concerns. There is no amount of money that could undo the wrong, deliver the justice that these survivors deserve, or heal the wounds they have endured. But the compensation that the plan provides for was based on "uncontroverted" expert analysis designed to accurately reflect the settlement values that survivors had achieved in litigation pre-dating the bankruptcy and faithfully replicate the proceeds that survivors could expect in the absence of global resolution. Pet. App. 128a-136a, 488a-498a; *see, e.g., id.* at 130a (noting that for penetration claims, "the most severe claims," more than half settled for less than $300,000, and about a third settled for over $900,000, so the base value was set at $212,500 for abusers with one known victim and at $975,000 "for repeat abusers").

To be sure, the trustee's valuation of the matrix claims so far have exceeded the expert's valuation during bankruptcy. Bkcy. Ct. Dkt. 13249-1, at 4 (asserting in litigation with the non-settling insurers that matrix claims adjudicated to date amount to over $20 billion). The trustee is doing all that she can to collect as much as she can from the non-settling insurers to provide to the survivors, *see id.*, and the Coalition and Future Claimants' Representative support those efforts. But whatever the result of those efforts, there is no indication is that the plan will not provide at least the level of compensation that was promised to survivors, that the plan was designed to afford, and that the overwhelming majority of survivors voted to approve.[3] Pet. App. 19a-20a, 49a-50a n. 17.

3. By contrast, petitioners would send "over 82,000 abuse claimants back to square one." Pet. App. 42a. That would be, to say the least, a devastating setback in the search for justice, and there is no reason to conclude that the end results would be any better.

Absent the plan, tens of thousands of claimants would "rac[e] to the courthouse, filing suits across the country." Pet. App. 177a. Juries could render inconsistent verdicts, leaving survivors that suffered similar abuses with drastically different recoveries. Those survivors that aren't first to the courthouse might not be able to recover their full judgments, or anything at all; after all, BSA, the Local Councils, and the Chartered Organizations are nonprofits, with finite funds. *Id.* at 412a, 414a. That threat of inconsistent treatment is the very thing that this plan sought to avoid. As demanded by the Bankruptcy Code,

[3] Indeed, despite their counsels' current criticism of the plan, 95% of the Joy Claimants voted to accept the plan; only 11 voted against it.

each class of claimants—here, all abuse survivors—receives "the same treatment." *Id.* at 43a (quoting 11 U.S.C. § 1123(a)(4)). No one survivor is elevated above another. Instead, each receives compensation depending on the severity and duration of his or her harm. *See* A. Casey & J. Macey, *In Defense of Chapter 11 for Mass Torts*, 90 U. Chi. L. Rev. 973, 997-1001 (2023).

In petitioners' alternative, many survivors would not obtain any compensation at all. Tort suits are not free, and recoveries are uncertain. And survivors have been able to submit claims in this bankruptcy that likely would have been barred by statutes of limitations. As the bankruptcy and district courts recognized, "the majority of claims" by survivors likely "would not be pursued" in court, "as the expected recovery on such claims [would be] below the threshold of economic viability to plaintiffs' firms working on a contingency fee basis." Pet. App. 134a-35a, 494a-495a. For tens of thousands of survivors, this plan is their one and only chance to obtain some measure of recompense.

Even if another plan could be negotiated or individual litigation pursued, the delayed resolution itself would be devastating to the remaining survivors. Survivors have already "endured" this "decades-long process" "in their search for accountability for the horrors they endured as children." App. 14a-15a. Many "have expressed concerns … about whether they will ever see the end of this" process. *Id.* at 23a.

Some survivors "no longer have the fortitude to see their claim to conclusion." App. 16a. Others "no longer have the financial means to track the progress or do not live in a stable environment" for their counsel to reach

them. *Ibid.* Some need the funds to meet their basic needs. For instance, one survivor was unable to walk and needed to move to a senior living facility, but could not "afford to move … until he wins money from his … claim." *Id.* at 7a.

The tragic reality is that survivors will die, having never seen the final compensation for their harms or the promised closure. Many survivors "are advanced in age"—nearly 50% are 60 or older, with some as old as 97. App. 6a, 12a, 19a; CA3. Dkt. 206-4, at 6. Others are "terminally ill," and for many "their health is quickly deteriorating." App. at 6a, 12a. Some "have taken their lives as they could not bear how long this process has taken." *Id.* at 16a, 23a-24a.

Moreover, for many survivors, their claims will die with them. To be sure, some survivors have "convey[ed] to [counsel] that a loved one knows of the abuse and the claim," and have asked counsel "to do everything [they] can to ensure that their loved ones see some semblance of justice." App. 6a. But "others tell [counsel] the opposite: under no circumstances do they want their loved ones to know the secret they kept hidden for decades." *Ibid.* "Justice dies with those [survivors'] death[s]." *Ibid.*

And lest there be any doubt, the delay petitioners seek to impose on all survivors would be substantial. In petitioners' best-case scenario, this Court would have to overturn the Third Circuit's procedural ruling on Section 363(m) and reject an equitable mootness argument that the Third Circuit did not even reach. On remand, the Third Circuit would then have to hold that, contrary to the bankruptcy and district courts' findings, petitioners did not receive "satisfaction of [their] claims" sufficient to

distinguish the Court's decision in *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 226 (2024). From there, a new round of negotiations would presumably begin, in which survivors would have to convince the settling insurers to accept something less than the global peace they demand or to increase their contribution to convince every last survivor to vote for the plan. Absent that, petitioners would have to file their own individual lawsuits, and win; and the juries have to award bigger payouts than petitioners would receive under the plan here. That long-shot effort would come at the expense of the tens of thousands of survivors who support this plan and are awaiting its final resolution so that they can move on with their lives.

4. Petitioners purport to "want nothing more than their day in court." Pet. 2. But petitioners can have their day in court under the current plan. They all submitted claims. If dissatisfied with the trust's valuation of those claims, petitioners can file suit against the trust under the tort-system alternative and present their case to a jury. In certain circumstances, if a Chartered Organization not participating in the plan is responsible for the abuse claim, the trust "may assign back to the claimant its right to pursue the Chartered Organization and its insurer." Pet. App. 470a. What petitioners really seek is to elevate their own recovery above that of the remaining survivors. The Court should not countenance that request.

The survivors represented by the Coalition—and the additional survivors represented by counsel endorsing this brief—"want this case to be resolved so that [they] can get closure," "stop carrying these memories," "continue the healing process and put this all behind [them]." App. 3a; *accord id.* at 7a ("Winning the money from this

claim will help [the survivor] close the chapter mentally and move on."). As one survivors' attorney related, "I cannot fully describe the general feeling of helplessness and despair that … clients express to me every day as they begin to lose hope that they will ever see some level of justice from this process." *Id.* at 24a. By denying the petition, the Court can end this case and finally allow survivors to close that unwanted chapter of their lives.

B. The context and procedural posture of this case pose additional barriers to the Court's review.

The human toll of further delay provides the most important reason for this Court to deny review. But it is not the only reason. Both the context of this case and the procedural posture present additional, more conventional, obstacles to the Court's resolution of the question presented.

