

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 10-22236-CIV-GOLD/McALILEY

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

Plaintiffs,

vs.

BOY SCOUTS OF AMERICA, *et al.*,

Defendants.

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**OMNIBUS ORDER ON DEFENDANTS' APPEAL OF MAGISTRATE  
JUDGE'S ORDER FOLLOWING DISCOVERY CONFERENCE IN PART  
[ECF Nos. 97, 98]; GRANTING JOINT MOTION FOR ENLARGEMENT OF TIME TO  
COMPLY WITH ORDER FOLLOWING DISCOVERY CONFERENCE [ECF No. 101]**

THIS CAUSE is before the Court upon Defendants South Florida Council Inc., Boy Scouts of America, and Boy Scouts of America's Appeal of Magistrate Judge's Order Following Discovery Conference In Part ("Appeal") [ECF No. 97]; Defendants Howard K. Crompton and Andrew L. Schmidt's Notice of Joinder in Defendants South Florida Council Inc., Boy Scouts of America, and Boy Scouts of America's Appeal ("Notice") [ECF No. 98]; and the parties' Joint Motion for Enlargement of Time to Comply with Order Following Discovery Conference [ECF No. 101].

U.S. Magistrate Judge Chris M. McAliley held a Discovery Conference in this matter on December 29, 2010 and issued an Order Following Discovery Conference the same day. [ECF No. 80]. Defendants appeal one sentence of Judge McAliley's Order and seek to set aside the sentence, "Thus, each person to be deposed shall be named, along with a date for their deposition." *Id.* at ¶ 3. Defendants argue that "listing every

single deponent and dates for depositions to comply with the Order is unreasonably burdensome and nearly impossible at this time." *Id.* at ¶ 7.

On January 14, 2011, I issued an order requiring Plaintiffs to file a response to Defendants' Appeal and Notice and requiring the parties to comply with all requirements set forth in Judge McAliley's Order Following Discovery Conference [ECF No. 80], including but not limited to filing a joint discovery plan no later than January 14, 2011, as required in the December 29, 2010 Order. [ECF No. 100]. My January 14, 2011 Order also required the parties to list individuals who they agree shall be deposed with dates for their depositions to the extent possible. *Id.*

Also on January 14, 2011, the parties filed a Joint Motion for Enlargement of Time to Comply with Order Following Discovery Conference. [ECF No. 101]. Although the parties agreed upon tentative dates for the depositions of the parties, they also recognized that Judge McAliley's Order is based on "the parties' difficulty in reaching agreements concerning discovery[.]" *Id.* at ¶¶ 2, 4.

Plaintiffs filed an Omnibus Response stating that "Plaintiffs have not jointed in [Defendants'] appeals." [ECF No. 103]. Plaintiffs also filed a Response to Defendants' Appeal, suggesting modification to Judge McAliley's Order in the form of requiring the parties to make themselves available for specific blocks of time (*e.g.*, two or three days per week) between now and the April 8, 2011 non-expert discovery cut-off. [ECF No. 104]; *see also* [ECF No. 39].

On January 20, 2011, Defendants South Florida Council Inc., Boy Scouts of America, and Boy Scouts of America filed a Reply to Plaintiff's Response. [ECF No. 107]. Defendants indicated that the parties agreed during their last conference call on

January 13, 2011 to set aside a block of dates for depositions each week from the present time until the discovery cut-off, but have not yet determined those dates. *Id.* at ¶ 4. Defendants indicate they are "attempting to set up another conference call for this week to prepare the Joint Discovery Plan, which will address depositions as well as other discovery issues." *Id.*

Having reviewed the Appeal, Notice, Responses, Reply, the record, and being otherwise duly advised in the premises, I conclude that there is a significant need for the parties to resolve these discovery disputes without delay. A review of the record reveals considerable briefing on discovery matters that the parties cannot agree upon. There are currently six pending motions regarding discovery. See [ECF Nos. 55, 84, 85, 86, 92, 93]. In order to comply with the April 8, 2011 non-expert discovery cut-off and so the parties may be adequately prepared for dispositive pretrial motions, mediation, and trial, if necessary, it is critical that the parties immediately act in accordance with a functioning discovery plan. Given the parties' inability to reach agreements regarding certain discovery matters, I determine that a further discovery conference before Judge McAliley is critical to the parties' ability to move forward in this matter. Accordingly, it is hereby

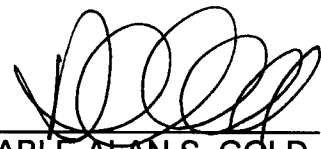
ORDERED AND ADJUDGED that

1. This matter is REMANDED to the Honorable Chris M. McAliley for further proceedings consistent with this order.
2. The parties shall appear for a Discovery Conference HEREBY SET before the Honorable Chris M. McAliley, at the C. Clyde Atkins Courthouse, 301 North

Miami Avenue, Sixth Floor, Miami, Florida, on **Thursday, January 27, 2011 at 2:00 p.m.**

3. The parties' Joint Motion for Enlargement of Time to Comply with Order Following Discovery Conference **[ECF No. 101]** is GRANTED.
4. The parties shall file a Joint Discovery Plan **no later than January 25, 2011 at 5:00 p.m.**

DONE AND ORDERED in Chambers at Miami, Florida this 27 day of January, 2011.



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THE HONORABLE ALAN S. GOLD  
UNITED STATES DISTRICT JUDGE

cc: U.S. Magistrate Judge Chris M. McAliley  
Counsel of record