

Neutral's Settlement Recommendation to Settlement Trustee

Curtis John Garrison: SST claim number 

Louisiana Case

I. Introduction

- II.* This Settlement Recommendation is made under the Trust Distribution Procedures for Abuse Claims (“**TDP**”) which requires the undersigned Neutral to make a Settlement Recommendation to the Settlement Trustee seeking to replicate, to the extent possible, the amount a reasonable jury might award for the Direct Abuse Claim, taking into account the relative shares of fault that may be attributed to any parties potentially responsible for the Direct Abuse Claim under applicable law and applying the same standard of proof that would apply under applicable law.

III. The Neutral Assigned

- A. The undersigned Neutral (Judge Kirk Granier, Ret., New Orleans, Louisiana), who is a retired District Judge with tort experience, and who additionally primarily practices personal injury law and arbitration work in retirement, was assigned the above matter on August 13, 2024.

IV. Parties

- A. *Claimant:* Curtis Garrison
- B. *Counsel for Claimant:* Jordan Egan, and Sam Colich, Jeff Anderson & Associates, P.A.
- C. *Responsible Insurer(s):* Alliance Insurers; and AIG Insurers
- D. *Primary Counsel for Responsible Insurer(s):*
1. Andrew Bond and Francesca Spinelli, *Eckert Seamans Cherin & Mellott, LLC* for Alliance Insurers
 2. Kevin Sheehan and William Badinelli *Wilson Elser Moskowitz Edelman & Dicker, LLP* for AIG Insurers

V. Date, Time, and Place of Hearing

- A. *Date:* July 21, 2025
- B. *Time:* 10 AM (CTZ)
- C. *Place:* Zoom

VI. Relevant Pretrial Proceedings if any:

- A. The operative Complaint is found at (17:03:25.986) in the Claimant's portal.*
- B. The operative Answer or responsive pleading filed by the Responsible Insurer is found at 18:57:03:660; 17:53:41.968; and 22:30:07.789) in Claimant's portal.*
- C. Other: None*

VII. The Hearing

A. Witnesses Testifying:

- 1. Curtis Garrison (Claimant)*
- 2. Dr. Stuart Bassman, PHD (Claimant Expert)*
- 3. Dr. Christina Massey, PHD (Defense Expert)*

B. Exhibits: for Claimant

Admitted:

- 1. Settlements and verdicts chart
- 2. Norman Hoyt Kee - Ineligible volunteer file
- 3. Troop 81 roster- 1983
- 4. Troop 181, 1983 photograph
- 5. Troop 181, 1982 photograph
- 6. Garrison Deposition Transcript from 11/04/ 2024
- 7. BSA TDP Dated 3/15/2024
- 8. Proof of Claim dated 11/13/2020
- 9. Claims Questionnaire dated 2/15/2024
- 10. Arrest Reports
- 11. Cards from Norman Hoyt Kee
- 12. Letters and envelopes from Norman Hoyt Kee
- 13. Declaration of Mike Johnson dated July 7, 2025
- 14. Declaration of Gary Schoener dated July 7, 2025, including curriculum vitae, letter to Gary Schoener with documents to review from JAA, and list of cases
- 15. Report of Dr. Stuart Bassman dated February 10, 2025
- 16. Curriculum Vitae of Dr. Stuart Bassman
- 17. List of cases, Doctor Stuart Bassman

Refused: None

Exhibits: for Defense Insurers

Admitted:

1. Claimant's proof of claim, filed November 13th, 2023
2. Questionnaire signed February 15th, 2024
3. Claimants' TDP Complaint, dated March 15, 2024
4. Claimant's deposition transcript taken November 4th, 2024
5. BSA IV file of Norman Hoyt Kee
6. Correspondence between Curtis Garrison and Norman Hoyt Kee
7. Cards to Curtis Garrison from Norman Hoyt Kee
8. Claimants' arrest reports
9. List of comparable gold benchmark settlements and
10. Curriculum Vitae defense expert
11. Participating insurers' expert report

Refused: None

C. *Method of preserving the Record:* Stenography

D. *Date and Time Hearing Concluded:* July 21, 2025, at 4:30 pm

VIII. Neutral's Finding of Facts and Conclusions of Law

- A. The Claimant contends he is a Direct Abuse Claimant within the meaning of the TDP and was in a scouting unit or attended a Scouting-related event where the abuse occurred.

The Claimant offered the following evidence to substantiate this contention....

1. Claimant Exhibit 9 (Claimant's sworn claims questionnaire dated February 15, 2024)
2. Claimant's sworn Deposition on November 4, 2024
3. The Psychological Assessment Report by Doctor Stewart W Bassman, PHD, Psychologist
4. Picture of the claimant with other troop 181 scout members
5. 2nd Picture of the claimant with other troop 181 scout members
6. Claimant Exhibit 3 (Troop 181 Roster)
7. Scouting member list BSA White Ferry Rd. Church, Troop 181

Findings of Fact

Based upon the above evidence, the undersigned finds, by a preponderance of that evidence, that:

Norman Hoyt Kee, the Scoutmaster of Troop 181, West Monroe, Louisiana, sexually abused the claimant for approximately 4-5 years, from approximately 1981 through 1985, while the claimant was aged 11 to 15 (Claimant Exhibit 9, Claimant's sworn claims questionnaire dated February 15, 2024). *During this time, the claimant was a member of Troop 181, located in West Monroe, Louisiana, while the perpetrator, Norman Hoyt Kee, served as the troop's Scoutmaster.*

- B. The Direct Abuse Claimant must provide evidence that the perpetrator was in a Scouting unit, worked or volunteered with a Scouting unit, worked or volunteered with a Local Council, Chartered Organization, or the BSA, or worked or volunteered at a Scouting-related event where the Abuse occurred.

Findings of Fact

Based upon the evidence in Section A. above, the undersigned finds that:

The Perpetrator, Norman Hoyt Kee, served as the Scoutmaster at Troop 181, a local Boy Scout organization chartered by agreement between the Boy Scouts of America Inc., the Louisiana Purchase Council of Boy Scouts of America, Inc., and its local sponsoring organization, the Whites Ferry Road Church of Christ, Inc.

The following evidence supports this finding:

- (1) Claimant's Exhibit 2 (BSA Ineligible Volunteer File - Norman Hoyt Kee) and Exhibit 3 (Troop 181 Roster) provide documentary evidence that Norman Hoyt Kee served as a Scoutmaster at Troop 181, West Monroe, Louisiana, the claimant's BSA scouting organization, during the periods of the claimant's sexual abuse.

- (2) Claimant's Exhibit 6 (Claimant Garrison's Deposition), Exhibit 7 (Claimant's BSA TDP complaint dated March 15, 2024), Exhibit 8 (Claimant's proof of claim, dated November 13, 2020), and Exhibit 9 (Claimant's claims questionnaire dated February 15, 2024) corroborate the above documentary evidence through claimant's sworn statements or sworn testimony identifying Norman Hoyt Kee as the Scout Leader/Scoutmaster for Troop 181 during the time that claimant was a member of Troop 181. This additional evidence proves, not only by a preponderance of the evidence, but by clear and convincing evidence that Norman Hoyt Kee served as the Scoutmaster at Troop 181 in West Monroe, Louisiana, during the claimant's period of sexual abuse.

C. *The Direct Abuse Claimant must provide evidence that the claim is timely under the applicable statute of limitations, including satisfying any recognized exception to the relevant statute of limitations under the applicable state law.*

Findings of Fact

The undersigned makes the following findings and conclusions of law regarding the above:

Claimant filed his abuse application under Louisiana law on November 13, 2020, in the United States Bankruptcy Court for the District of Delaware. He then filed his claim application with the BSA Trust on February 15, 2024. The claimant timely filed his case under current Louisiana law, and defense counsel did not raise this issue as a bar to the claimant's case.

Law

The Louisiana law on *Prescription* or the Statute of Limitations for sex abuse claims was initially rooted in Louisiana's traditional one-year prescriptive statute of limitations (for juveniles, from the time the victim turns age 18). In 2021, the Louisiana Legislature extended the sex abuse prescription filing period to 2024, then in 2024 to 2027. The Louisiana Supreme Court initially ruled the extensions unconstitutional but later reversed this decision, ruling the extension windows constitutional. Below is a synopsis of the complex legislative and judicial evolution of the statute of limitations for sex abuse cases in Louisiana:

Although originally prescribed/limited by Louisiana's one-year tort filing statute of limitations (termed "*Prescription*" under Louisiana Law), this 56-year-old claimant's case originally expired when he turned 19, but was revived and restored under La. Stat, Ann. 9:2800.9 (2021) from the 2021 La. Sess. Law Serv. Act 322 (H.B. 492), which created a revival window from 6/14/21 to 6/13/24 for all previously expired child sexual abuse claims. Following this, in 2024, the Louisiana legislature passed Act 386, which allowed victims of sex abuse to pursue lawsuits regardless of when the abuse occurred. This new expanded filing window for sex abuse victims is valid and remains effective until June 14, 2027.

