

CERTIFIED TRANSCRIPT

**BOY SCOUTS OF AMERICA
OFFICIAL TORT CLAIMANTS COMMITTEE TOWN HALL
SEPTEMBER 15, 2022**

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1 **HUMPHREY:** How come everybody's still on the screen?

2 **KENNEDY:** That's good. We've got numbers going up. Good evening, everyone.

3 **HUMPHREY:** Hi, everybody. I know it's been a while, but our standard operating
4 procedure is we wait three to five minutes while people log in. So no fancy screen tonight, just
5 our ugly faces.

6 **KENNEDY:** Just us.

7 **HUMPHREY:** Lots to cover tonight. We'll be getting started here in about three or four
8 minutes.

9 **KENNEDY:** Tonight's meeting shouldn't be all that long. We just want to update everybody.
10 And we'll mention again the video is getting recorded and it will be posted. So if you know
11 anybody who's having trouble getting on tonight or can't get here in time, we'll post it to the
12 website.

13 **HUMPHREY:** Hey, everybody. We're just letting folks log on. The numbers are still
14 moving, so just hang tight. Grab a beverage. Like Doug said, we're not gonna go too long
15 tonight. Got a pretty tight agenda. But we're gonna cover a lot of material, and we'll get going
16 here in about three minutes.

17 **KENNEDY:** John, are you done with the rain in Texas?

18 **HUMPHREY:** We are. We are. We've had a lot of rain down there. We were--it was one
19 of the driest summers on record, the driest August ever. We were almost 11 inches behind. And
20 we had one storm on one day, and--

21 **KENNEDY:** All of it came at once, huh?

22 **HUMPHREY:** All of it came at once, yeah. I think we got 15 inches of rain in that one
23 storm, so pretty amazing. All right. If you're logging on, we're a couple of minutes away from
24 getting started. As soon as we see the numbers sort of slack off we'll go ahead. Okay, Doug, why
25 don't we go ahead and get rolling? Just so you all know, we are recording this. It will be on the
26 tcbsa.com website. My name is John Humphrey. I am joined by my co-chairman Doug

1 Kennedy and Rich Pachulski.

2 **KENNEDY:** Good evening, everybody.

3 **HUMPHREY:** It's been a while. There's been a lot going on. You're gonna find out
4 tonight why it's been a while, and why it might yet still be a while. So we're gonna try and
5 inform you all as much as we can. Doug and I are the emcees. Rich is our lead counsel at
6 Pachulski Stang Ziehl & Jones. And we're not gonna do Q&A because there's, you know, we're
7 on this path with the court that Rich will go through, but we--but you can send questions to
8 tccquestions@pszjlaw.com. So we're gonna try to put some of those Q&A's up on the website.

9 **KENNEDY:** Yeah, and John, let me interrupt you.

10 **HUMPHREY:** Sure.

11 **KENNEDY:** We really want people to send an email, and again, it's
12 tccquestions@pszjlaw.com. And what we want to do is get a feel for the questions that people
13 have, so we can find out, you know, a lot of people have this same question or something like it,
14 so we can start to keep a rolling FAQ on the website. So please don't be shy about those
15 questions emailed in.

16 **HUMPHREY:** All right. So unless you've been living under a rock, you know that the
17 bankruptcy court has approved the plan that we all have been, you know, fighting so hard for
18 over the last two and a half years. We're gonna find out the difference between the word
19 approved and recommended by the judge, Judge Silverstein, and confirmed. So there's a whole
20 process to go through. Keep in mind that, you know, we don't--we're not attorneys. We don't
21 represent you. Please don't ask us legal questions. PSZJ, they represent the committee. And, you
22 know, if you're represented by counsel, you know, you might want to ask them those questions
23 as well.