1. The unique context of this case is unsuitable for resolving the scope of Section 363(m).

The context of the dispute—a global tort resolution involving tens of thousands of sexual-abuse claims—presents an awful context for considering and resolving the meaning of Section 363(m). Section 363(m) generally and routinely arises in standard commercial bankruptcies. Both of petitioners' primary cases arise in that setting. *See, e.g., Miami Center Ltd. P'ship v. Bank of New York*, 838 F.2d 1547, 1548 (11th Cir. 1988); *In re Made in Detroit, Inc.*, 414 F.3d 576 (6th Cir. 2005). So do nearly every other case that petitioners cite.[4] This mass-tort

[4] *See, e.g., In re Hope 7 Monroe Street Ltd. P'ship*, 743 F.3d 867, 870 (D.C. Cir. 2014); *In re Stadium Mgmt. Corp.*, 895 F.2d 845, 846 (1st Cir. 1990); *In re WestPoint Stevens, Inc.*, 600 F.3d 231, 236 (2d Cir.

bankruptcy could not be farther from the typical case where these questions arise.

The bankruptcy is also unusually complicated, as all the courts below recognized. Pet. App. 404a-05a; *id.* at 103a; *id.* at 49a-50a. The organizational structure of BSA, Local Councils, and Chartered Organizations is nuanced, and there are nearly 100,000 stakeholders here, including more than 80,000 abuse survivors. Even now, counsel for survivors who voted in favor of the plan in the bankruptcy add to the confusion as amici, claiming that this Court should reopen the record. *See* pp. 17-18 & n.3, *supra*.

Finally, however one views the equities and fairness of this plan, the case also presents one of the most emotionally charged bankruptcy cases in history. The Boy Scouts may be an enduring American institution, but it enabled horrors that haunt these survivors to this day. This trauma-filled context does not lend itself to dispassionate consideration of mundane legal issues. If this Court is to weigh in on Section 363(m), it should wait for a more typical case.

2. The Section 363(m) question is not outcome determinative.

The Section 363(m) question presented is also not outcome determinative of this appeal—much less the overall propriety of the confirmation order. Even if this Court

---

2010); *In re Fieldwood Energy LLC*, 93 F.4th 817, 820 (5th Cir. 2024); *In re Sneed Shipbuilding, Inc.*, 916 F.3d 405, 407-08 (5th Cir. 2019); *In re Human Housing*, 666 B.R. 332, 338 (BAP 6th Cir. 2025); *Trinity 83 Dev., LLC v. ColFin Midwest Funding, LLC*, 917 F.3d 599, 601 (7th Cir. 2019); *In re Trism, Inc.*, 328 F.3d 1003, 1005 (8th Cir. 2003).

overturned the Third Circuit on Section 363(m), petitioners' appeal should still be dismissed because it is equitably moot, as recognized by Judge Rendell and explained next. This Court routinely declines to review legal questions that are not outcome determinative of the underlying appeal. *See* Stephen M. Shapiro *et al.*, Supreme Court Practice, Ch. 4.4(f), at 249 (10th ed. 2013). The same result is warranted here.

Petitioners' attempt to avoid this outcome by adding equitable mootness as its own question is unavailing. There is no basis for the Court to add that question to begin with. *See* pp. 25-26, *infra.* In any event, its addition only exacerbates the barrier that equitable mootness poses to the Court's intelligent resolution of the Section 363(m) question. Either ground is sufficient for the Court to affirm the judgment. By presenting both, petitioners only make it more likely that a majority fails to coalesce on an answer to either—and thus fails to bring the clarity to the law that petitioners and their amici claim is needed.

Even if this Court were to reverse the Third Circuit's judgment, petitioners would still have to convince the Third Circuit on remand of the merits of their attacks on the plan. As *Purdue* recognized, nonconsensual releases may still be permitted in "a plan that provides for the full satisfaction of claims against a third-party nondebtor." 603 U.S. at 226. Both the bankruptcy and the district courts found that the plan would likely pay Scouting-related abuse claims "in full." Pet. App. 128a-39a, 503a-06a. That factual finding is reviewed for clear error. *See U.S. Bank Nat'l Ass'n ex rel. CWCapital Asset Mgmt. LLC v. Vill. at Lakeridge, LLC*, 583 U.S. 387, 394 (2018). Petitioners did not "provide[] any expert or evidence at trial

to prove otherwise," so they cannot satisfy that high bar. Pet. App. 137a.

II. Equitable Mootness Does Not Warrant Review.

Petitioners provide no sound basis for adding a question on "equitable mootness" to this case. Dismissal of petitioners' appeal did not rest on that doctrine, and no court below addressed its application to petitioners' appeal. Even if they had, there is no conflict for the Court to resolve. Every court of appeals to have addressed the question would conclude that the doctrine bars petitioners' request for relief. And they would be right to do so.

A. There is no ruling to review.

This Court should decline to address the scope of equitable mootness on these facts because it was not addressed by any court below. This Court is "a court of review, not of first view." *Cutter v. Wilkinson*, 544 U.S. 709, 718 n. 7 (2005). "Ordinarily" this Court does "not decide in the first instance issues not decided below," "without the benefit of thorough lower court opinions to guide [its] analysis." *Zivotofsky ex rel. Zivotofsky v. Clinton*, 566 U.S. 189, 201 (2012); *see, e.g., Moody v. NetChoice, LLC*, 603 U.S. 707, 726 (2024).

Petitioners confusingly assert (at 26) that the Third Circuit "fracture[d]" on the doctrine. Far from it. The parties below moved to dismiss petitioners' appeal as statutorily moot under § 363(m) and as equitably moot. To be sure, Judge Rendell agreed with respondents that petitioners' appeal is barred by equitable mootness. Pet. App. 77a-78a. But the majority did not disagree with that

conclusion—much less the doctrine. It merely "decline[d]" to reach equitable mootness after holding that Section 363(m)'s bar applied and dismissing the appeal. [5]

As a result, there is no ruling on equitable mootness for this Court to review. Petitions challenging equitable mootness are recently and routinely denied in cases where the court of appeals actually rested on the doctrine. *See* Scouting Br. in Opp. 22-23 (collecting decades of cert denials). This Court should not take up equitable mootness in a case where the court below did not even resolve it.

B. There is no circuit conflict to resolve.

Not only is equitable mootness not properly teed up for this Court's review, but there is no circuit conflict for this Court to review. Petitioners claim (at 25) that the courts of appeals "stand divided" on the doctrine, from its "nomenclature" to its "limits." But none of those alleged splits is implicated here. On any circuit's test, petitioners' request for relief is barred.