The Louisiana Supreme Court initially struck down these look-back statutes as unconstitutional, but, facing public pressure, reversed its decision on rehearing and found them constitutional (*Bienvenu v. Doe*, 2023-CC-01194 (373 So. 3d 709 La. 12/5/23, original decree). The Supreme Court's original ruling that the revival window was unconstitutional was *vacated on June 12, 2024*, and the look-back windows are now constitutional (see LASCT Order at):

BY Weimer, C.J.: 2023-CC-01194 DOUGLAS BIENVENU, ET AL. VS. DEFENDANT 1 AND DEFENDANT 2 #87184 C/W JOHN DOE, ET AL. VS. DEFENDANT 1 AND DEFENDANT 2 #87515 (Parish of St. Martin)

D. The Direct Abuse Claimant must provide evidence that one or more of the BSA, Local Council or Chartered Organization was negligent or is otherwise liable on account of a Direct Abuse Claim, and evidence regarding the Direct Abuse Claimant's damages (such as medical and counseling records and/or a sworn statement from a family member, significant other, or relative who, in each case, will agree to a deposition by the Neutral) or benchmark judgments or settlements relevant to the damages claimed. Damages must be supported by an expert report (the cost of which shall be paid by the Direct Abuse Claimant).

Findings of Fact

The undersigned makes the following findings and conclusions regarding the above:

1. Norman Hoyt Kee was the Scoutmaster of Troop 181, West Monroe, Louisiana, while the claimant was a scout member in that troop, during his ages of 11 to 15. Mr. Kee sexually abused the claimant from 1981 through 1985 while he was the Scoutmaster of this troop and while the claimant was a juvenile member of the troop (see above findings on pages 4-5).

2. Troop 181, West Monroe, Louisiana, was a local Boy Scout organization chartered by agreement between the Boy Scouts of America Inc. (BSA), the Louisiana Purchase Council of Boy Scouts of America, Inc., and its local sponsoring organization, the Whites Ferry Road Church of Christ, Incorporated. Norman Hoyt Kee (perpetrator) was the Scoutmaster of this Troop at the times relevant to this claim, and because of this position, was an employee, servant, and/or principal agent of these organizations with supervisory authority over the claimant and other juvenile scouting members of Troop 181.
3. Norman Hoyt Kee sexually abused the claimant on multiple, repeated occasions over approximately 4-5 years, by sexually fondling him, groping his genitals and body, kissing, and performing Felicio (oral sodomy) on him. The abuse occurred hundreds of times, with the oral sodomy occurring more than 25 times. I find that the testimony of the claimant, Curtis Garrison, is credible and truthful on the issue of whether his Scoutmaster, Norman Hoyt Kee, sexually abused him. Claimant's testimony in his deposition, at the Hearing and in his prior sworn BSA TDP application statements regarding his sexual abuse by Norman Hoyt Kee are believable and consistent with other evidence presented in this case, despite minor inconsistencies, lack of specific dates of abuse, or delays in reporting the abuse, which the claimant's expert witness, Dr. Stuart Bassman, satisfactorily explains.
4. The scoutmaster here (Norman Hoyt Kee) groomed the claimant for purposes of sexual exploitation with scouting awards, gifts, solo outings, and special attention during scouting and scouting-related events. These actions are consistent with typical predatory behaviors by sexual abusers within BSA Scouting that cultivate juvenile victims and lead to their sexual abuse. The Scoutmaster here, Norman Hoyt Kee, engaged in these grooming behaviors with the claimant to manipulate him into being susceptible to Kee's sexual abuse. The claimant's expert witness, Dr. Stuart Bassman, convincingly explains these grooming behaviors and identifies them as Mr. Kee's method of operation in accomplishing his goal of sexually abusing Mr. Garrison for over four to five years, while he was a member of Troop 181 from 1981 to 1985.
5. The expert testimony of the claimant's PhD Clinical Psychologist, Dr. Stuart Bassman, in explaining the predatory behaviors by adult pedophile sexual abusers, the injuries suffered by the claimant, and the typical behaviors of sexually abused minors, confirms the claimant's testimony when he described the multiple acts of sexual abuse. As a result, Claimant is entitled to compensatory damages for this abuse and for the aggravation of the prior injuries he suffered that were caused by the sexual abuse by his adoptive father.

Dr. Bassman satisfactorily explained the claimant's delayed reporting, inability to remember specific date/time details, as well as some seemingly contradictory statements by the claimant that, in sum, do not detract from the fundamental conclusion that this scoutmaster, Norman Hoyt Kee, sexually abused the claimant while he was a member of Troop 181. I credit the report and testimony of the claimant's expert witness, Dr. Stuart Bassman. He is an expert in the field of clinical psychology and specifically in the subfield of identifying and explaining the behavioral characteristics of juveniles who have suffered traumatic injuries from adult pedophile sexual abuse. (Note: I've reviewed and considered the report of the

insurer's expert witness, Dr. Christina Massey, PhD, a licensed Clinical Forensic Psychologist, who is also qualified as an expert in the field of childhood sexual abuse. I address her concerns with Dr. Bassman's report below in the *Insurer's Defenses* section of this report.)

6. The claimant, Curtiss Garrison, suffered legally compensable damages under Louisiana law caused by the 4 to 5 years of repeated sexual abuse by his Scoutmaster, Norman Hoyt Kee. Having suffered prior sexual abuse by his *adoptive father*, his later sexual abuse by his scoutmaster, Norman Hoyt Kee, aggravated these prior injuries in addition to causing new injuries, entitling him to compensation under Louisiana law for his new injuries and the exacerbation and worsening of those prior injuries.

Explanation of the Evidence Supporting the above Findings

Explanation, Findings (1) and (2) above:

Perpetrator and Claimant Scouting Membership and the Acts of Abuse

Claimant Exhibit 3 (Troop 181 Roster) and Scouting Member List, BSA, White Ferry Rd. Church, Troop 181 (not on claimants' exhibit list but filed in the BSA TDP documents repository) establishes that the perpetrator, Norman Hoyt Kee, was the Scoutmaster of Troop 181, West Monroe, Louisiana, while the claimant was a juvenile scouting member of that troop. This evidence corroborates the claimant's testimony and prior sworn statements that Norman Hoyt Kee was his Scoutmaster in Troop 181 during his period of abuse in this BSA Troop.

At the Hearing, and in his prior deposition testimony and his initial BSA TDP applications, the claimant testified or asserted (under oath) that Norman Hoyt Kee, his Scoutmaster, abused him from 1981 until 1985 while he was a member of BSA Troop 181 in West Monroe, Louisiana. During this time, the claimant was between the ages of 12 and 15 (Hearing Transcript, pages 122-123; 160). The claimant did not tell others about his abuse until after Norman Hoyt Kee was arrested on other sexual abuse charges in Ouachita Parish, Louisiana, and then reported his abuse by Mr. Kee in response to police questions during the criminal investigation of Mr. Kee (Hearing Transcript, pages 161-123; and 163-164).

The preponderance of the evidence establishes that Norman Hoyt Kee, as Scoutmaster, sexually abused the claimant as follows, and in the following locations, per the claimant's descriptions of his abuse in his BSA TDP application. He describes his multiple acts of sexual abuse by his scoutmaster, Norman Hoyt Kee, with sufficient detail for me to legally conclude that Mr. Kee sexually abused him on those occasions.

Furthermore, he describes the locations of sexual abuse in satisfactory detail for me to conclude by a preponderance of the evidence that the sexual abuse occurred in those locations identified by him.