24 You know, it's just been tough for us because there hasn't been much to talk about, because there
25 hasn't been any decisions that have been made. It's almost like, as Doug like to say, you know,
26 the sausage was being made, and until it was finished we didn't have much to report. So it's, you

1 know, pretty exciting that we've gotten to this place. If you sort of think about the history of this,
2 you know, when we got the no vote we improved youth protection, we got a little more money,
3 and we got the trustee that we really wanted. And I think you guys are gonna really appreciate
4 that as time goes on. You know, think about the trust as a multi-billion dollar company that has
5 to run and operate, and it's gonna take some time for it to get up to speed once the district court
6 approves the plan. So I understand your frustrations. We share them. We know it's been a while,
7 and we know it's gonna be a while yet.

8 So with that, just keep in mind that our job here at TCC is to represent you, all of our survivor
9 constituents, and give you the best information that we have based on where we think we are
10 when we actually have a decision. You know, when we're in the back-and-forth of negotiations,
11 and we're not sure how things are gonna come up, you know, we're not gonna talk about it.
12 Because it could be different tomorrow, and we don't want to frustrate you that way. And of
13 course, you know, we don't give you personal legal advice. So with that, Doug, I'd like to turn it
14 over to you and just talk about, you know, where we've been, and why we've had some delay,
15 and sort of recap, you know, the last several months.

16 **KENNEDY:** Sure. Happy to. Thanks, John. Before I make some comments I--he won't do this
17 himself, but I do want to recognize John Humphrey. He and a number of other survivors were
18 involved in a documentary on Hulu called "Leave No Trace". It's an important documentary, and
19 we hope you'll watch it. It's not going to be the only one that's gonna be out there in the future.
20 But John, well done. Well done to all those survivors that were part of that too. And it's
21 important that all of our stories get out there, so thanks for that.

22 **HUMPHREY:** Thanks, Doug.

23 **KENNEDY:** So yeah, the big question is, you know, where has the TCC been? And it's really--
24 it is frustrating. I want to echo something that John said. This is our first rodeo with bankruptcy
25 and how long things take. And as a survivor, it's been for most of us taken decades, and it's
26 taking longer. And it's taking longer than we expected. And I think we really bumped up against

1 that in the last six months. You know, we last met with everyone before, I guess, the
2 confirmation hearing started. And quite frankly, we did not think that a judge's opinion was
3 going to take 106 days. But it was a complex case that required a lot of work on her part, and it
4 took 106 days. So that was three months right there.

5 When that came out, the TCC immediately said to our professionals, "Well, let's get on a Town
6 Hall and start to discuss this," and they wisely said, "Not so fast. This is a 260-page opinion that
7 the professionals have to look at." And then reminded us that it was just that. It wasn't a
8 decision. It was an opinion. And the opinion helped to sort of guide the parties to go back to
9 court to try and see if they could kind of push this over the goal line. So it was not appropriate
10 for us to get on for a Town Hall and kind of start conjecturing about what that meant.

11 So that's kind of the--sort of where we got stuck. And we understand people's frustration, and
12 sometimes we find ourselves in a situation where we wish we could say more, but there's
13 mediation confidentiality. What we want you to understand is, as John mentioned, we have been
14 laser-focused throughout this whole process, even when we haven't been doing Town Halls, on
15 the value of the trust, trust governance, and youth protection. So we want you to understand that
16 even though we haven't been having Town Halls, I can guarantee you there have been a
17 thousand emails, and text messages and meetings that have still been occurring, and our
18 professionals have been all over this to try and push it across to get us where we are right now.

19 The last thing I want to say is that early on in this process a wise old bankruptcy professional
20 said to us, "Every survivor wants two questions answered. How much and I gonna get, and when
21 am I gonna get it?" And we're aware of that. And what we want to do now is we want to start to
22 talk about not so much, you know, what happens at this point, because it's taken a while to get
23 here, but now that we're here, what's the next phase of this bankruptcy going to be? So thanks
24 for your patience. We're going to continue to talk more about, in a little bit, about what we're
25 gonna have in future Town Halls, but right now, John, I will turn it back to you to kind of talk a
26 little bit high level about this new timeline.