1. Every circuit that hears bankruptcy appeals has adopted equitable mootness, as petitioners concede (at 25).[6] Every circuit also considers the same three core criteria. First, has the confirmation of the plan been stayed

---

[5] Indeed, as the Scouting respondents observe, the panel recognized that equitable mootness was "law of [the] Circuit" and applied the doctrine to the respondent insurers' appeal. Pet. App. 52a-63a; Scouting Br. in Opp. 21. Although the court of appeals declined to find the insurers' appeals to be barred, it rightly concluded that the plan has been substantially consummated, Pet. App. 56a-61a—and its grounds for rejection of the doctrine do not apply to petitioners' request for relief, *id.* at 62a.

[6] *In re AOV Indus., Inc.*, 792 F.2d 1140, 1147-50 (D.C. Cir. 1986); *In re Fin. Oversight & Mgmt. Bd. for Puerto Rico*, 989 F.3d 123, 129 (1st

pending appeal? Second, is the reorganization plan substantially consummated? Third, will disrupting the plan unduly harm third parties that have relied upon the plan?

Each criterion is readily met here.

First, the plan was not stayed. Although petitioners moved to stay the plan five times, every request was denied, including by this Court. 144 S. Ct. 883; S. Ct. Stay App. 9a, 28a, 33a, 49a.

Second, in the absence of a stay, the plan is substantially consummated. *See* Pet. App. 56a-57a; *id.* at 77a n. 1 (Rendell, J., concurring). The settling insurers have paid $200 million into the trust and put $1.4 billion into escrow, for the insurance policies. *Id.* at 58a. BSA has put funds and property worth nearly $200 million in the trust. *Id.* at 57a. Local Councils have contributed nearly $560 million. *Id.* at 58a. BSA has resumed its operations, with new protections in place "to ensure that the crimes and mistakes of the past are not repeated." *Id.* at 104a. Most importantly, distributions to survivors have commenced under the plan. Nearly $300 million has been distributed to almost 37,000 survivors. Trust Letter.

Cir. 2021); *In re Charter Comms., Inc.*, 691 F.3d 476, 481-82 (2d Cir. 2012); Pet. App. 52a-56a; *Mac Panel Co. v. Va. Panel Corp.*, 283 F.3d 622, 625 (4th Cir. 2002); *In re GWI PCS 1 Inc.*, 230 F.3d 788, 800 (5th Cir. 2000); *In re City of Detroit, Michigan*, 838 F.3d 792, 798-99 (6th Cir. 2016); *In re UNR Indus., Inc.*, 20 F.3d 766, 769-70 (7th Cir. 1994); *In re VeroBlue Farms USA, Inc.*, 6 F.4th 880, 888-89 (8th Cir. 2021); *In re City of Stockton, California*, 909 F.3d 1256, 1263 (9th Cir. 2018); *In re Abengoa Bioenergy Biomass of Kansas, LLC*, 958 F.3d 949, 955 (10th Cir. 2020); *Bennett v. Jefferson Cnty., Alabama*, 899 F.3d 1240, 1247-49 (11th Cir. 2018).

Third, because petitioners failed to obtain a stay, petitioners' requested relief would "fatally scramble the plan" and "significantly harm third parties who have justifiably relied on plan confirmation." Pet. App. 56a. "The cornerstone of" this global resolution is the "series of settlements" among the various stakeholders, "resolving a complex array of overlapping liabilities and insurance rights." *Id.* at 102a. Key to "the bargain struck" is the insurers' release from liability under the relevant policies; otherwise, the insurers would not sell them back. *Id.* at 62a. "[S]triking the releases" to the settling insurers and BSA affiliates "would knock the props out from under the authorization for every transaction that has taken place." *Id.* at 77a n. 1 (Rendell, J., concurring).

Petitioners' requested relief would blow up the deal between BSA and the insurers and so "disrupt[] the funding to the Settlement Trust." Pet. App. 62a. It would require return of the contributions from BSA, its affiliates, and the settling insurers. It would call into question the Boy Scouts' important restructuring. And, most devastatingly, it could "require[] clawing back distributions already made to abuse claimants." *Id.* at 62a. These survivors waited years to see compensation. Requiring them to hand back those funds now would be cruel. "This is not a close call." *City of Detroit*, 838 F.3d at 799. Petitioners' request for relief would be barred in any circuit.

2. The alleged conflict (Pet. 26) between the Third and Fifth Circuits would not change that result. In *In re Serta*, a mattress company went bankrupt, and the reorganization plan contained certain legacy indemnification agreements. *See In re Serta Simmons Bedding, L.L.C.*, 125 F.4th 555, 584 (5th Cir. 2024). Parties challenged

those agreements, and the Fifth Circuit declined to hold the appeals equitably moot. The court reached that ruling not based on any exception for alleged unlawfulness, but because the relief requested there—excising the indemnification provisions—"would not affect either the rights of parties not before the court or the success of the plan." *Id.* at 586 (internal quotation marks omitted).

The Fifth Circuit has not created an exception to equitable mootness based on allegations of "unauthorized practices." Pet. 26 (quoting *In re Serta*, 125 F.4th at 588). That exception would swallow the rule; the very premise of equitable mootness is that despite any errors in a plan, in some circumstances, courts should and must decline to fatally scramble a substantially consummated plan and harm third parties who have reasonably relied on its consummation. *See, e.g.*, *In re GWI PCS 1 Inc.*, 230 F.3d at 803-04; *In re Idearc, Inc.*, 662 F.3d 315, 318 n. 4 (5th Cir. 2011).

C. There is no error to correct.

Finally, petitioners identify no error for this Court to correct. Despite petitioners' passing assertion of a conflict, petitioners' real ask is for this Court to overturn equitable mootness altogether. The Court should decline that invitation because equitable mootness is an important and correct doctrine.

1. Equitable "mootness" is a misnomer. It does not refer to "mootness" in the Article III sense, where there is no longer a live dispute between the parties, or any technical sense at all. Instead, "equitable mootness" doctrine defines the circumstances in which interests in final-

ity and reliance will lead a court to decline to consider substantive challenges to a confirmed bankruptcy plan. The doctrine is well-grounded in the equitable authority of courts and the responsible exercise of those powers.

Modern bankruptcies are governed by the Bankruptcy Code. But "for many purposes courts of bankruptcy are essentially courts of equity, and their proceedings inherently proceedings in equity." *Pepper v. Litton*, 308 U.S. 295, 304 (1939). The Bankruptcy Code sets guidelines and requirements, yet "in the exercise of the jurisdiction conferred upon it by the" Code, the court still "applies the principles and rules of equity jurisprudence." *Id.*; *see* H.R. Rep. No. 95-595, at 359 (1977). The Code explicitly protects these equitable powers, reiterating that, in bankruptcy cases, courts "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

In such cases, the court has broad equitable powers to ensure "that injustice or unfairness is not done in administration of the bankrupt estate." *Pepper*, 308 U.S. at 308. This includes "the power to apply flexible equitable remedies." *In re Trailer Source, Inc.*, 555 F.3d 231, 242 (6th Cir. 2009). "As a court of equity it may, and should, condition relief or deny it altogether when appropriate to safeguard public and private interests and protect the court's jurisdiction from misuse." *Hull v. Powell*, 309 F.2d 3, 5 (9th Cir. 1962). Sometimes, "with the passage of time after a judgment in equity and implementation of that judgment, effective relief on appeal becomes impractical, imprudent, and therefore inequitable." *Mac Panel Co.*, 283 F.3d at 625.