I believe and find the claimant credible when he stated under oath in his BSA-TDP Application statement, (his direct quotations below):

Scoutmaster Norman Kee's Acts of Sexual Abuse

"I was taught to be obedient and do what the elders told me to do. My brother and two sisters were a decade or so older than me, so being home alone, I was allowed to be picked up to attend Boy Scouts meetings and other related events. He had me doing something with him at least a couple of times, if not several times, a week, especially weekends. At first, I didn't know what was happening when I was being touched while being allowed to use the steering wheel, sitting on his Kee while he was driving, and being touched when he helped me buy my uniform pants, and other clothes while shopping. He had mastered the skill of filling all of his spare time picking up children to help do projects to earn merit badges, go camping, build things, even as "normal" as latrines (but we where we were watched using them), to go to the arcade, do projects at church, etc. Then I was afraid that others would know and that I'd be in trouble, or that he'd be in trouble, and it would ruin the Troop for us all and have his wife and family be in a lot of pain as well as mine since they were all friends. Things progressed very quickly. I'd just try to get through as he orally abused me regularly. Whenever he could find a way for us to be alone, usually many times a week, he would abuse me, for years. He would always be nice to me. There were many times when he'd touch my crotch, maybe really quickly while others were around, but he could get away with it. Or he would close the door while I was in a storage room, and he'd unzip my pants to masturbate me if there wasn't enough room to do more. It was just spontaneous and random, and often unexpected. It often seemed as if he planned to create the opportunity. I had no interest in him that way, so he'd buy me adult magazines. It would be new ones he'd often get before he'd pick me up for scout meetings or other scouting events. Eventually, I counted that he had given me over 100 before I stopped counting. The only way I can explain the abuse is similar to how it happened when I've gone to a doctor for a physical, and they looked at my penis while I lay back with a towel-like curtain in between us. I would shut off what was happening as if I wasn't there, or he wasn't, and just hope it'd be over soon. I just wanted to be with my friends or help build something, learn, earn merit badges, and what not. I was

trapped and couldn't escape what was happening with my life. Eventually, I turned sixteen, got a car, and left town. I was relieved of the harm stopping but felt heavy guilt that I knew he would find new victims and others would continue to be harmed by him.”

Locations Where Sexual Abuse Occurred

“Some of the recalled locations (but not limited to): Throughout White's Ferry Road Church of Christ in 3201 N 7th St, West Monroe, LA 71291... where some of the Boy Scouts meetings were, bathrooms, storage closets, classrooms, basements, and the puppet room. A small "Youth Hut" home/building in the White's Ferry Road Church of Christ parking lot, where some of the Boy Scouts meetings were (it's now a parking lot)- My old childhood home 613 Northwood Dr, West Monroe, LA 71291 - His home at 119 Ada St, West Monroe, LA 71291 Jimmy Davis Construction where he worked, and we had some of the Boy Scouts meetings. Camp T.L. James, 105 Camp TL James Rd, Downsview, LA 71234 - Camp CH-YO-CA 2044, Brownlee Rd, Calhoun, LA 71225, Arkansas - His Mom's house in Searcy, Arkansas, where we helped work on his mom's house for merit badge skills & credit. - Ozark Mountains, went camping & canoeing for merit badges in Texas - His sister-in-law's home in Ennis, Texas, where we helped work on his wife's sister's house for merit badge skills & credit”

Notably, the following evidence confirms the sexual abuse: after conviction and incarceration on charges of sexual abuse of other minors, the perpetrator (Norman Hoyt Kee) sent the claimant (Garrison) Christmas cards and letters signed off with the inscription, “Love Norman,” along with expressions of desire to see the claimant again after completing his prison sentence (claimant exhibits 11 & 12). This evidence is critical and corroborates the claimant's sexual abuse allegations. Generally, pedophile sexual abuse occurs in private, with no witnesses, placing an overwhelming burden upon the claimant to prove his allegations. Here, Mr. Kees' amorously inscribed Christmas cards and letters to the claimant, during his (Kee's) incarceration, evidence Kees' sexual, emotional, and amorous attachment to the claimant and corroborate the claimant's claims that Norman Hoyt Kee sexually abused him. This evidence, along with the claimant's above statements regarding the sexual abuse incidents and their locations, and Mr. Kee's conviction on criminal charges of sexual abuse of minors in another case, convinces me that Curtis Garrison's allegations of sexual abuse by Mr. Kee are credible and truthful.

Finally, I credit the statements of the claimant's expert witness, Dr. Bassman, in his Report that minor inconsistencies, missing specific abuse dates, and delays in reporting by the claimant are common and acceptable in sexual abuse cases.

Explanation, Findings (3) and (4) above

Scoutmaster Kees's "grooming," method of operation, and his sexual abuse of the claimant:

The perpetrator, Norman Hoyt Kee, engaged in typical grooming behaviors used by pedophiles in BSA organizations to accomplish their sexual abuse. Here, as the Scoutmaster of Troop 181, he would offer to pick up and drop off the claimant from scout meetings. Furthermore, Mr. Kee rewarded the claimant with Boy Scout merit badges, bought him clothing and helped him dress, and sometimes took him to play arcade games with his friends. Additionally, the claimant developed a sense of mentorship or apprenticeship to Mr. Kee because he would accompany Mr. Kee, alone, to his home, to his construction site where Kee worked, and to maintenance projects at their church. Mr. Kee purchased explicit sexual magazines such as Hustler and Playboy as gifts for the claimant. And Mr. Kee would threaten the claimant with potential knowledge of their activities by Kee's Wife and the claimant's parents, which resulted in the claimant experiencing fear and shame.

These grooming habits are characteristic of pedophile child sexual abuse in BSA sex abuse cases. And the claimant's narratives describing his grooming and sexual abuse support his claim, by a preponderance of the evidence. His scoutmaster, Norman Hoyt Kee, sexually abused him from 1981 until 1985, when he was aged 12 through 15, while he was a member of BSA Troop 181, in West Monroe, Louisiana. Again, I credit the claimant's testimonies and application statements, and the report and testimony of Dr. Stuart Bassman, the claimant's expert witness in Clinical Psychology. Now to the claimant's expert witness, Dr. Stuart Bassman.

In his summary, Dr. Bassman explains delayed disclosure and pedophile grooming habits on pages 10-13 of his Report:

"It is a common occurrence for child victims of sexual abuse to delay their disclosure of the abuse. Many grooming tactics inhibit victims from disclosing their victimization at the time it occurs. There is a strong connection between grooming behaviors and delayed disclosure of sexual abuse. Grooming involves calculated psychological manipulation, where the perpetrator gains control over the victim, normalizes inappropriate behavior, and establishes

secrecy. Because victims often develop a trauma bond with the abuser, they may not initially recognize the abuse as harmful. This bond fosters self-blame, confusion, and fear because they may not fully understand they did not consent to the abuse- they complied with authority. Their contradicting feelings, combined with the trauma bond, contribute to delayed disclosure of sexual abuse. Additionally, Winters & Elizabeth (2024) highlighted the institutional factors associated with delayed disclosure. One specific factor is that victims are less likely to disclose their abuse if their abuser is viewed as a respected authority in the community. The Boy Scouts of America was built upon the idea of honesty and respect, and Mr. Norman Kee appeared to be a respected authority figure in the sponsoring church, community, and the BSA organization. Ultimately, grooming not only facilitates abuse but also ensures that victims remain silent, often for years. When victims do attempt to disclose, they usually do so gradually and in fragments, which can lead professionals or others to question their credibility. This delayed, partial disclosure is not a sign of fabrication but rather a result of overcoming shame, fear, and deep-seated coping mechanisms like denial or minimization that have previously kept them silent. The long-term impact extends to self-esteem, relationships, and overall psychological well-being, perpetuating cycles of trauma across generations.”

These grooming activities occurred repeatedly over a period of approximately five years, from 1981 to 1985, when the claimant was a youth member of and the perpetrator was the scoutmaster of Troop 181 in West Monroe, Louisiana. And, during these times, Mr. Kee would sexually abuse the claimant, in the form of kissing, groping, and fondling him (“hundreds of times”) and orally sodomizing the claimant by performing fellatio on him (more than 25 times), which abuse occurred in the locations detailed by the claimant on page 10, above. All sexual abuse incidents were directly involved with or related to scouting activities or closely related (maintenance projects at the Church sponsoring Troop 181).

The expert testimony of the claimant's PhD Clinical Psychologist, Dr. Stuart Bassman, in explaining the predatory behaviors by adult pedophile sexual abusers, the injuries suffered by the claimant, and the typical behaviors of sexually abused minors, validates the claimant's sex abuse claims and the injuries he suffered. Dr. Bassman also satisfactorily explained the claimant's delayed reporting, inability to remember specific date/time details, as well as some seemingly contradictory statements by the claimant that, in sum, do not detract from the fundamental conclusion that the claimant was sexually abused by his Scoutmaster, Norman Hoyt Kee, while he was a youth member of Troop 181. Again, I credit the report and testimony of the claimant's expert witness, Dr. Stuart Bassman. He is an expert in the field of clinical psychology and specifically in the subfield of identifying and explaining the behavioral characteristics of juveniles who have suffered traumatic

injuries from adult pedophile sexual abuse.

Explanation, Finding (5) above

The Claimant's Injuries and Damages:

The claimant's sexual abuse by his scoutmaster, Norman Hoyt Kee, caused new injuries to the claimant and aggravated his prior psychological and physical injuries sustained from his earlier sexual abuse by his adoptive father.

