

# CERTIFIED TRANSCRIPT

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**BOY SCOUTS OF AMERICA  
OFFICIAL TORT CLAIMANTS COMMITTEE TOWN HALL  
TRUST DISTRIBUTION AND  
INDEPENDENT REVIEW PROCESS**

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1 **KENNEDY:** Hi, everyone, I'm Doug Kennedy. I'm one of the co-chairs of the Tort Claimants  
2 Committee in the Boy Scouts bankruptcy and I am assisted today by John Lucas. John is an  
3 attorney with Pachulski, Stang, Ziehl and Jones, the law firm that has been representing the Tort  
4 Claimants Committee. We want to spend a few minutes talking about the trust distribution  
5 process and go through a series of slides, give some background, help to explain this better.  
6 The very first most important thing I have to say, though, and there's gonna be a lot of important  
7 information today, is that this is highly technical, highly legal. It is a reason why the TCC has  
8 been saying since it's very first meeting, I think, that we really encourage people to have legal  
9 representation. The TCC can't give you individual legal advice. We represent or advocate for all  
10 survivors but we recognize everyone's situation is individual and different. And it's a reason why  
11 you need to get legal advice from legal professionals. Having said that, we do know that there are  
12 people that do not have representation, so we thought it would be best to get this video out to  
13 help explain for those people maybe a little more so they can make decisions for themselves, and  
14 for everyone else so that when they have these conversations with their attorneys, they have a bit  
15 of an understanding, also.

16 I understand this a bit. John Lucas is much more the expert than I am on this, so I'm going to be  
17 asking him questions as he leads us through a series of Power Points. I've told John in advance if  
18 I say anything that's completely off base or doesn't make any sense, please, please, please say so.  
19 It's not gonna hurt my feelings because this is complicated and I can tell you that if it comes  
20 down to this process getting confirmed, that I'll be having a conversation with my own attorney  
21 as to what makes the most sense for my situation. So I don't want anyone out there to think that  
22 you should automatically understand any of this because it's complicated.

23 I should also mention that it is located in the--John, what are we calling this file on the website?  
24 What plan, is it the third amended plan we have posted now?

25 **LUCAS:** Yeah, the plan that's on the table is the third modified, fifth amended plan of the  
26 Boy Scouts of America. And this is Exhibit A to the plan, which is the Trust Distribution

1 Procedures. And I wanted to reiterate also that I agree with Doug that getting legal help is really  
2 important because what Doug and I are going go through isn't all the answers, it's a high-level  
3 overview of the trust distribution process. And most importantly, is that everybody's claim is a  
4 little bit different and so it's hard to answer claims generally when the specifics of your claim, of  
5 Doug's claim, might be different than the specifics of somebody else's. And so we're trying to  
6 provide sort of general overview of sort of the process of things that you're going to have to do.  
7 And some people might have to do more, some people might have to do less or some people  
8 might have to do things that are just wholly different.

9 **KENNEDY:** Right. And the TCC is not advocating for any one path in this. We respect  
10 everyone's individual choices about that. We just want to be in the business of getting out the  
11 best possible information so you understand it a little bit better. So, John, why don't we go ahead  
12 and start in on the slides that you've prepared.

13 **LUCAS:** There we go. Doug, are you going to start it off or do you want me?

14 **KENNEDY:** Well, no, you go ahead and start this off but just to reiterate to everyone, we're  
15 trying to address the issue of these three paths to have your claims reviewed. And there's been,  
16 unfortunately, the sort of headline that came out that was, you know, this \$20,000 path that  
17 people were going to have to pay and it's not entirely the case, certainly for everyone. So we're  
18 going to get there. We're going to get to the \$20,000 question but we want to be able to review  
19 this top to bottom.

20 **LUCAS:** Yeah. And so as you see here, there are three ways to have your claim reviewed  
21 and we'll go through each of them. The expedited distribution, sort of the general trust claim  
22 submission process and then most recently, what everybody has seen, what's called the  
23 independent review. And so we'll start with the expedited distribution. And, you know, if those  
24 are so inclined and you want to look into trust distribution procedures, this is in Article Six.  
25 And here, you know, an overview. This is where a survivor has elected on his or her ballot that  
26 they would like to take the expedited payment of \$3500. So you have already done this on your

1 ballot or you have until March 7 at 4:00 p.m. to make this selection on your ballot. And this is  
2 the only time that you can go this path is by making the election on your ballot.

3 **KENNEDY:** Okay, John, so that's my first question. If the survivor starts looking at this plan  
4 and this video and says, "You know what, I didn't elect the \$3500 before but I want to now," so  
5 one of the things you're telling us is that they have to make that change?

