

SCA Settlement FAQ

What was the lawsuit about?

Actually, there are two lawsuits, one filed against the SCA and one filed by the SCA to protect its interests and enforce its insurance policies.

Several years ago, a former SCA member named Ben Schragger was convicted of the sexual abuse of multiple children that he allegedly met through the SCA. He was sentenced and is currently serving a 62-year prison sentence. The Board, of course, permanently revoked his SCA membership.

After an initial civil lawsuit was filed and dismissed in 2007 against the Society for Creative Anachronism, Inc. ("SCA"), a second civil lawsuit was filed in 2009 claiming that the SCA should be held liable for Mr. Schragger's wrongdoing. The lawsuit also asked that the SCA be held liable for allegedly not having effective policies in place at that time to protect these children. Three SCA participants who were local officers during this time were also named as defendants in the lawsuit, and as officers of the corporation, had the right to be indemnified against any ensuing legal costs. The Plaintiffs in the lawsuit demanded Seven Million Dollars (\$7,000,000.00) in damages from the SCA.

The SCA immediately tendered the lawsuit to its insurance companies and one insurer agreed to cover the SCA's attorney's fees incurred in defending the lawsuit. All other insurers refused to cover defense fees or indemnify the SCA in the event of a settlement or judgment.

In 2010, both insurance carriers threatened to file suit in Federal Court. They wanted a Federal Court judge to rule that the insurance policies did not cover the 2009 lawsuit in any way (defense or indemnification). As a protective measure, it was necessary for the SCA to file a pre-emptive lawsuit against both insurance carriers, demanding payment under the policies. In this lawsuit the SCA demanded coverage in California, where the SCA is headquartered. The SCA has been required to pay the attorney representing the SCA in this lawsuit against the insurance carriers. It stands to reason that payment of these fees has left the SCA in a precarious financial position.

Why is our insurance company not accepting responsibility for covering our loss?

The insurance carriers have offered a number of different reasons for their position that the 2009 lawsuit should be excluded from coverage under the policies. The SCA's suit against its insurers resulted in one insurer agreeing to pay substantial funds to help resolve the suit against the SCA, but one insurer has continued to refuse to pay. The SCA does not believe that any of the reasons offered have any merit and is continuing its suit against the non-paying insurance carrier. A trial date has been set in May, 2012.

Which lawsuit is being settled by this settlement payment?

The 2009 lawsuit against the SCA, in which plaintiffs asked for \$7,000,000, will be fully and finally settled and dismissed with the settlement payment of \$1,300,000.

When will the full terms of the settlement be released?

The Board of Directors has and will continue to work with our legal counsel to communicate as much information as possible, as soon as possible, to our organization.

How was the settlement achieved?

After many years of legal process, in October of 2011, the victims agreed to settle for \$1,300,000.00. This settlement was promptly presented for approval to both of the SCA's insurance carriers. The acceptance of this offer provides the SCA with the assurance that there will be no further lawsuits brought by the victims of Ben Schragger and thus brings to a close the financial and legal risk to the Kingdoms, officers, and the SCA as a result of the lawsuit. One insurance carrier agreed to pay \$450,000 of the settlement amount. The other insurance carrier has refused to contribute to the settlement. Therefore, the SCA is being forced to pay the remainder of this settlement, \$850,000. This brings the total cost to the SCA for both the settlement and the related legal fees to over \$1,000,000.

*Are we sure there will be no future lawsuits related to the subject matter of the 2009 lawsuit?
How do we make sure our insurance companies don't refuse to pay on our policies in the future?*

We cannot be 100% positive there will be no additional litigation, but we know that the plaintiffs in the 2009 lawsuit are all of the victims that were named in the police reports. With respect to our insurance companies, there are no guarantees. All we can do is try to prepare the corporation to weather the next storm and vigorously enforce our rights under our insurance policies.

If the SCA is not guilty of any wrong-doing, why are we settling the 2009 lawsuit instead of continuing to fight the charges?

The simple answer is that we cannot afford it and still be able to pursue the initiatives we'd like to pursue. Like any other corporation, the SCA must make decisions about the most effective use of the money it has, and the financial impact of the lawsuit is effectively diverting a large amount of funds that could be much better used to serve the SCA by fostering our mission of researching, teaching and experiencing aspects of the Middle Ages and Renaissance.

The SCA is not admitting to any wrong-doing by settling the 2009 lawsuit, and the settlement and release agreement clearly state that fact. Settling the lawsuit now, for a fraction of the original demand, will allow the SCA to move forward and to concentrate on rebuilding our finances and developing initiatives that can make the SCA a healthier, more vital organization with which to support our mutual dreams.

How much has the SCA paid in legal fees, and how much will it have to pay before the lawsuit against the insurance carrier is decided?

Costs arising from the 2009 lawsuit, the settlement and the associated legal fees have surpassed \$1,000,000. The SCA must also anticipate additional legal fees as it pursues the non-paying insurance carrier and seeks judgment in May 2012 that the insurance carrier must pay the SCA's expenses and those of the three local officers for the 2009 lawsuit. There is no way to know with certainty how much the SCA will still need to pay, but those costs will probably be in the tens of thousands of dollars.