The claimant's *expert witness, Dr. Bassman, diagnosed the claimant as suffering from post-traumatic stress disorder, generalized anxiety disorder, and avoidant and borderline personality disorder features*. He recommends intensive, individual psychotherapy and continued participation in peer support groups for individuals impacted by sexual abuse. The claimant will require these treatment modalities for the remainder of his life, even though he may be able to stabilize his mental health needs through this treatment (Bassman Report, pages 16-18).

I accept and credit Dr. Bassman's above diagnosis and prognosis.

The insurers raise the issue of the claimant's prior sexual abuse by his adoptive father. Although the claimant disclosed his prior physical abuse by his adoptive father and his dysfunctional family environment, he did not specifically disclose his adoptive father's fondling and masturbatory sexual abuse. Dr. Bassman acknowledged that while this would be considered when assessing the severity of the claimant's injuries, *it does not alter his conclusions concerning the distinct injuries resulting from the scoutmaster's (Kee's) sexual abuse of the claimant*. Instead, it represents an additional factor contributing to the claimant's diagnosis and prognosis (Hearing Transcript, pages 37-48). He further explained that the claimant's non-disclosure of this specific information did not lead him to conclude that the claimant lied about his sexual abuse by his scoutmaster. Dr. Bassman concluded that the scoutmaster (Kee) sexually abused the claimant, explaining the nondisclosure as a *confabulation, an unintentional lie*, due to the claimant's feeling a lack of safety and security during his interview. This non-disclosure did not surprise Dr. Bassman, and it did not change his opinions because "confabulation is a very common phenomenon when someone has been a victim of childhood sexual abuse" (Hearing Transcript pages 44-45). I credit this explanation and conclude that the claimant's prior sexual abuse by his adopted father is a prior contributing factor to the claimant's current injuries, as described by Dr. Bassman.

Doctor Bassman administered the following clinical assessment tests/procedures to the claimant, with the following results:

- Millon Clinical Multiaxial Inventory IV:

Claimant's results = elevated scales in Generalized Anxiety, Melancholic, Masochistic, and Borderline areas (Report, page 9)

- Beck Depression Inventory 2: Claimant's scoring = Moderate

Claimant's results = "This indicates A moderate level of reported issues with depressive symptoms at this time, such as feeling like a failure, blaming himself, not expecting things to work out for him, feeling guilty, feeling restless, less interest in things, less energy, more irritability, and not focusing as much." (Report page 9)

- Beck Anxiety Inventory: Claimant's scoring = Severe

Claimant's results = "This indicates that he is experiencing significant anxiety at this time, which is impacting his ability to function." (Report page 9)

- Beck Hopelessness Scale: Claimant's score = Minimal (Report, page 9)

- Posttraumatic Stress Disorder Checklist for DSM-5 (PCL-5):

Claimant's results = Claimant received a total score of 31, just at the recommended cut-off score of 31-33 for a preliminary diagnosis of PTSD, satisfying criteria A through G for the DSM-5 PTSD Disorder Checklist (as explained on page 10 of Dr. Bassman's Report).

According to Dr. Bassman, the results of these tests, in terms of personality functioning, demonstrate elevated scales in generalized anxiety, melancholic, masochistic, and borderline areas. They suggest significant emotional distress, anxiety, with a tendency towards self-criticism and self-destructive behaviors, which behavioral patterns indicate difficulties with emotional regulation, a strong need for social approval, and an unstable self-image. Mr. Garrison further demonstrated elevated scores in turbulent and histrionic traits, indicating potential impulsiveness, attention-seeking behaviors, emotional instability, and difficulties in forming and maintaining interpersonal relationships. These elevated scores also indicate potential interpersonal mistrust, self-destructive thoughts, and a history of unresolved emotional issues or childhood trauma with a blend of emotional distress, interpersonal difficulties, and unresolved psychological problems. This emotional dysregulation, interpersonal mistrust, and a sense of unfairness and victimization caused him to seek out social approval and contribute to his struggles with anxiety, self-esteem, and relationship dynamics (Report pages 9-10).

Dr. Bassman's preliminary diagnosis of PTSD is based on his observation that the client experiences distressing memories, nightmares, flashbacks, and emotional or physical

discomfort when reminded of sexual abuse by his scoutmaster, Mr. Kee. However, he tends to refrain from recalling or discussing the experiences of sexual abuse. The claimant reports suffering from “troubling memories of the abuse, negative beliefs about himself, self-blame, loss of interest in activities, strong negative feelings, feeling distant or cut off from others, and difficulty experiencing positive emotions” (Report, page 10). Claimant additionally describes suffering from “irritability, taking too many risks, hypervigilance, difficulty concentrating, being hyper alert or on guard, feeling jumpy and difficulty sleeping” (Report, page 10). These symptoms have persisted long-term. Furthermore, these symptoms have impaired his work and his interpersonal functioning both in the short and long term. And the claimants' symptoms do not appear to be caused by any medication, substance, or other illness (Report, page 10). All these factors satisfy criteria A through G for the DSM-5 PTSD Checklist, supporting Dr. Bassman's preliminary diagnosis of PTSD.

In conclusion, the claimant's expert witness, Dr. Bassman, expressed the opinion, to a reasonable degree of psychological certainty, that the claimant suffers from *Post-Traumatic Stress Disorder and Generalized Anxiety Disorder*. He further concluded that Mr. Garrison has suffered *Avoidant and Borderline Personality Disorder features* and that Mr. Garrison “most certainly has lasting psychological and physical repercussions,” that result from his sexual abuse by his Scoutmaster, Norman Kee, and from the lack of remedial responses by the Boy Scouts of America. *Dr. Bassman expressed the opinion that the claimant would require treatment for the remainder of his life.* He concluded his report by stating:

In conclusion, it is our opinion within a reasonable degree of psychological certainty that the adverse and impaired effects from the grooming, sexual abuse, and exploitation of Mr. Garrison as an adolescent by Mr. Norman Kee significantly contributed to the above-mentioned trauma symptoms, personality dysfunction, and interpersonal difficulties, which have negatively impaired the course of his life.

I agree and credit his expert opinions.

Life Expectancy and Permanency of Damages

The preponderance of the evidence indicates that the claimant's injuries are permanent, his having suffered them from age 12 (and some injuries from early childhood due to his adoptive father's abuse) until his interview by Dr. Bassman at age 56, who found that the claimant's symptoms persisted for a long-term period (Report, page 10). The claimant is 56 years old. Under current life expectancy tables published by the U.S. National Center for Health Statistics (certified as a federal document and fully admissible as evidence in federal court under Federal Rule of Evidence 902), the claimant has a life expectancy of 25.7 to 30.6 years (claimant is half Asian and half white).

Applicable Louisiana Law

- Vicarious Liability of BSA Organizations
- Solidary or Joint Liability of BSA Organizations

Vicarious Liability

Louisiana Civil Code article 2320¹ authorizes masters (employers) to be sued for the acts of their servants (employees) that are committed in the exercise of the functions for which they are employed. This liability extends to intentional torts committed by the employee when a plaintiff shows that the employee's conduct was “so closely connected in time, place and causation to his employment duties as to be regarded as a risk of harm fairly attributable to the employer's business, as compared with conduct motivated by purely personal considerations entirely extraneous to the employer's interests.”² The fact that the tortious act is illegal and that the predominant motive of the servant is to benefit himself does not prevent the act from being held within the scope of employment.³

Louisiana courts determine vicarious liability based upon four factors:

- 1.) Whether the act was primarily employment-rooted.
- 2.) Whether the act was reasonably incidental to the performance of the employee's duties.
- 3.) Whether the act occurred on the employer's premises; and
- 4.) Whether the act occurred during the hours of employment.⁴

All four factors do not have to be satisfied to find vicarious liability, and each case is decided on its own merits.⁵ Generally, the scope of risks attributed to the employer will be greater where more authority and freedom of action are granted to the employee in the performance of their assigned duties.⁶ And Courts will focus more on whether the tortious conduct was “primarily employment-rooted” and whether it was “reasonably incidental to the performance of the

¹ LCC Art. 2320. Masters and employers are answerable for the damage occasioned by their servants and overseers, in the exercise of the functions in which they are employed. Teachers and artisans are answerable for the damage caused by their scholars or apprentices, while under their superintendence.

² LeBrane v. Lewis, 292 So.2d 216, 218 (La., 1974).

