

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN DOE, by and through his)
next friend LINDA HOUSEKNECHT,)
)
Plaintiff,)
)
vs.)
)
GREATER ST. LOUIS AREA COUNCIL,)
BOY SCOUTS OF AMERICA, INC., et al.,)
)
Defendants.)

Case No. 4:20 CV 273 JMB

MEMORANDUM AND ORDER

This matter is before the Court on the Status Update to Court Regarding Bankruptcy Proceedings (ECF No. 25) and Plaintiff John Doe's Motion to Abstain and Remand (ECF No. 14).

On March 21, 2019, Plaintiff originally filed this personal injury tort action against Defendants Greater St. Louis Area Council, Boy Scouts of America, Inc. ("GSLAC"), Boy Scouts of America ("BSA"), and Samuel Christian Carleton ("Carleton") in the Circuit Court of St. Francois County, Missouri. All three Defendants have been served and have filed an Entry of Appearance (ECF Nos. 6-8)

The Petition alleges that Plaintiff, as a minor, was working as an Aquatics/Troop Counselor for GSLAC and BSA and was the victim of sexual assaults by Carleton. Carleton, as the Aquatic Director, held a position of authority over Plaintiff, and GSLAC and BSA are responsible for the actions of Carleton committed while in the course and scope of his employment. (ECF No. 1-3) The Petition consists of four state law claims, alleging that BSA and GSLAC are liable in connection with certain personal injury torts (Count I - Agency, Count II -Negligence, Count III –

Assault and Battery, and Count IV – Punitive Damages), stemming from the abuse Plaintiff suffered. On February 18, 2020, all three Defendants filed separate Answers. (ECF Nos. 6-8)

BSA filed its Notice of Removal¹ removing the instant action to this Court pursuant to 28 U.S.C. §§ 1334 and 1452(a) and Rule 9027 of the Federal Rules of Bankruptcy Procedure, arguing that this action is related to the Bankruptcy Case, and that Plaintiff's Petition arises in or arises under the Bankruptcy Case. (ECF No. 1) "The Action is one of more than 290 similar civil actions currently pending in state and federal courts across the country that assert personal injury tort claims against BSA and various non-debtor co-defendants arising from the alleged abuse of a former youth or adult member of the BSA either by an adult scouting leader, an adult volunteer, or by another youth member (such cases and claims together, the 'Pending Abuse Actions')." (ECF No. 1 at 2, ¶ 2)

On that same date, BSA filed for Chapter 11 bankruptcy in the United States Bankruptcy Court for the District of Delaware ("Bankruptcy Case"). See In re Boy Scouts of America, Lead Case No. 20-10343 (Bankr. D. Del. Feb. 18, 2020). As a result, certain personal injury actions against BSA, including the instant case, were stayed under the automatic stay provision of 11 U.S.C. § 362(a). Additional consent orders continued to stay this instant action through May 18, June 8, and November 16, 2020. (ECF Nos. 16, 18, and 21)

In the Status Update to Court Regarding Bankruptcy Proceedings, BSA and GSLAC report that "[t]he Bankruptcy Court is expected to enter an order approving the Third Stipulation, extending the stay through March 19, 2021, including non-debtor defendants such as GSLAC, sometime during the week of November 16, 2020."

¹ Neither GSLAC nor Carleton joined in the removal petition.

Given the lengthy stay granted by the bankruptcy court, the Court will deny the motion to abstain and remand without prejudice subject to refiling once the Bankruptcy Case is closed or dismissed; discharge is granted or denied; or the bankruptcy court terminates the automatic stay or grants relief from it.

Accordingly,

IT IS HEREBY ORDERED that the instant action is stayed until March 19, 2021.

IT IS FURTHER ORDERED Plaintiff John Doe's Motion to Abstain and Remand (ECF No. 14) is Denied Without Prejudice subject to refiling pending the outcome of the bankruptcy proceeding in the United States Bankruptcy Court for the District of Delaware. See In re Boy Scouts of America, Lead Case No. 20-10343 (Bankr. D. Del. Feb. 18, 2020).

/s/ John M. Bodenhausen
JOHN M. BODENHAUSEN
UNITED STATES MAGISTRATE JUDGE

Dated this 18th day of November, 2020.