Why is the SCA asking the Kingdoms for money?

The SCA corporate office simply does not have this much in cash, assets or cashable dollars. While the corporate office of the SCA has managed the burden of our shared liability to date, it is the entirety of Society for Creative Anachronism, Inc. that is liable for damages under this lawsuit. In order to meet the terms of the settlement without financially crippling the SCA, its subsidiaries or any single branch, it has thus become absolutely necessary that each Kingdom located in whole or in part in North America, both Pennsic and Gulf Wars, and the subordinate Corporate level checking accounts contribute an equal percentage of their separate total cash assets to the settlement and associated legal fees. The other wars will contribute as part of the Kingdom through which they report.

Why are all the Kingdoms liable?

The 2009 lawsuit was brought against the Society for Creative Anachronism, Inc. and thus included all of the SCA. In order to meet the terms of the settlement without crippling the SCA or any single Kingdom, all Kingdoms will be required to contribute.

Are branches outside North America expected to contribute? Who are our Affiliates?

No, Kingdoms and affiliates outside of North America are not being required to contribute to the settlement (although voluntary contributions would be gratefully accepted!). First, the affiliates were not named in the lawsuit. Second, these branches were incorporated under different tax IDs and non-U.S. jurisdictions, with their own Boards of Directors and responsibility for their own financial matters and insurance policies. Our affiliates include the SCA-Finland, SCA-Sweden, SCA-Australia and SCA-New Zealand.

With regard to Canadian Provinces, the U.S. Society for Creative Anachronism, Inc. is incorporated as a foreign non-profit corporation in all Canadian Provinces so that Canadian branches are part of the overall Society for Creative Anachronism, Inc. and share the settlement obligation with the rest of North America.

Are the subsidiaries exempt from having to contribute?

No. At the time of the filing of the lawsuit, the subsidiaries did not exist. All kingdoms were branches directly under the umbrella of the Society for Creative Anachronism, Inc. Regardless, all subsidiaries are wholly-owned by the SCA, and as the sole owner, the SCA has the authority to use or direct the use of the subsidiaries' assets for the benefit or objectives of the SCA as a whole.

Why are Pennsic and Gulf War singled out among the inter-Kingdom wars?

Pennsic and Gulf War both report independently to the Society Exchequer's office and have separate bank accounts that do not fall under a Kingdom's authority. All other inter-Kingdom wars will contribute as part of the Kingdom through which they report.

Will the SCA branches that are contributing to the settlement get their money back if the SCA wins the lawsuit against the insurance company? What if we are unable to recoup the full amount?

Absolutely! If the SCA prevails in its lawsuit against the non-paying insurance carrier, any funds recovered will be distributed to the kingdoms that contributed, on a pro rata basis, after payment of any remaining legal fees. Any amounts we are unable to recover from the insurance carrier will simply be a shared loss among all the contributing groups.

Will the funds collected be kept separately from the general SCA funds?

The settlement funds will not be kept separate because a check will be cut almost immediately in order to meet the deadline for payment of the settlement. The funds that will go toward any future legal fees will be kept in a separate checking account, earmarked for use only in paying the SCA's legal fees.

Are there penalties if Kingdoms or the named inter-Kingdom events don't produce their share of the funds to SCA?

Yes. The bank accounts owned by the various North American branches are, directly or indirectly, legal assets of the Society for Creative Anachronism, Inc., and the SCA would have the right to freeze all funds in such accounts, although it would take any such step very reluctantly.

What has the SCA done to prevent this type of problem from happening in the future?

The SCA has worked to improve its policies and institute new policies where needed. Some of the new policies include the two-deep rule and criminal background checks on anyone wishing to administer youth activities. The Board will be addressing long-range plans for improving its governance structure and risk assessment protocols during 2012, after consultation with internal and outside counsel, as well as the SCA's financial advisors.

How was the amount each branch would contribute determined? Who determined it?

The SCA's financial advisors conducted extensive financial evaluations, taking into account financial reports from all SCA branches. Data was collected from the 2010 Consolidated Doomsday reports and the most recent Kingdom level quarterly reports to determine the estimated available cash assets held in the SCA and its subsidiaries. All the assets in each Kingdom were added up (including all the branch level and the Kingdom level accounts), and then all the Kingdom totals were added together. Using that total, a calculation was performed to determine what percentage of funds each Kingdom had in all its accounts in relationship to the total amount of cash needed. The percentage per Kingdom was used to calculate the amount each Kingdom would have to contribute to the settlement. To be fair, each Kingdom will be paying the same percentage of its assets. That percentage is 18% of the cash assets each branch had as of the last relevant financial report filed by the branches and Kingdoms. The analysis was presented to the Board of Directors, who approved this method of calculating the contributions from each Kingdom.

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Do cashable assets include CDs that won't be available in the next 10 days?