6 **LUCAS:** Yes. And if you're represented by counsel, work with your counsel to get a new  
7 ballot to make the change on your ballot. If you aren't represented by counsel, you can get a new  
8 ballot by emailing the voting agent Omni, and you can go to [www.tccbsa.com](http://www.tccbsa.com), which is the  
9 TCC's website, and there is information there, step-by-step information on how you get a new  
10 ballot.

11 **KENNEDY:** And John, if I elected the 3500 before and I change my mind, can I unselect it  
12 now?

13 **LUCAS:** Yes, you can.

14 **KENNEDY:** Okay.

15 **LUCAS:** As long as you do it before March 7, 2022 at 4:00 p.m. Not postmarked by that  
16 date but it needs to be in Omni's hand by snail mail or uploading it through the web.

17 **KENNEDY:** Okay.

18 **LUCAS:** And so here are some of the other sort of general requirements. You need to have  
19 signed your proof of claim yourself. And so if your attorney signed it for you, then you need to  
20 amend your claim and sign the claim yourself. The March 7 deadline, that isn't a requirement  
21 there but you must do this here and you must do it as soon as possible. The proof of claim must  
22 be substantially complete and no other information is required. If the expedited distribution  
23 process, once it's complete, you'll be required to sign a release which releases all the other parties  
24 from any liability and this is your final payment. You will not receive anything else from the  
25 BSA distribution process. It's a one-time lump-sum payment of \$3500.

26 All right. We'll move on here to the regular trust claim process and here's sort of the flow-chart

1 of the process.

2 **KENNEDY:** Let me interrupt. Let me step on your toes for a minute, John. What we're going  
3 to do is for each of these sections, we're going to provide just a little bit of a flow chart and then  
4 we're gonna go into these--each of these blocks a little bit more in detail, as well.

5 **LUCAS:** Yeah, and we'll put these slides up on our website, too. So here we go. This is in  
6 Article 7(a) of the Trust Distribution Procedures. And the first part here is just sort of a general  
7 overview. The plan has been confirmed or approved by the bankruptcy court and it's effective  
8 and so all the assets have moved to the trust and the claims are in the trust and the settlement  
9 Trustee and the Claims Administrator and everything is up and running. And so--

10 **KENNEDY:** And let me interrupt, John. And what we're doing is it's February 22 right now,  
11 there's a confirmation hearing and we're going to have to see what happens in the confirmation  
12 hearing, so some of this could be subject to a little bit of change on dates and some other things  
13 that are happening. So please continue to check back on the TCC's website and check with your  
14 attorney if you have one. Because what we're saying today might not be the case in a week or  
15 two or three.

16 **LUCAS:** Yeah. So under the Trust Distribution Procedures, you need to have timely  
17 submitted a proof of claim and then there will be a claims questionnaire that is created and  
18 distributed by the settlement trust. And so that hasn't been done yet because the trust isn't up and  
19 running but, you know, the settlement trust will ask questions that will be sort of modeled on  
20 your proof of claim. But perhaps asking for additional or some different information that isn't  
21 included in your proof of claim.

22 Your claims questionnaire must be signed by you, the survivor, or your executor, the executor of  
23 the survivor's estate and then you will be asked to produce any available documents or records  
24 that are relevant to your claim. So, I mean, if you have the documents and you have stuff that  
25 supports your claim, it's only going to help you and the claims administrator sort of evaluate your  
26 claim. If you don't have anything, then you don't have anything and perhaps you're going to

1 maybe some other sort of written record or summary of what it is that happened to you.

2 The trust might require an examination by a health care professional or a written or verbal  
3 examination under oath to ask questions to better understand when your abuse occurred, what  
4 had happened and the effects of the abuse since it happened.

5 **KENNEDY:** And that's may require. It's not any kind of guarantee. And John, let me just also  
6 ask this question. You mentioned that the trust is not yet set up, you know, all this happens after  
7 as part of confirmation. But it's safe to assume that it's going to take a couple months for the  
8 trust to kind of get this questionnaire together, get its operation going, so it's going to take a little  
9 while until survivors see any of this in their mailbox; is that right?

10 **LUCAS:** That is certainly true. Um, you know, the Trustee and the claims administrators  
11 will be opening sort of a small, little operation, if you will and so as a result, you know, a website  
12 will be created, you know, so they'll have staff and other claims reviewers to help them sort of  
13 undertake the whole process. The settlement Trustee will have to come up with the claims  
14 questionnaire and, you know, have it modeled and maybe tweaked and have their counsel look at  
15 it and stuff. So it won't be an overnight thing. The trust won't be created on day one and this  
16 stuff isn't going to start on day two. It'll be, you know, could be two or three months here before  
17 the trust is up and running.

18 **KENNEDY:** Right. And one of the things you had mentioned from other bankruptcy cases is  
19 it's pretty standard procedure at this point for the trust to set up a website, a portal, a way to keep  
20 claimants, in this case survivors, updated as to what's going on and what to be on the lookout for.

