

July 23, 2015

FOR IMMEDIATE RELEASE:

**FINAL DECISION BY BOY SCOUTS OF AMERICA TO ALLOW OPENLY HOMOSEXUAL  
ADULT LEADERS PLACES SPONSORING CHURCHES  
AT GREATER LEGAL RISK**

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Memorandum Released by Former BSA General Counsel  
Explains Liability to Churches

ORLANDO - The pending final and binding decision by the top leadership of the Boy Scouts of America (BSA) to allow openly homosexual adults and youth within the program, reverses over a hundred years of tradition, values and also alters years of the youth protection policy within the organization.

Trail Life USA is a Christian outdoor youth program focused on adventure, character and leadership. Trail Life's Chairman of the Board, Attorney John Stemberger of Orlando, Florida, issued the following statement regarding this decision:

"We are greatly saddened by the BSA's resolution which is expected to pass the National Executive Board on Monday, July 27, 2015.

This change in membership policy places the churches and religious institutions who sponsor BSA troops at greater legal risk especially in light of the U.S. Supreme Court's recent *Obergefell* decision declaring same-sex marriage a "fundamental right" and homosexuality an "immutable" characteristic.

These Supreme Court holdings coupled with BSA's new membership policy changes, place the religious liberties of churches at even greater risk for legal attack and litigation. Dissenting justices on the high court gave clear warnings that: "people of faith can take no comfort in the treatment they receive from the majority today." (Justice Roberts); has potentially ruinous consequences for religious liberty." (Justice Thomas); and "will be used to vilify Americans who are unwilling to assent to the new orthodoxy." (Justice Alito).

Accordingly, public accommodation laws and non-discrimination laws are about to become major challenges as a result of the court's rulings. While the BSA may be well-meaning in its intent to create a local troop option for membership standards, for churches, this decision will be unsustainable over time, given the hostile nature of the courts and their "evolution" on issues related to gay-rights and human sexuality. Some courts have already declared the BSA to be a public accommodation, and such rulings are likely to increase. This could have a direct effect upon the churches chartering troops in those jurisdictions if they were to face litigation over revoking the membership of the homosexual member who wears his uniform in the Gay Pride Parade, an adult who publicly marries his same-sex partner, or to the girl who believes she is actually a male.

Pastors and priests must also realize that the new local troop option only applies to adult members and churches are still prohibited from denying any openly homosexual youth "membership in the Boy Scouts of America on the basis of sexual orientation or preference."

Finally, the new resolution to be passed by the BSA clearly affirms that homosexual acts can be "*moral, honorable, committed and respectful.*" This opinion is wholly incompatible with historic Christian theology and ethics, and will make it even more challenging for a church to integrate a BSA unit as part of a church's ministry offerings."

Attorney Richard Mathews, who served as Legal Counsel for the Boy Scouts of America for 11 years, and National General Counsel for the last three years, has authored a legal memorandum explaining the litigation risk that churches will undertake by continuing to charter BSA units or starting new ones. Mathews currently serves as General Counsel to Trail Life USA. That legal memo is available in PDF form [here](#).

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