1 **HUMPHREY:** Yeah, so I'm gonna turn it over to Rich here in just a second. But if you
2 sort of go back to March, you know, that's when the confirmation trial actually began. It
3 concluded mid April, in five and a half weeks, and then Judge Silverstein issued her written
4 decision on July 29th. So that was three and a half months. And then all of the parties negotiated
5 with the judge and the mediators, and it finally got ended with a plan being approved and
6 submitted on September 8th. So that was about six weeks. So the question you probably have—
7 and one of the things I will say is that, you know, we live in a great country, and we have the rule
8 of law. And that law--that rule of law allows people who disagree with a decision to voice that
9 and have a path. And so when we talk about an appeals process, you know, not everybody is
10 happy with the plan that Judge Silverstein approved, and so there's gonna be a process. And so
11 with that, I'd like to turn it over to Rich Pachulski to outline kind of where do we go from here.
12 Are you muted J--Rich? Unmute.

13 **PACHULSKI:** Thanks, John, I appreciate it. So I do--I want to start with before
14 discussing the timeline and where we're going from here with what I think is important. Because
15 the judge did have a very extensive, thoughtful decision, as John said, on July 29th, and then, as
16 you can imagine, there were different interpretations of the opinion. And there were objections to
17 it, and the judge finally resolved those by entering a confirmation order on September 8th. Now,
18 what I want to point out, and I know it's frustrating because of the timeline, is what the TCC and
19 I think other constituents pushed for, particularly the TCC, are three things in a general frame
20 out. One was that we have an independent trust, and that is--the judge confirmed that. Second,
21 that we have a path to maximum recovery from insurers and to get the maximum compensation,
22 fair compensation for the survivors. That is in the plan and confirmed by the order. And the third
23 was a thoughtful and transparent Youth Protection Program. And that's all been approved. So I
24 wanted to make it clear that while it's hundreds of pages, very complicated, the confirmation
25 order is pretty complicated, those were the three goals of the TCC and we have that.
26 But that doesn't mean we start tomorrow. We couldn't do it anyway, because we basically have a

1 startup or a multi-billion dollar enterprise, because there's approximately \$2.5 billion that's
2 going to be in place ultimately. And there are lots of other insurance carriers, which is part of the
3 issue, that will add to, we suspect, the \$2.5 billion. So where does that leave us?
4 As John said, there is a mechanism that parties who were dissatisfied can appeal. Now, for the
5 trust to really go up and running you have to have what's known as an effective date, and in
6 many--in some cases the effective date can be two weeks after the confirmation order. That's not
7 what we have here, for a variety of reasons that are fairly technical and really not the point. We
8 really cannot get an effective date unless one of two things happens. The district court where
9 there will be appeals, and I'll get into that in a second, the district court affirms the bankruptcy
10 court, and then we can try to get an effective date. And I'll get to that in a second why even if
11 everything works out perfectly that may not--we still might not have an effective date. And the
12 second is if there are certain parties, which include the TCC and others, who can waive the
13 requirement of district court order, the insurance companies can then run in and seek a stay, and
14 the district court could grant it or not grant it. So there are lots of issues that are there, but we are
15 not at the effective date.
16 Now, do we think there will be appeals? The answer is yes. We know there will be. The good
17 news, and this is again one of the issues why we didn't think there should be a Town Hall, is
18 there was no deal on how the appeals would be done. There are gonna be multiple parties who
19 are gonna appeal. There are 17 insurance companies. There are actually a couple of survivor law
20 firms that may appeal. The United States trustee might appeal. We don't--we know certain
21 absolutely will, and we think others might. So what happens if they appeal?
22 Under a deal that's been made, which will cut the process down even though it may not sound
23 that way, is appeals have to be filed by September 22nd, and the briefing has to take place by
24 December 21st, so approximately three months. After that happens, the district court judge will
25 set oral argument. Again, now I'm gonna give you my best guess, but I would think that the--and
26 there's no guarantee. I had certain opinions as to how long the (inaudible) court order would

1 take, and it took longer. But I think the judge spent an enormous amount of time making sure
2 that she got it right. And--but the district court, if I had to guess, would be sometime in the first
3 quarter of 2023.