21 **LUCAS:** Sure. I would expect that, you know, that will be entirely up to the settlement  
22 Trustee but I would think that they would do that, you know, the claims questionnaire would  
23 probably be posted, there would be relevant dates and deadlines on the website and in a way in  
24 which you could either, you know, where to send your documents or a way in which you can  
25 upload your documents that are specific to you.

26 And then here on the bottom, it's really important that if you did not submit a claim questionnaire

1 or you were asked to sit for a written or a verbal examination under oath and you refused, then  
2 those can be complete sort of bars, if you will, to any distribution. The Trustee will have the  
3 ability to disallow your claim if you're not following through the process and submitting the  
4 information, to the extent that you have it, that he or she is looking for. So let's move on here to  
5 the next page.

6 And so again, general requirements. Proof of claim and the claims questionnaire. And the  
7 claims questionnaire is going to ask other information that you might not have otherwise  
8 submitted with your proof of claim. And the general criteria that the trust is going to be looking  
9 for is that you identified the alleged abuse, that you identified the abuser by name or physical  
10 description. You need to show that there's a connection to scouting, that this happened at a  
11 scouting-type sanctioned event and that the date, your age and the location of the abuse. All  
12 those things are sort of the general sort of requirements that the Trustee is going to be focused  
13 on.

14 **KENNEDY:** John, one of the things that we're hearing from survivors is sometimes, you know,  
15 this happened to a lot of us a long, long time ago and things like the date, for example, you  
16 know, people might know I'm, like, seven years old, for example or I guess maybe the--so my  
17 question is, these are general requirements. These are the things that the trust is looking for but  
18 certainly survivors are going to be able to provide as much as they can in this case.

19 **LUCAS:** Yes.

20 **KENNEDY:** None of these are going to be something that's going to disqualify you if you don't  
21 have them, in other words.

22 **LUCAS:** No. I wouldn't say it's going to disqualify you but everybody needs to remember  
23 that the more information that any survivor has, it's going to help support his or her claim. And  
24 so, for example, if somebody can't say, "I don't know where it was. I was abused." Then, you  
25 know, the Trustee is going to take that into consideration and that could be something that sort of  
26 weighs in his or her decision onto what the award might be, if the person can't remember where

1 it was. You know, and so, you know, there will be factors--all these things are factors that the  
2 Trustee will consider or the Claims Administrator will consider in evaluating the overall claim  
3 award. And when that happens, you know, there's a matrix that is in the TDP or the Trust  
4 Distribution Procedures and the abuse claim evaluation starts a base number. And there's a chart  
5 that's in the TDP and it gives the base number for each type of abuse or sort of the level of abuse,  
6 if you will. And that's where it starts. And then from there, the Claims Administrator will apply  
7 scaling factors to increase the amount of the claim or decrease the amount of your claim. And so  
8 the information that's in your proof of claim, the information that's in your claims questionnaire  
9 or other information that you provide or in a written deposition or an oral deposition, all that  
10 information will help the Trustee and the Claims Administrator apply what we call aggravating  
11 scaling factors, which can increase the amount of your claim, or mitigating scaling factors which  
12 can decrease the amount of your claim.

13 And so, you know, a lot of times people might say, you know, well, what is--what's going to  
14 increase my claim or what's going to decrease my claim? And, you know, naming the full name  
15 of your abuser is something that's going to help increase your claim. Identifying that your abuser  
16 was in Scouts and that maybe there's a roster that can be produced that shows that your abuser  
17 was in Scouts. Maybe identification that your abuser abused multiple other survivors. I mean,  
18 those are things that will help--are called aggravating scaling factors that will increase the award.  
19 **KENNEDY:** And John, this is, to a large extent, going to be the work of the Trust to not only  
20 collect all this information but it's important for survivors to know that they're going to be  
21 responsible for validating it, as well. So--

22 **LUCAS:** Well, when you say that--so I want to say that it's more on the survivor here. I  
23 mean, the Trust can only do so much. It only has what it has, what it's given, and so, you know,  
24 that's why we think it's important that survivors get counsel because counsel will sort of help sort  
25 of excavate, if you will, or maybe help a survivor maybe try to locate some of these documents.  
26 For example, you know, like, rosters, for example, to show that your name is on a roster for a

1 certain local counsel or a certain region. Or that your abuser's name is on an adult roster at a  
2 certain region or certain local counsel and you were both there at the same time. You know, and  
3 so the Trust is only going to have sort of what it's given and the trust isn't sort of going out and  
4 turning over rocks and looking for things to help you with your claim. I mean, the trust is there  
5 to evaluate the information that's given to it.

6 **KENNEDY:** Right. So it's the responsibility of survivors to not only provide the information  
7 as well as they can but sort of document that it's valid, as well, is what I hear you saying?