That is the premise of "equitable mootness." *See In re Tribune Media Co.*, 799 F.3d 272, 287 (3d Cir. 2015) (Ambro, J., concurring). A court, sitting in equity, has determined that it will not grant the relief requested by the appealing party after balancing the equities. *In re Charter Comms., Inc.*, 691 F.3d at 482. Because "effective judicial relief is no longer available," the court "decline[s] to consider the merits" of any challenge to a bankruptcy plan. *Matter of Manges*, 29 F.3d 1034, 1039 (5th Cir. 1994); *accord In re Club Assocs.*, 956 F.2d 1065, 1069 (11th Cir. 1992). Instead, the appeal is dismissed "for lack of equity." *In re Roberts Farms, Inc.*, 652 F.2d 793, 798 (9th Cir. 1981).

2. Equitable mootness is not, as petitioners assert (at i), an abdication of judicial power. The reviewing court is not impermissibly declining to exercise its jurisdiction. It is exercising its equitable jurisdiction and responsibly declining to reach the merits of a bankruptcy appeal when equitable considerations preclude the appellants' requested relief regardless. The doctrine, in other words, reflects a conventional exercise of judicial modesty and restraint, not abdication. *See generally PDK Labs. Inc. v. U.S. D.E.A.*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part) ("[I]f it is not necessary to decide more, it is necessary not to decide more").

Consider the related context of preliminary injunctions—"a classic form of equitable relief." *In re Tribune*, 799 F.3d at 287 (Ambro, J., concurring). In that context, too, courts must decline equitable relief—regardless of the lawfulness of the challenged conduct—where the balance of harms to the parties and third parties do not support affording the plaintiff relief. *See Winter v. Nat'l Res.*

Def. Council, Inc., 555 U.S. 7, 31-32 (2008). Courts, including this one, thus often and appropriately decline to grant such relief based on that balance of harms alone. *See, e.g.*, *Trump v. Wilcox*, 145 S. Ct. 1415 (2025); *Trump v. Int'l Refugee Assistance Project*, 582 U.S. 571 (2017). "Equitable mootness, properly applied, similarly reflects a court's decision that when undoing a confirmed and consummated plan would do more harm to many than good for one (or but a few), this is inappropriate for a court in equity." *In re Tribune*, 799 F.3d at 287 (Ambro, J., concurring).

In a bankruptcy case, "the ability to achieve finality is essential to the fashioning of effective remedies." *In re Chateaugay Corp.*, 988 F.2d 322, 325 (2d Cir. 1993). To that end, the Bankruptcy Code has long instructed that "courts should keep their hands off consummated transactions" in reorganizations. *UNR Indus.*, 20 F.3d at 769. That is why, for instance, plan proponents cannot modify plans after "substantial consummation" of the plan, 11 U.S.C. § 1127(b), and why a sale cannot be overturned unless it is stayed pending appeal, *id.* § 363(m). Equitable mootness, as uniformly recognized by the courts of appeals, is simply another manifestation of that strong need for finality. There is no sound reason for this Court to intervene to reject that unanimous consensus.

III. The Court Should Not Call for the Views of the Solicitor General.

Lastly, under no circumstances should the Court delay resolution further by calling for the views of the Solicitor General. Such an order would undoubtedly delay consideration of the petition for many months—and pos-

sibly until next Term. If certiorari were granted, a decision might not issue until June of 2027. Survivors "have waited a lifetime for recognition of their suffering." App. 7a. The "hardship" of the delay "is palpable." *Ibid.* This Court should end this case now—and certainly this Term—not in two more agonizing years.

Petitioners paint this bankruptcy as a tale of subterfuge designed to avoid appellate review and to release scot-free entities that enabled horrific abuse over several decades. That couldn't be further from the truth. This bankruptcy is a hard-fought resolution ensuring that all abuse survivors receive equitable compensation from a finite pool of resources held by non-profit organizations. No amount of money can ever remedy the harms suffered by these survivors. But this plan provides meaningful recompense to the former Scouts whose futures were derailed by childhood abuse. It also allows survivors to finally obtain closure and begin healing from decades-old trauma. "That human reality must not be lost among the legal intricacies." Pet. App. 76a. Petitioners should not be allowed to derail this plan to attempt to elevate their own claims above those of others.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

Robert S. Brady
Edwin J. Harron
YOUNG CONAWAY STARGATT & TAYLOR, LLP
1000 North King Street
Wilmington, DE 19801

Counsel for Respondent Future Claimants' Representative

Jonathan Y. Ellis
Counsel of Record
Grace Greene Simmons
MCGUIREWOODS LLP
888 16th Street N.W.
Suite 500
Washington, DC 20006
(202) 828-2887
jellis@mcguirewoods.com

K. Elizabeth Sieg
MCGUIREWOODS LLP
800 East Canal Street
Richmond, VA 23219

Counsel for Respondent Coalition of Abused Scouts for Justice

Date: December 4, 2025

APPENDIX

TABLE OF APPENDICES

Page

APPENDIX A — DECLARATIONS IN SUPPORT OF DEBTORS-APPELLEES' OMNIBUS RESPONSE IN OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

Bankruptcy Case
No. 20-10343 (LSS)

(Jointly Administered)

Case No. 22-cv-01237-RGA

IN RE BOY SCOUTS OF AMERICA
AND DELAWARE BSA, LLC,

Debtors.

NATIONAL UNION FIRE INSURANCE CO.
OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA, *et al.*,

Appellees.

Appendix A

DECLARATION OF STEPHEN EHMANN IN SUPPORT OF DEBTORS-APPELLEES' OMNIBUS RESPONSE IN OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, Stephen Ehmann, declare under penalty of perjury as follows:

1. I was born on May 1, 1976. I am forty-six (46) years old.

2. My scoutmaster sexually abused me in or around 1984 and 1985.

3. I abused drugs and alcohol in my teens and twenties to try to forget the sexual abuse.

4. I ran away from home and experienced homelessness off and on from age seventeen (17) to twenty-six (26) because of the sexual abuse.

5. I attempted suicide at age eighteen (18) because of the sexual abuse.

5. I did not tell anyone that I was sexually abused until 2003. I did not tell anyone until then because I felt guilt, shame, I did not think that anyone would believe me, and as a man I felt pressured to be always strong and not weak.

6. I am trying to heal from this sexual abuse. I still experience nightmares, feelings of weakness, fear of

being alone, fear of being around strangers, problems in romantic relationships, a hard time communicating with significant others, and fear of being in crowded areas.