³ Ermert v. Hartford Insurance Co., 559 So.2d 467, 476–477 (La.1990)

⁴ Miller v. Keating, 349 So. 2d 265, 268 (La. 1977)

⁵ Samuels v. S. Baptist Hosp., 594 So. 2d 571 (La. Ct. App.), writ denied, 599 So. 2d 316 (La. 1992)

⁶ Ermert v Hartford Ins. Co., 559 So. 2d 467, 477 (La. 1990).

employee's duties".⁷

Louisiana courts are more willing to find an employer vicariously liable when its employee commits the tort against a non-employee, and especially where the employer puts the employee in a position of power or authority over the victim and where the opportunity to commit the tort arises because of the employee's position of authority, especially where the perpetrator can separate the victim from others in the organizational group.⁸

The following cases (*citations below in footnotes 5-9*) demonstrate the application of *vicarious* and *solidary liability* on employers by the Louisiana Supreme Court:

In Samuels v. Southern Baptist Hosp., (footnote 5) the court found the hospital vicariously liable for its nursing assistant's sexual assault of a psychiatric unit patient, the court noted that taking care of the patient's well-being is part of the duties of a nursing assistant, and that the nursing assistant's job put him in a position of authority and contact with the victim.

In Latullas v. State, (footnote 8, three cases cited) the court imposed vicarious liability on the State where a prison guard raped an inmate because the guard was "able to separate the plaintiff from others and commit the rape because of the authority bestowed upon him by his employer," and because the guard was "acting for his employer in the control and supervision of inmates, and it was through these duties that this opportunity arose."

In Doe v. Morris (footnote 8, three cases cited), the court held the police department vicariously liable for a police officer's sexual assault of a civilian. The police officer sexually assaulted the victim in her bedroom after he had completed his duty to drive her home. The court explained that the unique position of authority and trust given to police officers in society had created the context in which the officer was able to take the plaintiff to her bedroom alone.

In Harrington v. Louisiana State Bd. of Elementary & Secondary Education (footnote 9) the court held the college vicariously liable for the acts of a professor who sexually assaulted a student off-campus and after regular class hours, the court gave weight to the fact that the professor had no set work hours, the purpose of the encounter was initially school-related, and the student justifiably believed the entire evening was school-related. In this situation, the professor's role at the school enabled him to be alone with the student off-campus.⁹

⁷ Id. Ermert v Hartford Ins. Co., 559 So. 2d 467, 477 (La. 1990).

⁸ Doe v. Morris, No. CIV.A. 11-1532, 2013 WL 3933928, (E.D. La. July 30, 2013); See also Latullas v. State, 658 So. 2d 800 (La. App. 1st Cir. 1995); and Baumeister v. Plunkett, 673 So.2d 994 (1996).

⁹ Harrington v. Louisiana State Bd. of Elementary & Secondary Educ., 714 So. 2d 845 (La. App. 4 Cir. 5/20/98).

Solidary Liability

The issue here is whether the Scoutmaster (Kee) and the BSA corporate entities and their insurers are solidarily liable, *meaning each is liable for the whole of the claimant's damages*, or jointly liable, meaning the claimant's damages are divisible and divided between the defendants according to their degrees of fault, if any. They are. The Louisiana Supreme Court addressed this issue in *Sampay v. Morton Salt Co.*, 395 So. 2d 326 (La. 1981), the *Louisiana law in effect at the time of the claimant's sexual abuse in this case*, writing that:

“Liability is imposed upon the employer without regard to his own negligence or fault; it is a consequence of the employment relationship... the employer's liability is secondary or derivative in the sense that the employer is not himself a wrongdoer or tortfeasor. Thus, the employer and the employee are not joint tortfeasors ... Although the employer and the employee are not joint tortfeasors, they are nonetheless each obligated for the same thing, total reparation of the damages to the victim. The derivative nature of the employer's liability is of no concern to the victim, and he can compel either the employer or the employee to compensate him for the whole of his damages” (at Pages 326-328).¹⁰

Note: I express my opinion, below, on the issue of joint and divisible liability among the tortfeasors, as per the Trustee's instructions; however, liability here is *solidary* under the Louisiana law in effect in 1981, and all defendants/insurers/respondents are each liable for the whole of the claimant's damages.

Explanation of the Relevant Facts and my Conclusions of Law

Liability

(Vicarious and Solidary Liability among the BSA Organizations and their Insurers)

The claimant, Charles Garrison, has established *vicarious and solidary liability* against the BSA entities and their insurers as well as the perpetrator under the Louisiana Supreme Court decision (and its Louisiana Civil Code references) in *Sampay v. Morton Salt Co.*, 395 So. 2d 326 (La. 1981), and its *Miller v Keating* application standards.¹¹ This was the Louisiana law in effect at the time of the claimant's abuse.

The following is my explanation for why the preponderance of the evidence establishes

¹⁰ *Sampay v. Morton Salt Co.*, 395 So. 2d 326 (La. 1981)

¹¹ *Miller v. Keating*, 349 So. 2d 265, 268 (La. 1977)

vicarious and solidary liability in the claimant's case:

First, the perpetrator/employee-servant, Norman Hoyt Kee, was in a position of power over the claimant, a juvenile scout member, as his Scoutmaster and was responsible for his well-being during scouting and scouting-related activities in Troop 181 from 1981 to 1985. As a scoutmaster, he was subject to supervisory authority and control exercised by the National Boy Scouts of America Foundation DBA the Boy Scouts of America; the Louisiana Purchase Council of Boy Scouts of America, Inc, FKA Washita Valley Council, Boy Scouts of America, Inc; and the Whites Ferry Rd. Church of Christ, Inc. Mr. Kee *sexually abused the claimant at scouting or scouting-related activities at various locations in West Monroe, Louisiana, as well as in Arkansas and Texas, as related by the claimant, verbatim on page 10 (above) of this report/recommendation.* Norman Hoyt Kee was the scoutmaster during these activities/events and exercised supervisory control over the claimant by virtue of this position.

Second, Norman Hoyt Kee met and primarily encountered the claimant through his employment as a Scoutmaster of Troop 181, West Monroe, Louisiana. The two did not have a significant social relationship apart from or unrelated to this BSA venue and its scouting and scouting-associated activities. And, their mutual church, the Whites Ferry Road Church of Christ, Inc., also served as the sponsoring organization for Mr. Kee's employer, the Boy Scouts of America. The BSA environment initiated, facilitated, and continued the abuse and served as the fulcrum for all of the acts of sexual abuse described by the claimant.

Third, Norman Hoyt Kee's position and duties as a Scoutmaster of Troop 181, West Monroe, Louisiana, provided him with the venue and opportunity to abuse the claimant sexually.

Finally, the operating structure of the Boy Scouts of America, Inc., is one that, by its nature, creates and perpetuates an environment where some pedophile adult Scoutmasters may commit acts of juvenile sexual abuse, especially when the organization is not structurally protected against such foreseeable risks as sexual abuse by adult pedophiles in unmonitored scouting activities. This was unfortunate considering the altruistic purposes of the BSA.

The claimant's case here is consistent with the holdings of the four prior Louisiana cases identified on page 17 above, where the courts found solidary liability. Liability is also solidary in Curtis Garrison's case.

Damages

New Injuries and Aggravation of Pre-existing Injuries

The claimant admitted in his BSA-TDP application that he suffered prior sexual abuse from his adoptive father. His Boy Scouts of America-related sexual abuse aggravated these prior injuries and entitles him to compensation under Louisiana law for this aggravation, as well as for his new injuries suffered because of his BSA-related sexual abuse.

In *Schwartzberg v. Guillory*, 213 So.3d 1266 (La. App. 2017), the Court explained Louisiana's law on aggravation of prior injuries (paraphrased):

The defendant in a personal injury case takes the victim as he finds him and is responsible for all the natural and probable consequences of his tortious conduct. The victim must be compensated to the full extent of the aggravation of his injuries (citing: *Robinson v Tolbert*, 920 So. 2d 346 (2nd Cir 2006)). The plaintiff must show, by a preponderance of the evidence, that the new tortious conduct caused his subsequent injuries, and he can utilize medical and lay testimony for this purpose (*Bennett v. Louisiana Farm Bureau Casualty Insurance Company*, 983 So. 2d 346 (2nd Cir. 2008)).

Under Louisiana law, the claimant may recover special and general damages for any new injuries from his BSA-related abuse and for aggravation of the prior injuries he suffered, with juries having broad discretion in awarding general damages.¹² These damages include:

- 1) Medical expenses, including treatment related to the worsening of the condition and any future medical needs.
- 2) Lost wages to include past and future income loss due to the inability to work caused by current and the aggravation of prior injuries.
- 3) Pain and suffering, past, present, and future, as compensation for physical pain and emotional distress resulting from the aggravated injury and any new injuries.
- 4) Loss of enjoyment of life if the injury prevents participation in activities previously enjoyed.
- 5) Permanent disability or impairment if the aggravation causes long-term disability or impairment.

