

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 10-CV-22236-ASG

HOWARD ADELMAN AND JUDITH SCLAWY
as Co-Personal Representatives of the
ESTATE OF MICHAEL SCLAWY-ADELMAN,

Plaintiffs,

v.

BOY SCOUTS OF AMERICA;
THE SOUTH FLORIDA COUNCIL INC.,
BOY SCOUTS OF AMERICA; PLANTATION
UNITED METHODIST CHURCH; HOWARD
K. CROMPTON, Individually, and
ANDREW L. SCHMIDT, Individually,

Defendants.

**PLAINTIFFS RESPONSE TO DEFENDANTS CROMPTON AND SCHMIDT'S
MOTION TO COMPEL PLAINTIFF TO PRODUCE
COPIES OF ITEMS INSPECTED ON NOVEMBER 24, 2010**

COME NOW, the Plaintiffs, HOWARD ADELMAN AND JUDITH SCLAWY as Co-Personal Representatives of the ESTATE OF MICHAEL SCLAWY-ADELMAN, by and through their undersigned attorneys and file their response to Defendant Crompton's and Schmidt's Motion to Compel Plaintiff to Produce Copies of Items Inspected on November 24, 2010, and would respectfully show the Court as follows:

At the time of the document inspection, this matter was being handled by Mark Sylvester. Shortly after the document inspection, Mr. Sylvester left the undersigned law firm. Mr. Sylvester's departure and the need to hand copy many of the documents, which included highly personal, emotional and sensitive letters, sympathy cards, funeral registries and other emotional notes and materials, resulted in a delay in providing the copies requested of the materials tagged at the inspection. The Defendants were aware of these issues at the time.

Undersigned counsel has recently joined the law firm of Leesfield & Partners, P.A., and has assumed the day to day handling of this matter. Copies of the requested documents have been provided to counsel for the Defendants, with the exception of one document that was inadvertently disclosed at the time. The single document, which has not been copied and produced, and for which a privilege log has been filed, is a medical record for Howard Adelman, the father of Michael Sclawly-Adelman, which had been inadvertently included with his son's records. As reflected by the privilege log, this single document is not reasonably calculated to lead to the discovery of admissible evidence and is further protected by the HIPAA and patient/physician privileges.

Counsel for the Defendants have not been prejudiced by the delay in producing the requested documents and materials, since the Plaintiffs had agreed to provide them at least 10 days in advance of the depositions of the Plaintiffs, which are not scheduled until February 7-8, 2011. Accordingly, the production of these materials was well in advance of the promised date.

Accordingly, the Plaintiffs request that the Court deny the Defendant's motion as being moot.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 14, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the

manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.



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SERVICE LIST

**HOWARD ADELMAN AND JUDITH SCLAWY-ADELMAN
VS.
BOY SCOUTS OF AMERICA, et al
CASE NO.: 10-CV-22236-ASG**

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA

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