7. I want this case to be resolved so that I can get closure and continue the healing process and put this all behind me. I carry these memories with me at all times, to work and in my romantic relationships. I want this case to end so that I can move on and stop carrying these memories.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: BRISTOL, PENNSYLVANIA
April 4, 2023

/s/ Stephen Ehmann
Stephen Ehmann

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

Bankruptcy Case
No. 20-10343 (LSS)

(Jointly Administered)

Case No. 22-cv-01237-RGA

IN RE BOY SCOUTS OF AMERICA
AND DELAWARE BSA, LLC,

Debtors.

NATIONAL UNION FIRE INSURANCE CO.
OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA, *et al.*,

Appellees.

Appendix A

DECLARATION OF DAVID STERN IN SUPPORT OF DEBTORS-APPELLEES' OMNIBUS RESPONSE INOPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, David Stern, declare under penalty of perjury as follows:

1. I am an associate in ASK LLP (the ***"Firm"***), and maintain an office at 2600 Eagan Woods Drive, Suite 400, St. Paul, MN 55121. I am duly admitted to practice law in the State of Minnesota. I am authorized to submit this supplemental declaration (the ***"Declaration"***) in support of *Debtors-Appellees' Omnibus Response in Opposition to Motions for Stay Pending Appeal* (the ***"Opposition"***). I am over the age of eighteen years. This Declaration is based on my personal knowledge and experience and my review of relevant documents. If called as a witness, I could and would competently testify to the facts set forth herein.

2. The Firm has been actively involved in the chapter 11 cases of the Boy Scouts of America, *et al.* (the ***"Debtors"***) since at least April 2020.

3. Our Firm, together with certain co-counsel, represents approximately 6,037 clients who have filed childhood sexual abuse claims against the Debtors or other parties that will be subject to a release and channeling injunction (*e.g.,* Local Councils and Chartered Organizations) when the Debtors' plan [Bankr. Docket No. 10296] (the ***"Plan"***) becomes effective.

4. Our Firm's clients range in age from 21 to 94 years old. Of those clients, approximately 796 are 70 or older. Since the Petition Date, at least 30 of our clients have died. As a significant number of our clients are advanced in age, I expect they will continue passing away because in many instances their health is quickly deteriorating.

5. Our Firm's clients regularly tell me and my Firm's staff that they are worried they will die before this case is resolved.

6. I and my Firm's staff regularly learn of clients that have died or men that are suffering terminal illness.

7. Dying victims are often faced with a legacy-altering choice: tell their family about their sexual abuse so that their loved ones might get some recourse after their death, or die knowing they were never able to tell those they love the most about their sexual abuse.

8. I and my colleagues at our Firm have both the privilege and burden of hearing from those dying men. Some convey to us that a loved one knows of the abuse and the claim. They ask us to do everything we can to ensure that their loved ones see some semblance of justice.

9. But others tell us the opposite: under no circumstances do they want their loved ones to know the secret they kept hidden for decades. Justice dies with those men's death.

10. I had direct contact this week with a client who is 74 years old. He reports being sexually abused between

approximately 1958 and 1959. He reports that his health is rapidly deteriorating. He reports that he has recently been struggling to breath, coughing up blood, and urinating blood. He is worried he will die soon. He reports having few assets. He wants to resolve his Boy Scouts of America bankruptcy claim while he is still alive so that he can die easier, knowing that he was able to pass at least something down to his loved ones.

11. I had direct contact this week with a client who is 62 years old. He reports being sexually abused in approximately 1974. He reports that an injury rendered him unable to continue working or to walk up and down stairs. He reports currently living on the second floor of an apartment building. He reports wanting to move to a senior living facility with everything on one story and in-room assistance. He reports that he is unable to afford to move to senior living until he wins money from his Boy Scouts of America bankruptcy claim. He reports that he is facing eviction and homelessness until he wins money from his Boy Scouts of America bankruptcy claim. He is worried that he will die soon. Winning the money from this claim will help him close the chapter mentally and move on. Client remarks that the insurance companies do not understand or care about the pain and suffering they are causing him by dragging this bankruptcy out.

12. With the prospect of a stay pending appeal, the outcome of this bankruptcy process becomes even more uncertain and the hardship this imposes on Survivors who have waited a lifetime for recognition of their suffering is palpable and nothing short of tragic.

13. If this Court's order affirming the Bankruptcy Court's Confirmation Order is stayed pending appellate review by the Third Circuit Court of Appeals I expect to have more clients die or abandon out of the process due to deteriorating health or other reasons before their claim will be fully reconciled.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: St. Paul, Minnesota
April 5, 2023

/s/ David Stern
David Stern

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

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

Lead Case No. 22-cv-01237-RGA

Consolidated Case Nos. 22-cv-01238-RGA; 22-cv-01239-RGA; 22-cv-01240-RGA; 22-cv-01241-RGA; 22-cv-01242-RGA; 22-cv-01243-RGA; 22-cv-01244-RGA; 22-cv-01245-RGA; 22-cv-01246-RGA; 22-cv-01247-RGA; 22-cv-01249-RGA; 22-cv-01250-RGA; 22-cv-01251-RGA; 22-cv-01252-RGA; 22-cv-01258-RGA; 22-cv-01263-RGA

IN RE

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,[1]

Debtors.

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC, *et al.*,

Appellees.

---

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

Appendix A

DECLARATION OF EVAN SMOLA IN SUPPORT OF APPELLEES' OMNIBUS JOINT OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, EVAN SMOLA, declare under penalty of perjury as follows:

1. I am a partner of HURLEY McKENNA & MERTZ (the "***Firm***"), and maintain an office at 20 S. Clark St., Suite 2250, Chicago, Illinois 60603. I am duly admitted to practice law in the State of Illinois. I am authorized to submit this supplemental declaration (the "***Declaration***") in support of *Appellees' Omnibus Joint Opposition to Motions for Stay Pending Appeal* (the "***Opposition***"), filed concurrently herewith. I am over the age of eighteen years. This Declaration is based on my personal knowledge and experience and my review of relevant documents. If called as a witness, I could and would competently testify to the facts set forth herein.

2. Our Firm has been actively involved in the chapter 11 cases of the Boy Scouts of America, *et al.* (the "***Debtors***") since February 18, 2020 (the "***Petition Date***"). Our Firm has been involved in litigation involving sexual abuse and the Debtors since 2008.

3. Victims are dying. With each month that passes, men that suffered abject horrors during their childhoods die without justice. Men whose lives were upended and placed off course by sexual abuse die, knowing they never received any recourse for their suffering.

4. Our Firm represents approximately 3,950 clients who have filed childhood sexual abuse claims against the Debtors or other parties that will be subject to a release and channeling injunction (*e.g.*, Local Councils and Chartered Organizations) once the Debtors' plan [Bankr. D.I. 10296] (the ***"Plan"***) becomes effective.

5. Our Firm's staff regularly learns of clients that have died or men that are suffering terminal illness.

6. Dying victims are often faced with a legacy-altering choice: tell their family about their sexual abuse so that their loved ones might get some recourse after their death, or die knowing they were never able to tell those they love the most about the most traumatic experiences of their lives.