Regarding the facts supporting the claimant's damages, he described his mental and physical

¹² La. Civil Code Article 2315 (A); *American Cent. Ins. Co. V Terex Crane*, 861 So. 2d 228 (1st Cir. 2003), *Reck v Stevens*, 373 So 2d 498 (La. 1979), and *Schwartzberg v. Guillory*, 213 So.3d 1266 (La. App. 2017)

injuries in his BSA-TDP claim's questionnaire (Pages 25-27, Claimant Portal Document ID # --) as follows:

"Ever since I was sexually abused, repeatedly, for years, I have not had normal sleeping abilities. I can't sleep feeling safe from flashbacks, panic attacks, and nightmares. This has caused great challenges in earning a bachelor's degree in college, which took me seven years. I tried to work regular corporate jobs, which I did many times, but after 2-3 years of feeling like a zombie as well as struggling with trust, and authority figures, I was overworking to try to succeed, and all that continuously burned me out. not being able to sleep for maybe 2-3 days or after a few hours not being able to go back to sleep despite being tired. I have to schedule work with as much flexibility as possible in case I need to finally crash. This has made me not available during the normal 9-5 business hours. This has greatly limited my professional options and has not been compatible with relationships. I've never been married and have never had children. I've tried but too much shame, fear, and guilt has caused this to not be possible. It's been very challenging with relationships when my abnormal sleeping hours, sleeping cycle, and disturbing issues like tossing, talking, screaming, punching pillows, and what not in my sleep. I ran away and eventually moved from West Monroe, Louisiana to Dallas, Texas at the age of 16. As soon as I could drive, I tried to escape the community in which he lived to help keep myself from being further sexually abused. I felt guilty leaving my friends behind and knowing he'd keep reoffending. This has caused me much emotional trauma, always wondered why we weren't protected. I left the church and lost faith all as part of this abuse. I struggled with guilt, shame, and fear knowing these secrets, and kept seeing children being raped in the news. I would discuss it with friends, often they would bring something up as well, and I was hoping for answers and people to care to do something."

"Physical manifestations of emotional distress: Gastrointestinal issues; High blood pressure; Physical manifestations of anxiety. Earlier on when the abuse had started, I would have such a churning in my stomach and pain, that I had thought it was regular food poisoning. However, no one else was getting sick. I was so stressed from dealing with all of the sexual abuse that I would not be able to eat regularly. When I went to the restroom, it wasn't normal, and when we went on trips, I would often have stomach issues so bad I would defecate my pants and have to manage dealing with that. To date, whenever something triggers me, I still experience churning and stomach pains. I also began experiencing acid reflux and frequent hiccups. This often happens when I become stressed or deal with interpersonal conflicts and confrontations".

The claimant further described his mental, emotional, and psychological injuries in his BSA-TDP claims questionnaire by checking the following impact categories:

“Anxiety, depression, post-traumatic stress disorder, embarrassment, fear, flashbacks, nightmares, sleep issues, sleep disturbances, exaggerated startled responses, boundary issues, self-destructive behaviors, guilt, grief, humiliation, anger, isolation, Hollownes addiction,” Sexual problems, low self-esteem or self-image, bitterness, suicidal ideation.”

He sought treatment from a counselor/therapist in the mid-1990s in Richardson, Texas. And he was hospitalized for four days in Glenwood Hospital in West Monroe, Louisiana (BSA TDP claims questionnaire, page 26).

He stated further on page 26 of this questionnaire that:

“I often was extremely angry about the abuse, as if no one at all cared, and I didn't want to keep living. I would have road rage far too often, drive at unsafe speeds, and do dangerous maneuvers not caring about the danger. The anger I felt would cause me to do dangerous activities. One time in tenth grade I had an incident that caused me to land on my head resulting in a four-day hospital stay. On another occasion, I jumped the fence at school, ran into the woods, and caught a ride with a random stranger.”

Claimant described the impact of his scouting abuse on his interpersonal relationships by checking the following impact categories on his BSA-TDP application:

“Authority figures, hypervigilance; Sexual problems; Problems with intimacy; Lack of trust; Isolation; Betrayal; Impaired relations; Secrecy; Social discreditation and isolation; Damage to family relationships; Fear of children or parenting.” (BSA-TDP application on page 28).

He then explained these impacts:

“I'm petrified of the thought of having children. I was at a softball game with some friends watching their five-year-old play, when they needed to use the restroom, I was asked to go with the child, and I had to stand about 20 feet from the porta-potty. When the child opened the door, his pants were

down, and he had a roll of toilet paper in his hand asking for assistance. I went straight into a panic and had to go get his parents to help him. Because I left town following the abuse, it has had a direct impact on my family relationships. Eventually, my family was made aware of the abuse. Some wanted me to aggressively pursue accountability and others wanted to act like it never happened and move on. I haven't seen my siblings but a couple of times in over 38 years. They just don't want to talk about what had happened or how to try to heal to move on". (BSA-TDP application on page 28).

The claimant further expressed difficulties with his vocational capacity, including "underemployment and unemployment, difficulty with authority figures, and difficulty changing and maintaining employment, as well as feelings of unworthiness" (BSA-TDP application on page 29). He further experienced impacts on his academic capacity, including difficulties with authority figures, relationship issues with certain teachers, and a decline in his grades from A's to receiving D's and F's, which nearly led him to drop out of high school. He would often hide under the bleachers during school and cry when nobody was around, leaving school in the middle of the day at one point. He graduated and went on to obtain a college degree.

Claimant's expert witness, Dr. Bassman, discussed and confirmed that the above injuries and symptoms are consistent with the physical, mental, and emotional injuries suffered by juvenile child abuse victims.

E. The Neutral is to consider and apply any defense that would otherwise be available in the tort system.

The undersigned finds and concludes as follows regarding the *following defenses raised by the insurers*.

The insurers raised these defenses:

(1)

The claimant suffered prior sexual abuse by his adoptive father, Flint Garrison

The claimant testified in his deposition that his adopted father sexually abused him, “all my childhood ... the abuse stopped as I entered my teens” (claimant’s deposition, page 50). The abuse consisted of his father masturbating him and mutual touching of genitals ... it was frequent ... maybe a few times a year” (claimant’s deposition, pages 50-51). No oral or anal sodomy occurred.

Claimant stated that it was difficult for him to separate his abuse by his adopted father from the abuse by his scoutmaster, Norman Kee (claimant’s deposition, page 59). However, the claimant's expert clinical psychologist, Dr. Bassman, considered this information and incorporated it into his report as explained above on page 13 (above) in this recommendation/report.

I've addressed this issue in my *aggravation of prior injuries* analysis (above, pages 22-23), and I've accounted for this non-party’s damage allocation below (per the Trustee’s instruction).

(2)

The scoutmaster, Norman Hoyt Kee, was not acting in the *course and scope of his employment*; therefore, barring all vicarious liability claims.

I disagree. The scoutmaster here, Norman Hoyt Key, acted in the course and scope of his employment when he sexually molested the claimant, per my analysis above on pages 18-19. All instances of sexual abuse took place during scouting activities or events associated with scouting. As scoutmaster, Mr. Kee was in a position of power or authority over the claimant during these scouting activities and had the opportunity to commit the sexual abuse because of his position of authority as a scout master.

(3)

The scouting entities had no actual or constructive notice of this scoutmaster’s propensity for sexual abuse.

I disagree; instead, I credit the claimant’s expert witnesses, Michael Johnson and Gary R. Schoener, who, in their Reports, address this issue:

Michael Johnson was the Youth Protection Advisor/Director for the National Office of the Boy Scouts of America from July 2010 until December 2020 and has 40 years of experience in

working to prevent, investigate, prosecute, and respond to child abuse. He is qualified to give expert opinions on this issue and concluded in his report that the BSA failed to exercise reasonable care in child sexual abuse prevention, engaged in conduct below the standard of care, and that these failures were foreseeable and directly resulted in the sexual abuse of the claimant, Curtis Garrison. I agree.