8 **LUCAS:** Yeah.

9 **KENNEDY:** Okay. I should also mention that I did a little multi-tasking here. If you go to our  
10 website, tcbsa.com, under files, you'll see the Trust Distribution Procedures is a separate file  
11 and that's where the matrix and this information is. So it's posted on our website now if you want  
12 to do a deeper dive into what the matrix is, for example.

13 **LUCAS:** Thanks, Doug. And then everybody needs to remember that, you know, another  
14 scaling factor is that if your claim is subject to a statute of limitations, then also in the TDP on  
15 the last page, there are statute of limitation scaling factor, which will decrease the ultimate  
16 award. And so if you're not in a state that's an open state, then there will be a discount that's an  
17 arrange that the Trustee or the Claims Administrator will select for each claim.

18 And then last here, which is also really, really important, is that right now, there's a certain  
19 amount of cash and assets that are in the trust. It's, like, approximately \$2.7 billion, which is just  
20 a staggering amount of money. But given that there are over 82,000 claims, that there might not  
21 be enough money to pay everybody the full amount of their award, and so as a result, if your  
22 award is, as an example, \$250,000 and there's only enough cash in the trust to pay 20 percent of  
23 that, then you're gonna get \$50,000.

24 **KENNEDY:** And, John, there are a few things. And, you know, that's never good news for any  
25 survivor. The reality here is that there's, right now, a finite amount of money and, you know,  
26 there will still be work to continue to make settlement with other parties. Is there a possibility—

1 because, of course, the trust has to also reserve money for its own operation, as well. Is there a  
2 possibility that, as settlements are made, that additional payments can be made to survivors that  
3 have already received awards?

4 **LUCAS:** Yeah, so two things on that, Doug. That's a great question. Number one, the Trust  
5 has 2.7 in it now in cash and assets. There are other insurance carriers out there that either the  
6 debtors before confirmation or the settlement trust after confirmation is going to want to get  
7 contributions from. And so we hope and expect that there will be cash contributions, in addition  
8 to what we already have, into the trust. There are also chartered organizations out there that  
9 won't be covered by the channeling injunction under the plan if it's approved. And so if those  
10 chartered organizations are going to want protection, then they're going to have to pay for it and  
11 that money will also go into the trust.

12 And so then the third thing, to answer, I think, your really direct question, Doug, is that I would  
13 expect that the Settlement Trustee is going to try to evaluate claims as soon as possible and start  
14 evaluating them on a rolling basis. And so if your claim is, let's say the ultimate award is  
15 \$200,000, I could see the Trust making an initial distribution on the claim of just a portion of  
16 your claim because the Trust will need to hold back cash because it's not going to be exactly sure  
17 how much money it will have in the end and what the sort of evaluation of all the claims will be.  
18 And so you could get a distribution, maybe, you know, let's say six months into the evaluation  
19 process and then you might get another distribution a couple months after that. And then maybe  
20 at the end of the process, you might get a third distribution, so that once all the money gets  
21 pushed out and the Trustee knows where everything is and so there could be more than one  
22 distribution on your claim.

23 **KENNEDY:** And, John, this is probably a good time for us to mention first in, first out. Would  
24 this be the right time?

25 **LUCAS:** Yeah, yes. And so under the Trust Distribution Procedures, that there will sort of  
26 be a line and it isn't, you know, the date or the time that you filed your Proof of Claim, but those

1 that get in their claims questionnaire in first and all the supporting materials will get put in a line.  
2 And so the sooner you get your claim questionnaire in, that's the time, the date in which the line  
3 in which the Trustee and the Claims Administrator will evaluate your claim. And remember, the  
4 claims questionnaire does not exist yet. The Trustee and the Claims Administrator will create  
5 that and you will get some sort of notification of it in the future once the trust is up and running,  
6 so it's not there yet.

7 Let's see here. Reconsideration, Doug.

8 **KENNEDY:** Okay. So this is an important point and I think for a lot of survivors, John, they  
9 were--because of some headlines, were under the assumption that, "Wait a minute, the only way  
10 I can have somebody look at my claim again if I'm not happy or have a higher level of review is  
11 if I pay a large sum of money." But the reality is the majority of survivors, we anticipate, will be  
12 going through the Trust Distribution path and there's sort of a built-in review that's already in it.  
13 Would that be a correct way to phrase that?

14 **LUCAS:** Yeah, there's really sort of two paths or I should say there's sort of two stops on the  
15 same path. You go through the process, the Trustee and the Claims Administrator determine  
16 your claim is worth \$200,000. And then you look at it and you think they made a mistake or,  
17 actually, they didn't consider these three things that I should've given them or doesn't look like  
18 they consider these two things that I did give them. And you think that if there's some sort of  
19 better support for your claim or some advocacy on part of your claim, that if it went through the  
20 process again, that you'd do better. And so you're free to do that, but there's an administrative fee  
21 of \$1,000 to do that and that is to help the trust absorb some of the cost of having to sort of go  
22 through or redo part of the process of which it already did one time.