4 After that, and it's very similar to what we went through with the bankruptcy court, the judge has
5 to decide. If you ask people, they'll probably tell you the judge will decide somewhere between
6 30 days and 120 days after that. So it could be the beginning of the first quarter--the second
7 quarter of 2023, or it could be the beginning of the third quarter, frankly. We don't think it will
8 take that long, but I don't want to kid anybody. I don't really guess in this or most cases what
9 district court judges or other judges will do. They're gonna do what they think is appropriate.

10 But let's assume the district court affirms it, and let's assume that happens during the summer. In
11 theory we could then go effective. Why would that happen? I have little doubt that the--if we
12 have not settled with the parties who have appealed, they will appeal to what's known as the
13 third circuit court of appeals. If they do that, there is no automatic stay, and there is no need for
14 anyone to waive. You can go effective unless the circuit court of appeals decides to grant a stay.
15 If there is a stay we then cannot go effective, and it could take, to be very frank, in excess of a
16 year to then go effective, into 2024. I'm hopeful that does not happen. I'm hopeful that if we
17 went that far the third circuit would not grant a stay. But there's no guarantee.

18 Now, so everybody under--and so it's not only frustrating to people on this Town Hall or not on
19 the Town Hall, it's frustrating for all of us because of the time that people have been waiting.

20 This case has been going on for two and a half years, and now we have to wait longer because of
21 an appellate process. But during that time, even though the trust can't be up, if we had an
22 effective date today, the trust wouldn't be up immediately. There'd have to be an enormous
23 number of people who are hired to review the claims. There has to be a claim process. There has
24 to be a questionnaire that's proposed. There has to be, as the judge proposed, an audit function.

25 So there are lots of things that have to be done, and we're gonna do the best we can to get as
26 much of that done during this period before the effective date. But how much of that can be done

1 is still up in the air. We're think--all the claimants groups are doing everything we can to work
2 together to get that done sooner than later, so that will be something that we would hope to
3 address in a future Town Hall when we get a better idea of how the appellate process is working
4 and what we can do. But everybody should be assured that we are very focused on this.
5 And as Doug said, how much and how long? I'd love to tell you the answer to those questions,
6 but we--I think the good news is we got a very, very favorable result for the survivors, and the
7 not as good news is it's still gonna take time to go through the process. So that's my summary.
8 I've tried to make it as coherent as I can. I know we've spent a lot of time working through a lot
9 of the issues, but I at least wanted to explain what the timeline might look like, and at least the
10 two levels of appeal. The question would be could it go to the United States Supreme Court,
11 because there's some interesting issues. I'm doubtful, but there's no guarantee that wouldn't
12 happen. But I think that is much less likely than it's likely. So with that, Doug and John, you
13 have any--

14 **HUMPHREY:** So the bottom line is, you know, we're talking 6 to 18 months?

15 **PACHULSKI:** We're talking at least 6 to 18 months, yes. It could be less. It could be
16 theoretically less, if there's a waiver of the district court affirmation, and it could be more,
17 depending on how long with the district court or circuit court.

18 **HUMPHREY:** Okay.

19 **PACHULSKI:** But I think 6 to 18--if someone asked what is the highest probability, I
20 would tell you it's 6 to 18 months.

21 **HUMPHREY:** Fair enough. Doug?

22 **KENNEDY:** Thanks, John. So I want to review one thing, and that is if you have questions
23 about this process, Rich went through it, and please, send questions. Email them to
24 tccquestions@pszjlaw.com. We want to collect those and come out with a FAQ. I just want to
25 talk about what you can expect from the TCC moving ahead. As this creeps along through the
26 review process, the appeals process, if there's significant information that--unexpected

1 information, significant changes, we'll get back on and do a Town Hall. But one of the things we
2 wanted to leave you with tonight is the understanding that we're deeply engaged. We'll have
3 Town Halls when it's most necessary.