He explained the reasons for this opinion:

- From its inception, the BSA, from its National Council to its local councils and to their sponsoring organizations, was aware of the high risk of sexual abuse within its programs. The organization's founder, Robert Baden Powell, created a grey list of morally unfit men. Additionally, Colonel Teddy Roosevelt and the BSA's Chief Scout Executive, James E. West, initiated efforts to address this issue early on. The BSA was aware of and understood the issue of potential pedophile sexual abuse within its organization.
- The BSA's protection measures to prevent sexual abuse were inadequate, and were not known by youth, parents, and scouting leaders; instead, the organization prioritized its image and financial concerns over the safety of its youth members. The organization's policies and training were insufficient, *not mandatory*, and often did not depict sexual abuse scenarios specific to scouting. The program lacked practical training for youth protection and placed responsibility on its juvenile scout members to report abuse, rather than on effective preventive screening of its adult leaders.
- Although aware of the sexual abuse issue, the BSA's registration and screening process for its adult volunteers and scoutmasters was practically nonexistent or insufficient, lacking meaningful reference checks and periodic criminal background checks. This allowed adult pedophile scoutmasters and volunteers to interact with youth scout members, which effective registration and screening processes could have prevented. More egregiously, the BSA ignored advice from experts and its own consultants regarding the importance of effective screening and prevention measures.
- The BSA irresponsibly placed primary responsibility on the youth scout members by relying on the 3 R's: recognize, resist, and report. This required unrealistic expectations of juvenile scout members who may not have been capable of physically or emotionally resisting the abuser. Those who were unable to resist would have internalized feelings of shame or guilt, making them less likely to report the abuse.

The claimant's other expert on this issue, Gary R. Schoener, is a licensed clinical psychologist with extensive experience in evaluating and consulting on sexual abuse cases, including BSA cases. He's written extensively on the topic of sexual abuse and has served as an expert witness in many criminal and civil cases. He reviewed the BSA's "perversion files," and their implications for youth protection policies. His Report expressed, and I credit, his following opinions:

- The BSA had substantial knowledge of child sexual abuse risks by the 1930s and failed to use this information to create effective education and prevention policies. This is

demonstrated by the BSA's *Ineligible Volunteer Files*, subsequently referred to as perversion files. Despite early awareness, the BSA failed to create and implement effective youth protection policies and procedures to prevent sexual abuse, instead relying on generic and ineffective policies and procedures well into the 1980s.

- The BSA destroyed files, failed to investigate abuse reports, and did not notify law enforcement, highlighting major flaws in its child abuse prevention policies and obscuring the extent of the problem. This pattern of covering up incidents protected the organization's public image.
- The BSA did not adequately inform scouts and their parents about the risks of potential sexual abuse and failed to implement necessary, effective prevention measures.
- The BSA provided insufficient training to scouts, parents, and scout leaders regarding the risks of sexual abuse and scouting, and its training failed to address the specifics of how this abuse occurred.
- The BSA missed opportunities for prevention when it failed to seek the input from experts, including those on its advisory panel, and further failed to utilize the information in its perversion files to develop effective prevention strategies.
- As a supervisor of youth members, the BSA was responsible for establishing and enforcing child abuse prevention measures to inform and protect against potential abuse by leaders and volunteers.

The defense argues that the BSA had no actual or constructive notice of Mr. Kee's (scoutmaster) propensity for sexual abuse of scouting members. Again, per the above expert opinions, I disagree. Had the BSA and its affiliate organizations installed and enforced effective preventative measures and implemented safeguards as outlined by the above two expert witnesses in their reports, then it could have screened and denied Mr. Kee's entry into Troop 181 and other BSA programs. The BSA entities are also independently liable under a duty risk analysis under Louisiana law.

(4)

Any settlement recommendation for the claimant should be significantly reduced because of the scoutmaster's fault.

I disagree. I believe the more significant allocations of fault should be assigned to the national, state, and local BSA organizations. They had the primary responsibility for ensuring the protection of their juvenile scouting members, including the claimant. The above experts' opinions regarding the BSA perversion files (Johnson and Schoener), that the BSA destroyed files, failed to investigate abuse

reports, did not notify law enforcement of abuse allegations, and did not install and enforce effective prevention programs, justify the imposition of primary fault findings on the national, state, and local BSA organizations.

(5)

The report by the claimant's expert, Dr. Stewart Bassman, is flawed and insufficient to support his claims for damages.

The insurers presented the expert report of Dr. Christina Massey, PhD, a licensed clinical forensic psychologist, who is qualified to express expert opinions in the field of clinical forensic psychology. Doctor Massey concluded that Dr. Bassman's report and opinions (claimant's expert) are questionable due to certain limitations and the lack of sufficient supporting evidence.

Dr. Massey expressed concerns that Dr. Bassman's Report:

(1) *Relied upon clinical versus forensic methodology.* She stated that the clinical evaluation performed by Dr. Bassman primarily focused on understanding the claimant's current psychological needs and providing therapeutic recommendations, whereas a forensic review, which I assume she would have conducted, would gather evidence, assess credibility, and provide objective information for legal purposes. She expressed further concerns that Dr. Bassman's evaluation prioritized the claimant's self-reported experiences and treatment needs over an objective assessment of facts, consideration of potential biases or inconsistencies, therefore rendering it less reliable for legal proceedings.

These opinions do not dissuade me from accepting the views expressed by Dr. Bassman (claimant's expert witness). Clinical evaluations by psychologists are an accepted basis for providing expert opinions in court, and forensic evaluations are not needed where the evidence clearly establishes that the sexual abuse occurred (as in this case). As I've previously explained, the evidence here is clear and convincing (surpassing the preponderance of the evidence standard) that the scoutmaster here, Norman Hoyt Kee, sexually abused the claimant. Dr. Bassman explained that minor inconsistencies, lack of specific dates of abuse, or delays in reporting the abuse are typical and understandable in childhood sexual abuse cases. Again, I accept this expert opinion, especially here, where other extrinsic objective evidence (*affectionate letters and cards from the abuser to the claimant, from prison due to incarceration for child sex abuse*) clearly corroborates the claimant's allegations that this scoutmaster sexually abused him. This case did not require a forensic evaluation, and Dr. Bassman's clinical evaluation is sufficient to support his opinions.

(2) *Lacked specificity because it did not attribute information to its sources:* Doctor Massey expressed concerns that Dr. Bassman did not attribute the information he received to its sources to assess the credibility and reliability of the information supporting the claims of sexual abuse; he did not verify sources of information; he did not distinguish between objective facts in records and his interpretation of those facts; and, he could not assess bias on the part of the sources of the

information supporting the claimants allegations of abuse. Again, as expressed in my analysis in (1) above, I'm convinced by clear and convincing evidence that the scoutmaster here, Norman Hoyt Kee, sexually abused the claimant, and Dr. Massey's concerns here do not dissuade me from this conclusion.

(3) *Failed to address conflicting information from various sources*; Doctor Massey cites some inconsistencies and information provided by the claimant in his clinical interview with Doctor Bassman, the claimant's proof of claim form, his IRO complaint form, and his claims questionnaire. To reconfirm, clear and convincing evidence establishes sexual abuse here, and minor inconsistencies in the multiple reporting documents filed by the claimant do not dissuade me from this conclusion.

(4) *Did not consider the impact of the claimant's prior sexual abuse by his adoptive father*:

Doctor Massey states that Doctor Bassman failed to consider the claimant's prior sexual abuse by his adoptive father. Doctor Bassman did consider the prior physical abuse by the claimant's adoptive father, but not specifically the sexual abuse by him. I considered and explained this issue on page 13 above; it does not prevent me from recommending a general damage award to this claimant that includes both his new injuries and aggravation of his prior injuries:

(From my explanation on page 13 above): Dr. Bassman acknowledged that while this would be considered when assessing the severity of the claimant's injuries, it does not alter his conclusions concerning the distinct injuries resulting from the scoutmaster's (Kee's) sexual abuse of the claimant. Instead, it represents an additional factor contributing to the claimant's diagnosis and prognosis (Hearing Transcript, pages 37-48). He further explained that the claimant's non-disclosure of this specific information did not lead him to conclude that the claimant lied about his sexual abuse by his scoutmaster. Dr. Bassman concluded that the scoutmaster (Kee) sexually abused the claimant, explaining the nondisclosure as a *confabulation*, *an unintentional lie*, due to the claimant's feeling a lack of safety and security during his interview. This non-disclosure did not surprise Dr. Bassman, and it did not change his opinions because "confabulation is a very common phenomenon when someone has been a victim of childhood sexual abuse" (Hearing Transcript pages 44-45). I credit this explanation and conclude that the claimant's prior sexual abuse by his adopted father is a prior contributing factor to the claimant's current injuries, as described by Dr. Bassman.

Finally, I do not consider Dr. Massey's concern of potential *malingering* persuasive here. After reviewing the evidence and observing the claimant testifying at the hearing, I do not believe he is malingering. This claimant has suffered physical and psychological injuries from two sources: his sexual abuse by his adopted father in early childhood and his sexual abuse by his scoutmaster in Troop 181. I believe the damage caused by his scoutmaster is more significant. The claimant is heterosexual, not homosexual. His sexual abuse experiences have deeply conflicted and scarred him, especially when the abuse occurred again, later in his life, by his scoutmaster, an authority figure whom he was taught to respect and obey. And he expressed deep emotional distress, multiple times, from his inability to trust authority figures, again, especially after his sexual abuse by his scoutmaster.