7. I and my colleagues at our Firm have both the privilege and burden of hearing from those dying men. Some convey to us that a wife, or son, or daughter, or sibling knows of the abuse and the claim. They ask us to do everything we can to ensure that their loved ones see some semblance of justice.

8. But others tell us the opposite: under no circumstances do they want their family to know the secret they kept hidden for decades. Justice dies with those men's death.

9. As recently as March 30, 2023, our Firm tackled these issues with a terminally ill man, wondering what to do next.

10. Our Firm's clients range in age from 19 to 97. Of those clients, approximately 631 are 70 or older. Since the Petition Date, approximately 15 of our clients have died. As a significant number of our clients are advanced in age, I do not expect many of them to have a substantial amount of time remaining before they pass because in many instances their health is quickly deteriorating.

11. With the prospect of a stay pending appeal, the outcome of this bankruptcy process becomes even more uncertain and the hardship this imposes on Survivors who have waited a lifetime for recognition of their suffering is palpable and nothing short of tragic.

12. If this Court's order affirming the Bankruptcy Court's Confirmation Order is stayed pending appellate review by the Third Circuit Court of Appeals, I expect to have more clients die or abandon out of the process due to deteriorating health or other reasons before their claim will be fully reconciled.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: Chicago, Illinois
April 6, 2023

/s/ Evan Smola
Evan Smola

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

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

Lead Case No. 22-cv-01237-RGA

Consolidated Case Nos. 22-cv-01238-RGA; 22-cv-01239-RGA; 22-cv-01240-RGA; 22-cv-01241-RGA; 22-cv-01242-RGA; 22-cv-01243-RGA; 22-cv-01244-RGA; 22-cv-01245-RGA; 22-cv-01246-RGA; 22-cv-01247-RGA; 22-cv-01249-RGA; 22-cv-01250-RGA; 22-cv-01251-RGA; 22-cv-01252-RGA; 22-cv-01258-RGA; 22-cv-01263-RGA

IN RE

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,[1]

Debtors.

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC, *et al.*,

Appellees.

---

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

Appendix A

DECLARATION OF IRWIN ZALKIN IN SUPPORT OF APPELLEES' OMNIBUS JOINT OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, Irwin Zalkin, declare under penalty of perjury as follows:

1. I am a partner in the Zalkin Law Firm, P.C. (the "***Firm***"), and maintain an office at 10590 W Ocean Air Dr. #125, San Diego, CA 92130. I am duly admitted to practice law in the State of California. I am authorized to submit this supplemental declaration (the "***Declaration***") in support of *Appellees' Omnibus Joint Opposition to Motions for Stay Pending Appeal* (the "***Opposition***"), filed concurrently herewith. I am over the age of eighteen years. This Declaration is based on my personal knowledge and experience and my review of relevant documents. If called as a witness, I could and would competently testify to the facts set forth herein.

2. My Firm has been actively involved in the chapter 11 cases of the Boy Scouts of America, *et al.* (the "***Debtors***") since February 18, 2020 (the "***Petition Date***").

3. My Firm represents approximately 139 clients who have filed childhood sexual abuse claims against the Debtors or other parties that will be subject to a release and channeling injunction (*e.g.*, Local Councils and Chartered Organizations) once the Debtors' plan [Bankr. D.I. 10296] (the **"*Plan*"**) becomes effective.

4. The confirmation of the Plan represents the long-awaited conclusion of a decades-long process that

my clients and thousands of other survivors of sexual abuse (**"*Survivors*"**) have endured in their search for accountability for the horrors they endured as children involved in scouting activities.

5. As expected, childhood sexual abuse claims are extremely personal and continue to cause trauma to Survivors as they are required to relive painful events of their lives that, in most cases, transpired decades ago. Given the sensitive and traumatic nature of the abuse, Survivors frequently do not disclose their claims to spouses, family members, or close friends. As a result, if a Survivor dies before his/her claim is processed and paid, and he/she has not shared the circumstances of his/her abuse with family or friends, a Survivor will never receive justice because the claim will be extinguished without the compensation and closure that Survivors have been seeking and certainly deserve. In that situation, I do not always know that my Firm's client died as nobody else knew about the abuse or that the Survivor retained my Firm to represent his/her interest.

6. My Firm's clients range in age from 23 to 85. Of those clients, approximately 20 are 70 or older. Since the Petition Date, at least two of my Firm's clients have died. As a significant number of my Firm's clients are advanced in age, I do not expect many of them to have a substantial amount of time remaining before they pass, because in many instances their health is quickly deteriorating, such as one client's struggle with Parkinson's disease, or another whose heart stopped recently and had to be revived twice.

7. As the Debtors' chapter 11 cases move into their fourth year, some of my Firm's clients no longer have the fortitude to see their claim to conclusion. In some instances, clients no longer have the financial means to track the process or do not live in a stable environment where my Firm can contact them to provide updates. In other more extreme circumstances, I have had clients who have taken their lives as they could not bear how long this process has taken.

8. With the prospect of a stay pending appeal, the outcome of this bankruptcy process becomes even more uncertain and the hardship this imposes on Survivors who have waited a lifetime for recognition of their suffering is palpable and nothing short of tragic.

9. If this Court's order affirming the Bankruptcy Court's Confirmation Order is stayed pending appellate review by the Third Circuit Court of Appeals, I expect to have more clients die or fall out of the process due to deteriorating health or other reasons before their claim will be fully reconciled.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: San Diego, California
April 6, 2023

/s/ Irwin Zalkin
Irwin Zalkin, Esq.

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

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

Lead Case No. 22-cv-01237-RGA

Consolidated Case Nos. 22-cv-01238-RGA; 22-cv-01239-RGA; 22-cv-01240-RGA; 22-cv-01241-RGA; 22-cv-01242-RGA; 22-cv-01243-RGA; 22-cv-01244-RGA; 22-cv-01245-RGA; 22-cv-01246-RGA; 22-cv-01247-RGA; 22-cv-01249-RGA; 22-cv-01250-RGA; 22-cv-01251-RGA; 22-cv-01252-RGA; 22-cv-01258-RGA; 22-cv-01263-RGA

IN RE

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,[1]

Debtors.

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC, *et al.*,

Appellees.

---

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

Appendix A

DECLARATION OF PETER B. JANCI IN SUPPORT OF APPELLEES' OMNIBUS JOINT OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, Peter B. Janci, declare under penalty of perjury as follows:

1. I am a partner of Crew Janci LLP (the "***Firm***"), and maintain an office at 1200 NW Naito Parkway, Suite 500, Portland, Oregon 97209. I am duly admitted to practice law in the State of Oregon. I am authorized to submit this supplemental declaration (the "***Declaration***") in support of *Appellees' Omnibus Joint Opposition to Motions for Stay Pending Appeal* (the "***Opposition***"), filed concurrently herewith. I am over the age of eighteen years. This Declaration is based on my personal knowledge and experience and my review of relevant documents. If called as a witness, I could and would competently testify to the facts set forth herein.

