

SCHMITT SCHNECK

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IMPORTANT NOTICE ABOUT PENDING DEADLINE IN THE BOY SCOUT BANKRUPTCY

I just received the attached mail notice from a fellow attorney regarding the potentially devastating impact of the pending national bankruptcy case of the Boy Scouts.

As an Eagle Scout myself, I cannot tell you how distressing this subject is.....

The memo you have raises some complex legal issues including personal injury law, class actions, and bankruptcy law and that whether this increases liability exposure for churches is a problematic, to say the least.

Our fear is that this bankruptcy action may result in increased exposure to liability for churches who chartered Boy Scout troops because their indemnification provisions and/or general liability insurance coverage may be eliminated or significantly reduced in the Boy Scout bankruptcy, even if they don't face a direct claim.

If your church is facing a sex abuse claim arising from a Boy Scout troop, then I highly recommend that you consult your attorneys and possibly consider getting in the loop with the Methodists!

Blessings,
Bob Brown

**IF YOUR CHURCH HAS EVER CHARTERED / HOSTED A
BOY SCOUT TROOP, YOU NEED TO READ THE FOLLOWING
NOW.
VERY IMPORTANT INFORMATION WITH A NOVEMBER 16, 2020
DEADLINE.**

October 12, 2020

As you are likely aware, the Boy Scouts of America (the “BSA”) is going through a bankruptcy process stemming from a multitude of sexual abuse claims filed against the organization. I participated in a meeting with Chancellors across the country last Friday to learn about the potential ramifications the BSA bankruptcy may have on churches that serve as “Chartering Organizations” for Troops.

Despite growing up in Scouting myself, I did not realize that churches are responsible for much more than just giving a Troop some space to meet. The “Annual Charter Agreement” each church signs suggests that the church is effectively responsible for conducting the Scouting program in its entirety, including the selection and screening of adult volunteers. As such, a local church that serves as a Chartering Organization could clearly be on the hook for a sexual abuse claim. An example charter agreement is attached.

If a sexual abuse claim arises, a Plaintiff is likely going to sue the national BSA organization, the local Council of the BSA, the local Troop and the Chartering Organization (like a local church). You are likely familiar with the idea that bankruptcy can eliminate the debts of a debtor. Bankruptcy can also extinguish judgements and future claims against the debtor – particularly if the future claim is based on an act that happened before the bankruptcy proceeding.

Accordingly, if the BSA goes through the bankruptcy process and extinguishes liabilities related to sexual abuse claims, a Chartering Organization (like a local church) may be the last entity standing with potential liability. The fear is that Chartering Organizations may lose any right to indemnification from the BSA because of the bankruptcy.

The way to try and avoid this outcome is to file a Proof of Claim with the Bankruptcy Court. This puts the Bankruptcy Trustee on notice of a potential claim and allows the Trustee to decide whether the claim will be honored. This needs to be done on or before **5 p.m. EST (4 p.m. Central) Nov. 16, 2020.**

I would highly recommend that your church consult with a bankruptcy lawyer as soon as possible if the church currently charters a Troop or has ever chartered a Troop in the past. If you have a particular lawyer with whom you wish to consult, please do so. If you do not have counsel readily available, you may wish to contact the Bradley Firm in Tampa, Florida. Mark Hanley of the firm serves as Chancellor of the Florida Conference, and his partner Ed Rice is a bankruptcy specialist. The Bradley firm is running point on this for United Methodist churches in Florida and may be able to assist us as well. If you would like to coordinate with them, please let Clifton Howard know and we will reach out to them to see how to proceed.

As was noted by bankruptcy experts in the meeting, a group who brings 1,000 claims to the Trustee may have more leverage to ensure claims are honored post-bankruptcy than a group who just brings one claim. To that end, UMC Chancellors across the country are considering coordinating efforts to try and maximize the leverage of Chartering Organizations. The United Methodists may try to work together to submit Proofs of Claims together in bulk amongst themselves, as well as with the Mormons, the Baptists,

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and other groups or denominations that represent multiple Chartering Organizations. Unfortunately, we are just getting started thinking about a coordinated response, and claims are due quickly. If something comes together, I will let you know.

According to attorneys for the BSA, most of the sexual abuse cases coming up now are related to actions that happened 30+ years ago. It may not matter if the abuse happened in the 1970s, and it may not matter if you think your church has nothing to do with a Troop other than allowing them to use space for meetings. Even if you are currently unaware of any potential claims against the Troop your church charters, you have probably seen commercials from law firms actively seeking clients who have not yet brought up their claims. With all the media attention, a claim could easily pop up tomorrow.

Please consider discussing your situation with a bankruptcy attorney as soon as possible if your church has ever chartered or hosted a Troop and determine what your options may be to preserve a claim against the BSA.

I am not a bankruptcy attorney, and this letter effectively exhausts my knowledge on the subject. If you or your counsel would like to review some additional documentation on the BSA bankruptcy filing, I have forwarded Clifton some materials provided by the Bradley Firm he can share with you at your request.

Again, please note the deadline for filing a Proof of Claims form is November 16, 2020 at 5pm EST (4 p.m. Central).

Yours very truly,

Wilson Woods
Chancellor, Central Texas Conference of the
United Methodist Church