23 And so if after the review process you're still not happy with the result of your claim, then you  
24 could sue the trust in a court, not the bankruptcy court, to determine whether or not the  
25 settlement trust award was reasonable. And again, that will be all on you. You'll have to do that,  
26 hire counsel or do it yourself but all the costs and expense of doing that and taking the trust to

1 court will be on your shoulders.

2 **KENNEDY:** Okay. So the bottom line here is if I receive notification of an award and I say,  
3 "Hey, I've got additional information or somebody didn't look at it closely enough or I just want  
4 another set of eyes on it," then that review is \$1,000 fee and if it turns out in my favor, then that  
5 sort of is refunded at that point?

6 **LUCAS:** Yeah, yeah, two things. And so once you do receive notification of your claim  
7 determination, then you have 30 days to consider whether or not you want it reconsidered. And  
8 if you let the 30-day period expire, then you're stuck with whatever it is that the trust determined.  
9 But if you do want it reviewed and you submit the \$1,000 fee and then the trust comes back and  
10 agrees that your claim should've been something different, you know, better, increased, then the  
11 \$1,000 fee is waived.

12 **KENNEDY:** And, John, what about if I have a reconsideration and for some reason, the trust  
13 says, "Actually, it was our mistake. You should be getting less." Then that's a binding amount,  
14 isn't it?

15 **LUCAS:** Yes, it is. It is.

16 **KENNEDY:** Okay.

17 **LUCAS:** Yeah. Well, there's risk and reward there on a couple different levels.

18 **KENNEDY:** Okay.

19 **LUCAS:** So here's the next path or the final path for a claims review. And this is what we  
20 call the Independent Review option. And we will sort of go through this flowchart here on the  
21 following slides to explain to everybody how this Independent Review option works.

22 **KENNEDY:** And this is the \$20,000 option that everyone has been sort of most focused on and  
23 I think one of the things we want to do is try and explain not only what we just explained, which  
24 is that the trust distribution process is already sort of meant to give the right review but also why  
25 this one, A, costs a lot of money; and B, is really designed to be used for outliers more than  
26 anything.

1 **LUCAS:** Yeah, and the other important thing, too, before we start, Doug, is that the process  
2 that we just went through, you know, that's all built in. You're not required to do the independent  
3 review. There's no requirement, you don't have to go this path, it is up to you whether you want  
4 to go this path or you want to say in the other thing. And so you're automatically in the--what we  
5 call sort of the general TDP or Trust Distribution Process and to go in the independent review,  
6 you need to sort of actively elect into it and you're not required to.

7 So here's an overview, and this is all laid out in Article 13 of the Trust Distribution Procedures.  
8 So you'll need to make an election in connection--when you submit your claims questionnaire  
9 and you have to do it within six months after the plan becomes effective.

10 **KENNEDY:** Okay. So that's important. As a survivor, I can't go ahead and get my award and  
11 then decide, just kidding, I want to go independent review. I have to decide this beforehand?

12 **LUCAS:** Yeah, and you need to do it within six months after the plan becomes effective and  
13 that's really important. So if you wait longer than that, then you're just in the TDB process.  
14 You're in the regular process that we just discussed earlier. And so here, this provides sort of a  
15 process to have a neutral third party provide sort of a settlement recommendation to the  
16 settlement trust. And, you know, the base and maximum matrix, which we talked about in the  
17 last process, doesn't apply to this and here, we really, really stress that before anybody considers  
18 this option, that you consult with an attorney before pursuing this option. It is just essential.  
19 This is like going to court.

20 **KENNEDY:** So John, when you said the base and maximum matrix, that means the numbers  
21 that are in the matrix now but the maximum award can only be something that's a function--isn't  
22 it five times what the maximum is? I know I'm getting complicated here. But when you say the  
23 base and maximum matrix does not apply, what this means is that this process is outside of the  
24 TDP matrix, isn't that what we're talking about?

25 **LUCAS:** It is. It is. You know, there is a ceiling on the amount that the neutral can award  
26 but the neutral isn't wedded to a base amount and working with the scaling factors. This is more

1 sort of similar to filing a complaint in court, collecting your evidence and advocating for your  
2 claim about, you know, why your claim should, you know, be X plus Y instead of just X.

3 **KENNEDY:** Okay. So, you know, on the high end of that, I think isn't it correct that the  
4 maximum would be something like 13 million but it's important to say that there's also the  
5 minimum could be zero, too. So a neutral could look at this and say, "Sorry. In a court of law,  
6 this wouldn't hold up at all, so it's worth zero," isn't that true?