2. My Firm has been actively involved in the chapter 11 cases of the Boy Scouts of America, *et al.* (the "***Debtors***") since February 18, 2020 (the "***Petition Date***").

3. My Firm represents approximately 405 clients who have filed childhood sexual abuse claims against the Debtors or other parties that will be subject to a release and channeling injunction (*e.g.*, Local Councils and Chartered Organizations) once the Debtors' plan [Bankr. D.I. 10296] (the **"*Plan*"**) becomes effective.

4. The confirmation of the Plan represents the long-awaited conclusion of a decades-long process that

my clients and thousands of other survivors of sexual abuse (**"*Survivors*"**) have endured in their search for accountability for the horrors they endured as children involved in scouting activities.

5. As expected, childhood sexual abuse claims are extremely personal and continue to cause trauma to Survivors as they are required to relive painful events of their lives that, in most cases, transpired decades ago. Given the sensitive and traumatic nature of the abuse, Survivors frequently do not disclose their claims to spouses, family members, or close friends. As a result, if a Survivor dies before his/her claim is processed and paid, and he/she has not shared the circumstances of his/her abuse with family or friends, a Survivor may never receive justice because the claim may be extinguished without the compensation and closure that Survivors have been seeking and certainly deserve. In that situation, I am not always notified that my Firm's client died as nobody else knew about the abuse or that the Survivor retained my Firm to represent his/her interest.

6. My Firm's clients range in age from 13 to 84. Of those clients, approximately 66 (or 16%) are 70 or older. Since the Petition Date, approximately 12 of my Firm's clients have died. As a significant number of my Firm's clients are advanced in age, I expect that many of them do not have a substantial amount of time remaining before they pass because in many instances their health is quickly deteriorating.

7. As the Debtors' chapter 11 cases move into their fourth year, some of my Firm's clients no longer have

the fortitude to see their claim to conclusion. In some instances, clients no longer have the financial means to track the process or do not live in a stable environment where my Firm can contact them to provide updates.

8. With the prospect of a stay pending appeal, the outcome of this bankruptcy process becomes even more uncertain and the hardship this imposes on Survivors who have waited a lifetime for recognition of their suffering is palpable and nothing short of tragic.

9. If this Court's order affirming the Bankruptcy Court's Confirmation Order is stayed pending appellate review by the Third Circuit Court of Appeals, I expect to have more clients die or fall out of the process due to deteriorating health or other reasons before their claim will be fully reconciled.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: Portland, Oregon
April 6, 2023

/s/ Peter Janci
Peter Janci

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

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

Lead Case No. 22-cv-01237-RGA

Consolidated Case Nos. 22-cv-01238-RGA; 22-cv-01239-RGA; 22-cv-01240-RGA; 22-cv-01241-RGA; 22-cv-01242-RGA; 22-cv-01243-RGA; 22-cv-01244-RGA; 22-cv-01245-RGA; 22-cv-01246-RGA; 22-cv-01247-RGA; 22-cv-01249-RGA; 22-cv-01250-RGA; 22-cv-01251-RGA; 22-cv-01252-RGA; 22-cv-01258-RGA; 22-cv-01263-RGA

IN RE

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,[1]

Debtors.

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC, *et al.*,

Appellees.

---

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

Appendix A

DECLARATION OF PATRICK STONEKING IN SUPPORT OF APPELLEES' OMNIBUS JOINT OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, Patrick Stoneking, declare under penalty of perjury as follows:

1. I am an attorney at Jeff Anderson & Associates, P.A. (the "***Firm***"), and maintain an office at 363 7th Ave., New York, New York 10001. I am duly admitted to practice law in the States of Minnesota and New York. I am authorized to submit this supplemental declaration (the "***Declaration***") in support of *Appellees' Omnibus Joint Opposition to Motions for Stay Pending Appeal* (the "***Opposition***"), filed concurrently herewith. I am over the age of eighteen years. This Declaration is based on my personal knowledge and experience and my review of relevant documents. If called as a witness, I could and would competently testify to the facts set forth herein.

2. My Firm has been actively involved in the chapter 11 cases of the Boy Scouts of America, *et al.* (the "***Debtors***") since February 18, 2020 (the "***Petition Date***").

3. My Firm represents approximately 809 clients who have filed childhood sexual abuse claims against the Debtors or other parties that will be subject to a release and channeling injunction (*e.g.*, Local Councils and Chartered Organizations) once the Debtors' plan [Bankr. D.I. 10296] (the ***"Plan"***) becomes effective.

4. The confirmation of the Plan represents the long-awaited conclusion of a decades-long process that my clients and thousands of other survivors of sexual abuse (**"*Survivors*"**) have endured in their search for accountability for the horrors they endured as children involved in scouting activities.

5. As expected, childhood sexual abuse claims are extremely personal and continue to cause trauma to Survivors as they are required to relive painful events of their lives that, in most cases, transpired decades ago. Given the sensitive and traumatic nature of the abuse, Survivors frequently do not disclose their claims to spouses, family members, or close friends. As a result, if a Survivor dies before his/her claim is processed and paid, and he/she has not shared the circumstances of his/her abuse with family or friends, a Survivor will never receive justice because the claim will be extinguished without the compensation and closure that Survivors have been seeking and certainly deserve. In that situation, I do not always immediately know that my Firm's client died as nobody else knew about the abuse or that the Survivor retained my Firm to represent his/her interest.

6. Dozens of my Firm's clients have expressed concerns to me about whether they will ever see the end of this. Many are advanced in age, and many are ill. Many are struggling from the challenges of life and the impact of the abuse, which they carry with them every day. Upon review of my files, I determined that at least 22 of the Firm's clients have died during this process, including one client who just passed away from suicide at the end of

March. Overall, I cannot fully describe the general feeling of helplessness and despair that the Firm's clients express to me every day as they begin to lose hope that they will ever see some level of justice from this process.

7. If this Court's order affirming the Bankruptcy Court's Confirmation Order is stayed pending appellate review by the Third Circuit Court of Appeals, I know that more of my Firm's clients will die or fall out of the process due to deteriorating health or other reasons before their claim will be fully reconciled.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, NY
April 5, 2023

/s/ Patrick Stoneking
Patrick Stoneking

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

Bankruptcy Case
No. 20-10343 (LSS)

(Jointly Administered)

Case No. 22-cv-01237-RGA

IN RE BOY SCOUTS OF AMERICA
AND DELAWARE BSA, LLC,

Debtors.

NATIONAL UNION FIRE INSURANCE CO.
OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA, *et al.*,

Appellees.

Appendix A

DECLARATION OF PAUL MONES IN SUPPORT OF DEBTORS-APPELLEES' OMNIBUS RESPONSE IN OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, Paul Mones, declare under penalty of perjury as follows:

1. I am an attorney at PAUL MONES, P.C. (the "***Firm***"), and maintain an office at 13101 Washington Blvd., Suite 128, Los Angeles, CA 90066. I am duly admitted to practice law in the State of California. I am authorized to submit this supplemental declaration (the "***Declaration***") in support of *Debtors-Appellees' Omnibus Response in Opposition to Motions for Stay Pending Appeal* (the "***Opposition***"). I am over the age of eighteen years. This Declaration is based on my personal knowledge and experience and my review of relevant documents. If called as a witness, I could and would competently testify to the facts set forth herein.