4 So from a proc--a bankruptcy process we think there's not gonna be a lot to talk about as this
5 kind of chugs along. However, the judge has approved a plan that includes designated trustees
6 and administrators, and one of the things we want to do is we do want to schedule a Town Hall to
7 start to introduce you to some of those people. Judge Houser has been designated as the trustee.
8 I've had the opportunity to meet her and was incredibly impressed, and I think survivors are
9 going to feel really good about that choice. Michael Reagan and Diane Welsh are gonna be the
10 claims administrators. So we'd like to have a meeting where we can introduce them, ask them
11 questions, have that video posted as well.

12 Once the plan becomes effective, then the TCC will be disbanded, but as Rich mentioned, that's
13 gonna be a while from now, and we've got a lot of work to do in the meantime. One of the other
14 things we're doing is John and I have been discussing, and TCC have been discussing, ways to
15 maybe get some focus groups together to figure out and find out from all survivors where their
16 greatest needs are, so that we can start to collect those, think about how to address them, but
17 importantly, be able to pass that information on to the trust as well.

18 And I want to say this: I had a survivor call me up today and say, "I know we have a Town Hall
19 meeting tonight. Are we gonna get good news?" And I was honest with him. The TCC, John, has
20 been honest with everyone from the start. And that is--tonight's not a lot of good news. Nobody
21 wanted to turn on tonight and hear 6 to 18 months, trust me. But we want you to understand
22 what's going on, so you can start to come to grips with that a little bit. And we share your
23 frustration, trust me. None of us thought we would be here this long at this point.

24 And the very last thing I want to say is we do have mental health resources up on the TCC
25 website. We'll continue to build on those as well. We want you to stay strong and get as much
26 help as you need. And the TCC wants to provide information for you, and that's what we're

1 trying to do, so hang in there. And we will have some more meetings coming up, and we'll post
2 those dates on the website. John?

3 **HUMPHREY:** Thanks, Doug. Yeah, so to wrap it up, you know, I think there is some
4 really good news. You know, I think Rich outlined the thing--the three things that we fought for
5 and substantially improved. And I think you guys are gonna really appreciate Barbara Houser
6 and the integrity that she has managed her entire career on. The Youth Protection Program is
7 fabulous. So there's some great things to be happy about.

8 In--I don't know if anyone read the judge's opinion. It's 281 pages. But she was very concerned
9 about fraud, so there's gonna be a fraud protection process that gets put in there, so that we make
10 sure that resources go to survivors who have had sexually--sexual abuse. So there's a lot going
11 on. And the focus group idea is something that--stay tuned. We're gonna figure out how to
12 communicate that out there. But we've been approached by several organizations that aren't
13 really sure exactly what survivors need, and so we're gonna try to figure that out. And--

14 **KENNEDY:** You know, John, you make a--

15 **HUMPHREY:** --we are working our way--

16 **KENNEDY:** John, you make a really good point, you know? And that is the frustrating bad
17 news is the time, but the really good news is that, you know, we're in a very strong position.
18 There was a lot in that judge's decision that's really good for survivors. And it's agonizing to
19 wait for it to happen, but that's where we are.

20 **HUMPHREY:** Yeah, so keep an eye on tcbsa.com. Once again, questions to
21 tccquestions@pszjlaw.com. We'll try to respond to those as promptly as possible, and as Doug
22 said, you know, try to put a FAQ up on the website. So with that, I just want to thank Rich and
23 his team for all the work that they've done lately in getting this pushed over the goal line. It's
24 actually very exciting when you think about when we started the goal was to get a bankruptcy
25 judge to confirm this--approve this plan. And we've done that. So now we're gonna go into the
26 next phase, which is the appeals process, so stay tuned. And as always, Doug, thanks for being

1 my co-chair and all the work that you do. And to the rest of the committee members, we really
2 appreciate you guys.

3 **KENNEDY:** Thank you, brother. Stay strong, everyone.

4 **HUMPHREY:** Good night.

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