7 **LUCAS:** That is exactly correct. The neutral could come back and the neutral could say,  
8 "Yes, I think your claim is not worth anything." Or, "I think your claim is worth \$100 or \$1,000  
9 or \$5,000," or some small amount. And once you're in this process, that's your claim and that's  
10 what you're wedded to. So as Doug and I were saying here on the last slide, the detailed review  
11 that's meant to replicate the presentation of your claim as if it was filed in court, and so there  
12 would be somebody who's experienced at evaluating sexual abuse claims. Perhaps a retired  
13 judge. And, you know, like before, if you're not satisfied with the settlement recommendation,  
14 you can go to court to have them determine whether or not the settlement recommendation was  
15 reasonable. And so let's say that the award, hypothetically, is \$3 million. What happens here and  
16 how the claim is paid is that the first million of your award shares in the available cash that's in  
17 the regular trust. So right now, there's about 2.7 billion in cash and assets in the regular trust.  
18 And so you would share in that cash. Does that--

19 **KENNEDY:** Okay. So let--

20 **LUCAS:** Yes, go ahead, Doug.

21 **KENNEDY:** So let me stop you for a second, just so we're all clear on this. So what that means  
22 is that let's say the neutral says, "Well, your claim is worth \$4 million." The first million comes  
23 out of the trust but only to the percentage that all survivors are receiving. So if all survivors are  
24 receiving, say, 20 percent right now, and we're just making these numbers up, 20 percent of their  
25 award, then that would also be true of this first million, as well?

26 **LUCAS:** That's right. So, I mean, let's say that there were five survivors and they each had a

1 million dollars to go towards this part of their claim. So they have five one-million dollar claims.  
2 And let's say that there was only a million dollars to share with them. They would each get  
3 \$200,000, even though their award in this part of the claim is a million dollars. They can only  
4 get to the extent that there's enough cash to pay them, and so everybody's going to share in it sort  
5 of equally.

6 **KENNEDY:** Okay. So that's an important takeaway, John. While the amount that you get  
7 might be more than the matrix value in the TDP, you're still going to be getting the same sort of  
8 percentage of all survivors but on available funds?

9 **LUCAS:** Correct. Correct. And so--but the part that's in excess of the million dollars, so it  
10 was a \$3 million claim, a million goes to the TDP and then 2 million of it goes to the excess  
11 fund, which is going to be funded from settlements with the excess insurers. And it's really,  
12 really important that everybody understands that as things stand right now, there are no  
13 settlements with excess insurers and so right now, there's no cash in the excess fund. And so  
14 there's no money to pay claims that go through this process yet. So we hope that changes and we  
15 hope that between now and confirmation, potentially there could be a settlement or, more likely,  
16 after confirmation, there could be a settlement with the settlement trust and the excess insurer  
17 and that money would fund the trust. Well, it would fund this part of the excess fund of the trust.  
18 So this is, you know, what do I need to do? I mean, this is one of the questions that I receive  
19 most, Doug and I'm not sure about you but, you know, what is it that I need to do once I'm in this  
20 process? And again, proof of claim that's signed by the survivor, that it's complete, that, you  
21 know, everything is filled out, all the details there and you have a narrative that describes your  
22 abuse and what happened and what had happened. And you need confirmation that you were in  
23 scouting, you know, you were a scout and you can demonstrate this by a roster or a membership  
24 card or a photograph or a sworn statement by a witness that says that you were a scout.

25 **KENNEDY:** And let me interrupt you for a second, John. So again, I think it's important to  
26 remind everyone that this process is supposed to or trying to kind of mimic what would happen

1 in a court of law, where it's more than filling some forms out. This neutral really has to look at  
2 evidence to mirror what would happen if our cases had gone to court. Is that correct?

3 **LUCAS:** Yeah, I mean, and to be clear, I think that, you know, the Claims Administrator in  
4 doing the regular TDP process is going to be looking at evidence just the same here. But I think  
5 that the review and the amount of information or evidence that might need to be supplied to  
6 support this type of claim is going to be very, very, very important. And so, again, there isn't any  
7 formula as to what it is that you have to show that you were a scout but it has to be something  
8 that the neutral is going to believe. And so the same, that your abuser was in scouting, you  
9 know. The abuser's name is on a roster. There's a photograph or some sort of sworn statement  
10 or other document that shows the participation in scouting. Your abuse claim, it must be in  
11 statute. It can't be out of statute and so again, this is crucial because if you're in a court of law  
12 and your claim is out of statute, the defendant is going to come and it's going to move to dismiss  
13 your case because it's going to say, "Hey, the claim wasn't filed in time." And so that's going to  
14 be an important, important component of the process. And you're going to have to demonstrate  
15 that the Boy Scouts, a local council or a chartered organization was negligent as a court would  
16 determine this. And so--

17 **KENNEDY:** Yeah, and I should jump in because I had questions about this that I asked John  
18 and a couple other attorneys about it. And negligence is a legal principle, it's a legal term, there  
19 are defenses to negligence, there are definitions of negligence, so it's really why we suggest and  
20 implore people to consider and chat with an attorney who's skilled in these cases to really get a  
21 sense of whether or not they're going to be able to clear some of these hurdles.