Yes. The fact that many branches and Kingdoms have CDs is another reason to work with the Society Treasurer and each of the other Kingdoms to figure the best way to gather funds sufficient to meet the Kingdom's obligation in the required timeframe.

In general, how will the contribution of funds work?

Each Kingdom will receive an invoice for 18% of all monies in the checking accounts of all branches within that Kingdom as of the last relevant financial report filed by the branches and Kingdoms. Each Kingdom will send the invoice amount to the Corporate Office. Each Kingdom will then have discretion in determining if or how it will collect the funds internally, from each of its branches. The Corporate Treasurer and the Society Exchequer will work with the Kingdom Exchequers to discuss the best options for each Kingdom.

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Does each branch have to contribute the same amount? What if another branch holds a branch's money such as a Barony holding funds for a Canton?

Each Kingdom will be required to contribute the same percentage of the combined total cash assets of each of its branches as of the last relevant financial report filed by the branches and Kingdoms. Each Kingdom will be given great flexibility in how it raises this amount from the branches under its authority. Your Monarchs, Seneschal and Exchequer will make the determination of how the gathering of funds will be handled within your Kingdom, and the Corporate Treasurer and Society Exchequer will work with each Kingdom to facilitate the gathering of the funds.

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Is each branch going to have to send their money to the corporate office?

No. Each branch will need to send its contribution to its Kingdom Exchequer.

Will the SCA, Inc. contribute?

The corporation has already paid over a half million dollars toward legal fees and retains enough in its accounts to pay its operating expenses going forward. The Kingdoms will be funding the settlement.

How soon does the money have to be sent to the corporate office?

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The due date for each invoice that will be sent to the Kingdoms will be 10 business days from receipt of the invoice. We do realize that some Kingdoms may not have the full amount immediately available within the Kingdom account, so the corporate office will work with these particular Kingdoms to discuss different methods of collecting the funds and/or making the required payment.

What if a Kingdom or a branch has trouble meeting the deadline?

If you need more time, you will need to contact the Society Treasurer. She will work with each Kingdom on a case-by-case basis.

If some groups are unable to come up with their 18%, can they get help? My Kingdom has more disposable income than some other Kingdoms.

The Society Treasurer will work with all the Kingdom Exchequers to facilitate short term inter-Kingdom loans or inter-kingdom donations. The Society Exchequer email list will be used to coordinate settlement payment options. Please contact the Society Treasurer if you need some help in this regard.

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What happened to the \$600K the corporate office had in reserve from previous years?

Between rising costs in operating expenses, the loss from investments due to the general global economic downturn, and the expenses of the 2009 lawsuit, this money has been depleted.

Was bankruptcy considered?

Yes, all avenues were considered. However, the Board of Directors considers bankruptcy to be the very last option, a last resort if we get to the point we can no longer meet our day-to-day obligations.

Will we still be able to get insurance after this lawsuit and settlement?

The SCA is fully covered by a general liability policy and an officers and directors policy and will remain so. This type of dispute and settlement is, sadly, not at all uncommon in the corporate world and is just one of the reasons to have the corporation standing between the membership and our modern world.

What if I want to hold a fundraiser or make a personal donation? Is there any other way I can help?

You are free to hold fundraisers or make personal donations, and the SCA deeply appreciates your efforts and your support of our shared organization. We would suggest that you make any such donations directly to your Kingdom to help it pay the amount it will be required to contribute as its part of the SCA's obligations in the settlement. Some Kingdoms have organized ACCEPS "event" to accept donations, so if it is more convenient for you to donate online, check the ACCEPS site to see if your Kingdom has created a donation "event." Any donations made through ACCEPS will go to the Kingdom.

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If you choose, you may also send a donation directly to the corporation, and it will be gratefully accepted as a general donation toward the SCA's operating expenses. The corporate office is working on a Paypal account and will add a button to the SCA's website once the account is established. Any donations sent directly to the corporate office or through the corporate Paypal account will not be counted toward your Kingdom's obligation.

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We also encourage the membership to opt out of paper newsletters as soon as possible because it reduces the amount of operating expenses the SCA must pay. See your Kingdom newsletter or www.sca.org for more information on how to opt out of paper newsletters. You will soon have access to the electronic version of all the Kingdom's newsletters!

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Will the Board be holding any meetings or town halls where we can talk face-to-face to ask questions and discuss this?

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Yes. Meetings have already been held for Kingdom Royalty, Seneschals, and Exchequers. We will also be holding town halls at Gulf War, Estrella and Pennsic. Check the war schedules for dates and times. Your Crown, Coronet and Kingdom Seneschal and Exchequer have all been briefed, understand the obligations involved and can answer many of your questions. We recognize you will naturally have many questions, and we ask that these be addressed to the appropriate Kingdom Ombudsman, who will endeavor to respond as soon as possible. While we are committed to getting get back to you as quickly as possible, we do ask for some patience and understanding as this process is extremely difficult.

The Board of Directors, Corporate officers, and Society officers are doing everything possible to resolve this issue to the best outcome possible. Your understanding and support of our mutual responsibilities are deeply and fervently appreciated as we move forward.