(6)

The claimant requested a damage award of \$10 million, which is excessive and unsupported by Louisiana benchmark verdicts.

I agree. Louisiana benchmark verdicts do not support an award of \$10 million. The claimant cited a New York verdict that included punitive damages, which are not allowed in this BSA–TDP proceeding. Additionally, Louisiana only allows punitive damages in sex abuse cases against the sexual offender and not his employer, *La. Civ. Code article 2315 (7)*.

I've only considered special and general damages under Louisiana law in my recommendation to the trustee. The claimant presented no past medical bills for his initial psychological treatments, many years ago, which is understandable, or estimated bills for future medical care; however, these special damage elements do exist, considering the extent of his past injuries and expected future necessary medical care. Accordingly, I've considered this fact in assessing my general damage award recommendation.

IX. Claims Administrator's Statement of Issues

No Statement Filed

X. Recommendation of Settlement Amount to the Settlement Trustee by the Undersigned Neutral

Based upon my training, education, and experience, I believe the amount a reasonable jury might award for this particular Abuse Claim, taking into account the relative shares of fault that may be attributed to any party, person or entity responsible for this Abuse Claim under applicable law and applying the same standard of proof that would apply under applicable law, and given my review of benchmark settlements and verdicts, is:

\$2.5 million (two and a half million dollars).

I find that multiple Scouting Entities are at fault, and/or that a non-protected party, such as the perpetrator, is also at fault. I allocate their respective shares of fault as follows:

Non-Protected Parties

Flint Garrison (adoptive father - prior sexual abuse): 15% or \$375,000

Norman Hoyt Kee, Scoutmaster: 10% or \$250,000

Protected Parties

The National Boy Scouts of America Foundation, DBA the Boy Scouts of America:

25% or \$625,000

Louisiana Purchase Council of Boy Scouts of America, Inc., FKA Washita Valley Council, Boy Scouts of America, Inc:

25% or \$625,000

The Whites Ferry Rd. Church of Christ, Inc:

25% or \$625,000

Total: 100% or \$2.5 million (two and a half million dollars).

My Explanation for the Above Allocations of Fault

The National Boy Scouts of America Foundation, DBA the Boy Scouts of America (25% responsibility), and the Louisiana Purchase Council of Boy Scouts of America, Inc., FKA Washita Valley Council, Boy Scouts of America Inc., (25% responsibility), and the Whites Ferry Rd. Church

of Christ, Inc. (25% responsibility) are all equally at fault in this case. The BSA had substantial knowledge of child sexual abuse risks by the 1930s and failed to use this information to create and implement effective education and prevention policies. Suppose the BSA had implemented effective education and prevention programs? If so, it is more likely than not that the scoutmaster here, Norman Kee, would have been identified and not allowed into the scouting program. In making this determination, I credit the expert opinions of the claimant's expert witnesses, Mike Johnson and Gary Shoener.

Finally, I assign 15% responsibility to the claimant's stepfather, Flint Garrison, and 10% responsibility to the scoutmaster, Norman Kee. The stepfather's sexual abuse began during the claimant's earlier years. Could the claimant have discerned this as abnormal behavior by his father in early childhood? I'm not sure, but probably not. However, as an emotionally and sexually maturing heterosexual teenager in the Boy Scouts in troop 181, the sexual abuse by his scoutmaster, *an adult whom he trusted and followed*, probably inflicted more emotional and psychological damage. And effective prevention programs installed and enforced by the BSA would have prevented the scout master, Norman Kee, from entering the BSA as a scoutmaster, where he abused the claimant.

Benchmark Louisiana Verdicts

Unfortunately, there are few reported (legally citable) benchmark Louisiana verdicts to consider before 2021 (1st look-back extension window) because of Louisiana's prior restrictive one-year statute of limitations for filing personal injury claims in sexual abuse cases. Probably, many cases weren't filed for a variety of reasons. Those that were filed often settled before trial, which reflects my trial experience as a District Judge.

I found two recent prior jury verdicts:

First, *Peterson v. Gibraltar Savings*, 733 So. 2d 1198 (La. 1999); appellate opinion at 711 So 2d. 703 (5th Cir 1998), where the jury awarded \$4 million in general damages for the oral and anal rape of a man abducted in a retail and business office mall high-rise parking lot by two assailants. *This was a one-time event and not specifically relevant here*, except that the plaintiff suffered severe damages; the following case is similar to the claimant's case and more applicable.

Second, *Lousteau v. Congregation of Holy Cross*, Docket No. 2:21-1457 (E.D. La. 2025), where a New Orleans federal jury awarded \$2.375 million to John Lousteau in 2025 (age 68 at the time of trial). Here, a member of the Holy Cross religious order sexually abused Lousteau (I assume while he was in school there). The sexual abuse started in the late 1960s. Lousteau struggled with lifelong alcohol and drug addiction, grappled with post-traumatic stress, depression, anxiety, and insomnia. These conditions marked his life as a "dumpster fire train wreck of a life". *This case is more*

relevant for comparison purposes to the claimant's case.

I found three older cases/judgments involving extended abuse periods reported on Westlaw/Thomson Reuters (Westlaw summaries below):

First, SHAW v. BOURN No. 92-CA-0552 DATE OF VERDICT/SETTLEMENT: *February 26, 1993*: Plaintiff was sexually molested from age nine through fourteen by a family friend and neighbor. Defendant was held personally liable for the psychological harm of child abuse. The court awarded \$250,000 in general damages to the plaintiff, and for loss of consortium, \$15,000 to the mother and \$2,500 to the father.

Second, AJP PRO AMI v. DAUSSAT, JVR No. 364654, 1998 WL 1084170 (E.D.La.): A minor female suffered severe mental and physical injuries when the defendant sexually molested her over a period of six months. Plaintiff contended that the minor would continue to incur expenses for medical and other professional services. Defendant claimed that the statute of limitations had expired. Award, \$75,000.

Third, DOE v. ROMAN CATHOLIC CHURCH / ARCHDIOCESE OF NEW ORLEANS, No. 91-CA-0988, 1993 WL 819637 (La. App 4 Cir.): Plaintiff was sexually molested by the male of a couple who headed the church youth group. The church was not vicariously liable for the volunteer. The court affirmed an award of \$170,000 against the tortfeasor and also affirmed that the parents were not entitled to loss of consortium because their conduct caused a partial breakdown of the family relationship.

These three 32-year-old cases are not persuasive here: they are old, not modified by inflation, and not influenced by the daily news reporting trumpeting the current sex abuse scandals of the Roman Catholic Church and the Jeffrey Epstein cases, which, although judicially instructed against considering, would be undercurrents in any jury's deliberations today. I'm more persuaded by the 2025 case above, *Lousteau v. Congregation of Holy Cross*, where the jury awarded \$2.375 million to the victim under factual circumstances that, for comparative purposes, are more similar to Mr. Garrison's case.

I find the *Lousteau* jury award of \$2.375 million to be the most relevant case for comparison purposes.

New Louisiana Appellate Review Standard for Trial Court Damage Awards

Pete v. Boland Marine & Mfg. Co., LLC, 2023 WL 6937381 (La. Oct. 20, 2023), reh'g denied, 374 So. 3d 135 (La. 2023) articulated the Louisiana supreme court's *new policy* for review of trial court damage awards (including jury awards):

“We do not abandon the two-step analysis for the appellate review of a general damage award, but modify the analysis as follows:

The question of whether the trier of fact abused its discretion in assessing the amount of damages remains the initial inquiry. However, to evaluate this issue, *an appellate court is to include a consideration of prior awards in similar cases*, as well as the particular facts and circumstances of the case under review. If an abuse of discretion is found, the court is to then also consider those prior awards to determine “the highest or lowest point which is reasonably within that discretion.

Our goal is not to balance the number of high and low awards and arbitrarily adjust the jury’s award to an average of these awards, *but to determine the highest reasonable award.*”

With this report, I recommend an award of \$2.5 million. Under Louisiana law in effect at the time of the claimant's abuse, all defendant parties are solidarily liable (each liable for the whole damage award). However, according to the Trustee’s instruction, I have also allocated fault on a divisible basis.

_____*Kirk Granier*_____

September 5, 2025

Kirk R. Granier
State District Judge (Ret.)
United States Circuit Military Judge, Col. USAF (Ret.)

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