22 **LUCAS:** Yeah, and then, you know, and then part of this here on the end, you know, you're  
23 able to sort of demonstrate, you know, the things that we've been talking about that you're gonna  
24 have to demonstrate that you were injured or damaged. And, you know, that's another sort of, I  
25 think, legal requirement that I recommend hiring and being involved with counsel to help  
26 demonstrate that. But most importantly, again, and this is what Doug and I said at the beginning

1 of this video, is that this is an overview. Just because you sort of hit each of these bullets here  
2 and you've satisfied, "Hey, I was in scouting and named my abuser and he was in scouting and  
3 my claim's in statute." I mean, the fact that you've satisfied--you've checked each of these boxes  
4 doesn't guarantee that you're gonna get an award or that you're gonna get an award that's more  
5 than a million dollars. These are just minimum requirements to sort of get you in the door so that  
6 the neutral can begin evaluating.

7 Let's talk a little bit about the administrative fee, Doug.

8 **KENNEDY:** Yeah, this is the one that's gotten everybody's attention and there is some logic to  
9 it. One of the things that we've heard is that this is really penalizing people that can't find that  
10 money and it's kind of the cost of entry, but there's a little bit more going on here than that.

11 **LUCAS:** Yeah, I mean, one thing that's important to realize or to recognize is that if you were  
12 to take your claim now and you were to go sue the Boy Scouts or you were to go sue the local  
13 council or chartered organization or all three of them in some court, that isn't free. Yes, your  
14 attorney might be doing it on a contingency and is going to get paid a percentage of any award  
15 that you get through the court. But during that whole process from the beginning of having to  
16 file the complaint and all the costs and the fees that go along with that, depositions and all the  
17 costs and fees that go along with that. Hiring experts to help sort of support how you were  
18 injured or damaged. All of those things there will cost money and they cost--they're attorney  
19 money, actually, really, that will come out of your award. And so if, just as an example, if  
20 20,000 survivors were to elect to go through this process, it would cost the trust at least \$400  
21 million just to run the administrative hurdles to go sort of through each of these independent  
22 reviews. And so there's a limited amount of money that's in the trust and so if survivors are  
23 going to want to go this route, and they're not required to go this route, then they're going to have  
24 to put in the money to offset the costs of the trust because otherwise, we're basically taking the  
25 money that's to pay other survivors and using it to sort of run this review process when they  
26 might not even elected to go through it and it's not even going to benefit them.

1 **KENNEDY:** Yeah, so John, let's just stress that for a minute and that is the moneys are going to  
2 offset the costs of the review and if people applying for that review aren't paying for that or  
3 paying a large portion of it, it's going to come out of everyone else's pocket. And I'll have  
4 something to say about kind of the purpose of all of this but what we're trying to do is we're  
5 trying to spread this money out as best as we can.

6 **LUCAS:** Yes, absolutely. And so, you know, it isn't 20,000 right off the bat. It is an initial  
7 fee to start the process, is \$10,000. And as you, we're hopeful you and your counsel, are  
8 conducting this discovery, which is trying to collect additional information to support your claim.  
9 And let's say you look at the information and you look at it and you're, like, "Oh, you know, it's  
10 not what I thought it was going to be," or "I don't have as much information as I thought that I  
11 was gonna be able to support my claim," then at that point, you could just say, "Hey, you know  
12 what, I don't want to do the independent review anymore, I want to just go back and do the  
13 regular TDP," and it was just \$10,000 to get you in the door. But if you want the neutral to  
14 evaluate your claim after you've conducted your discovery and submitted all your additional  
15 information, then it will be required to pay another \$10,000.

16 And as Doug and I said, you know, this is to offset the huge administrative expense burden that  
17 the trust is going to bear for each and every person that's going to do this selection. And in the  
18 end, that the administrative fee can be waived by the settlement trustee under certain  
19 circumstances but that will be up to the settlement trustee to determine on a case-by-case basis.  
20 And that's it, Doug. That's the end here.

21 **KENNEDY:** So I took a couple notes, John and you may have mentioned this but let me bring  
22 it up again. Two things. One is the 12-month--you can wait 12 months to make a decision about  
23 part of this?

24 **LUCAS:** Yeah, so, you know, right at the beginning, you submit your claims questionnaire  
25 and let's say that you're in a state and the legislature in your state is considering opening a  
26 window and renewing the statute or opening so that your claim won't be out of statute anymore.