2. My Firm has been actively involved in the chapter 11 cases of the Boy Scouts of America, *et al.* (the "***Debtors***") since February 18, 2020 (the "***Petition Date***").

3. My Firm represents approximately 259 clients who have filed childhood sexual abuse claims against the Debtors or other parties that will be subject to a release and channeling injunction (*e.g.*, Local Councils and Chartered Organizations) when the Debtors' plan [Bankr. Docket No. 10296] (the **"*Plan*"**) becomes effective.

4. The confirmation of the Plan represents the long-awaited conclusion of a decades-long process that my clients and thousands of other survivors of sexual abuse (**"*Survivors*"**) have endured in their search for accountability for the horrors they endured as children involved in scouting activities.

5. As expected, childhood sexual abuse claims are extremely personal and continue to cause trauma to Survivors as they are required to relive painful events of their lives that, in most cases, transpired decades ago. Given the sensitive and traumatic nature of the abuse, Survivors frequently do not disclose their claims to spouses, family members, or close friends. As a result, if a Survivor dies before his/her claim is processed and paid, and he/she has not shared the circumstances of his/her abuse with family or friends, a Survivor will never receive justice because the claim will be extinguished without the compensation and closure that Survivors have been seeking and certainly deserve. In that situation, I do not always know that my Firm's client died as nobody else knew about the abuse or that the Survivor retained my Firm to represent his/her interest.

6. My Firm's clients range in age from 18 to 84. Of those clients, approximately 31 are 70 or older. Since the Petition Date, approximately 6 of my Firm's clients have died. As a significant number of my Firm's clients are advanced in age, I do not expect many of them to have a substantial amount of time remaining before they pass because in many instances their health is quickly deteriorating.

7. As the Debtors' chapter 11 cases move into their fourth year, some of my Firm's clients no longer have the fortitude to see their claim to conclusion. In some instances, clients no longer have the financial means to track the process or do not live in a stable environment where my Firm can contact them to provide updates. In other more extreme circumstances, I have had clients who have taken their lives as they could not bear how long this process has taken.

8. With the prospect of a stay pending appeal, the outcome of this bankruptcy process becomes even more uncertain and the hardship this imposes on Survivors who have waited a lifetime for recognition of their suffering is palpable and nothing short of tragic.

9. If this Court's order affirming the Bankruptcy Court's Confirmation Order is stayed pending appellate review by the Third Circuit Court of Appeals I expect to have more clients die or fall out of the process due to deteriorating health or other reasons before their claim will be fully reconciled.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: LOS ANGELES, CALIFORNIA
April 6, 2023

/s/ *Paul Mones, Esq.*
PAUL MONES

Appendix A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Chapter 11

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

Lead Case No. 22-cv-01237-RGA

Consolidated Case Nos. 22-cv-01238-RGA; 22-cv-01239-RGA; 22-cv-01240-RGA; 22-cv-01241-RGA; 22-cv-01242-RGA; 22-cv-01243-RGA; 22-cv-01244-RGA; 22-cv-01245-RGA; 22-cv-01246-RGA; 22-cv-01247-RGA; 22-cv-01249-RGA; 22-cv-01250-RGA; 22-cv-01251-RGA; 22-cv-01252-RGA; 22-cv-01258-RGA; 22-cv-01263-RGA

IN RE

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC,[1]

Debtors.

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA, *et al.*,

Appellants,

v.

BOY SCOUTS OF AMERICA AND DELAWARE BSA, LLC, *et al.*,

Appellees.

---

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

Appendix A

DECLARATION OF JORDAN K. MERSON IN SUPPORT OF APPELLEES' JOINT OMNIBUS OPPOSITION TO MOTIONS FOR STAY PENDING APPEAL

I, Jordan K. Merson, Esq., declare under penalty of perjury as follows:

1. I am a partner at Merson Law, PLLC (the "***Firm***"), and maintain an office at 950 Third Avenue, 18th Floor, New York, New York 10022. I am duly admitted to practice law in the State of New York, State of New Jersey, State of Pennsylvania, and various district courts throughout the United States. I am authorized to submit this supplemental declaration (the "***Declaration***") in support of *Appellees' Omnibus Joint Opposition to Motions for Stay Pending Appeal* (the "***Opposition***"), filed concurrently herewith. I am over the age of eighteen years. This Declaration is based on my personal knowledge and experience and my review of relevant documents. If called as a witness, I could and would competently testify to the facts set forth herein.

2. My Firm has been actively involved in the chapter 11 cases of the Boy Scouts of America, *et al.* (the "***Debtors***") since February 18, 2020 (the "***Petition Date***").

3. My Firm represents approximately three-hundred and twenty-three (323) clients who have filed childhood sexual abuse claims against the Debtors or other parties that will be subject to a release and channeling injunction (*e.g.*, Local Councils and Chartered

Organizations) once the Debtors' plan [Bankr. D.I. 10296] (the **"*Plan*"**) becomes effective.

4. The confirmation of the Plan represents the long-awaited conclusion of a decades-long process that my clients and thousands of other survivors of sexual abuse (**"*Survivors*"**) have endured in their search for accountability for the horrors they endured as children involved in scouting activities.

5. As expected, childhood sexual abuse claims are extremely personal and continue to cause trauma to Survivors as they are required to relive painful events of their lives that, in most cases, transpired decades ago. Given the sensitive and traumatic nature of the abuse, Survivors frequently do not disclose their claims to spouses, family members, or close friends. As a result, if a Survivor dies before his/her claim is processed and paid, and he/she has not shared the circumstances of his/her abuse with family or friends, a Survivor will never receive justice because the claim will be extinguished without the compensation and closure that Survivors have been seeking and certainly deserve. In that situation, I do not always know that my Firm's client died as none of the Survivor's family or friends knew about the sexual abuse or that the Survivor retained my Firm to represent the Survivor's interest.

6. My Firm's clients range in age from 23 to 95 years old. Of those clients, approximately twenty-seven (27) are 70 or older. Since the Petition Date, approximately five (5) of my Firm's clients have died. As a significant number

of my Firm's clients are advanced in age, I am concerned about their health deteriorating and being unable to see this process through to the conclusion.

7. With the prospect of a stay pending appeal, the outcome of this bankruptcy process becomes even more uncertain and the hardship this imposes on Survivors who have waited a lifetime for recognition of their suffering is palpable and nothing short of tragic.

8. If this Court's order affirming the Bankruptcy Court's Confirmation Order is stayed pending appellate review by the Third Circuit Court of Appeals, I expect to have more clients die or fall out of the process due to deteriorating health or other reasons before their claim will be fully reconciled.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 5, 2023
New York, New York

/s/ Jordan K. Merson
Jordan K. Merson