1 I mean, you know, I want to say that during the Boy Scouts case, you know, Arkansas, Colorado,  
2 Louisiana were just, I think, three, maybe even there are a couple others that opened statutory  
3 windows during the Boy Scouts case. And so something like that could happen after the plan is  
4 confirmed or approved. And so you might want to say, "Hey, Settlement Trustee or Claims  
5 Administrator, here's my information but I want to you to sit on my claim for now." And you  
6 have, like, a 12-month window to do that because you think that your claim could be reviewed in  
7 better light if the statute is renewed.

8 **KENNEDY:** And then my other question is, we talked a little bit about first in, first out but  
9 what happens if we have a survivor that is in poor health? Is there a way for the Trustee to  
10 maybe consider that person's claims a little bit earlier?

11 **LUCAS:** Yes. So there is a, as Doug--thanks, Doug, that's a great point. There is a first in,  
12 first out, you know, the first one to get their claims questionnaire completed and all the  
13 information submitted will be the first in line to go through the claims review process. And the  
14 Trust will adhere to that process, except for circumstances where a person might be in poor  
15 health or other exigent circumstances that might require some sort of expedited review to sort of  
16 takes the claims out of order.

17 **KENNEDY:** So one of the things that the TCC is going to do is once a Trustee is named and  
18 that operation gets up and going is the TCC is going to communicate with the Trustee and really  
19 make it clear how important communication is. We've held now almost 30 town halls, we have a  
20 website. The trust is going to have to communicate in whatever fashion they think is going to  
21 work best with survivors. So we know there's a lot of anxiety out there. People literally  
22 checking mailboxes. We want to make sure that people are going to know what's due when and  
23 where the trust is in the process.

24 A few other takeaways--

25 **LUCAS:** I just want to tweak one thing that you said there.

26 **KENNEDY:** Please.

1 **LUCAS:** We have a little bit of a chicken and egg thing here. So the TCC will do what's best  
2 to keep survivors up to date as this process unfolds. But the trust itself and the Trustee and the  
3 Claims Administrator won't assume their roles until the plan is confirmed or approved and then it  
4 goes effective. And then when that happens, actually, the TCC will be gone.

5 **KENNEDY:** Right, right.

6 **LUCAS:** But as we said, we can expect that the Settlement Trustee and the Claims  
7 Administrator will have a website and will provide updates and there will be information on the  
8 website for you to sort of guide the process forward. But to the extent that we can, we will try to  
9 paint a path and sort of lay out as much information to the extent it's possible before that time  
10 comes.

11 **KENNEDY:** Thanks, John. It's an important distinction to remind everybody that--and the  
12 TCC is very concerned about who's going to be advocating for survivors if all of this is  
13 confirmed. And that's why we want to be able to communicate that to the trust. We've been at  
14 this now for over an hour. It's complicated. We hope that this will help to explain it a little bit  
15 more. No one wanted to be in this position, no one wanted to be trying to figure how best to  
16 allocate the money that's there. In an ideal world, none of this would have happened. In an ideal  
17 world, there would be enough money now to pay off all claims at their maximum value. So  
18 more than anything, the TCC wants survivors to understand that we're trying to come up with a  
19 process that follows what's happened in other mass tort cases, one that will be sensitive to the  
20 individual needs of survivors, will allow them to have a review at different levels that they feel is  
21 appropriate. And we just want to be in the business of education and explaining this process.  
22 I should tell you that we will continue to communicate as best as we can. If you go to the TCC  
23 website, please, tcbsa.com, we'll post information there, as well there's a link to where you can  
24 email questions. I have to tell you that a lot of those questions are very, very individual and the  
25 responses from our professionals are going to be to encourage you to talk to counsel about your  
26 situation. But they do help to inform us as to what the questions are. And we'll continue to

1 answer them as they come in. And, John, thank you very much for putting these slides together  
2 and helping to explain the process and I'm sure we'll be talking about it a little bit more as time  
3 goes on.

4 **LUCAS:** And can I add--thank you, Doug, no problem. And one other thing, you know,  
5 about submitting questions on the website at [tccquestions@pscjlw.com](mailto:tccquestions@pscjlw.com), if you're represented by  
6 counsel, we're not going to respond to your question. You need to contact your counsel and have  
7 your counsel contact us and we're happy to answer any questions through your counsel that your  
8 counsel can't answer to you.

9 **KENNEDY:** Thanks, John.

10 **LUCAS:** Yep.

11 **KENNEDY:** All right, everyone. That's the update. Hang in there and stay strong.

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2 I hereby certify that the foregoing is a true and correct transcription of the audiotape labeled  
3 Trust Distribution and Independent Review Process – 25.

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11 Nicole Perry

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