

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,

v.

BOY SCOUTS OF AMERICA, et al.,

Defendants.

**ORDER ON EMERGENCY MOTION TO RESCHEDULE HEARING,
NOTICE OF RESCHEDULED HEARING AND
ORDER ON MOTIONS**

This Monday, January 24, 2011, the Honorable Alan S. Gold issued an Omnibus Order that directed the parties to appear before me this Thursday, January 27, 2011, at 2:00 p.m. to address numerous pending discovery motions. As it turns out, counsel for Defendant Crompton had long before scheduled to attend a deposition in Orlando on January 27th, between the hours of 1:00 p.m. and 5:00 p.m. Counsel for Defendant Boy Scouts of America had also made plans to travel to Texas on that date. After consulting with Plaintiffs' counsel, Defendants filed an Emergency Motion for Continuance of Hearing, and proposed that the hearing be rescheduled for Monday, January 31, 2011 at 9:00 a.m. [See DE 112].

I am the Duty Judge for criminal matters the week of January 31, 2011, and therefore am unable to hear this matter at any time that week. I see from the parties' Joint Discovery

Plan that the Plaintiffs' depositions have been scheduled for February 7 and 8, 2011. Thus, if I were to grant the Defendants' Motion, the discovery conference must wait until February 9, 2011, at the earliest. Unfortunately, in their Joint Discovery Plan, the parties forecast that they will be filing a series of new discovery motions. Given the inordinate difficulty counsel have had in engaging in discovery, and knowing that there are more motions to come, I am unwilling to postpone this matter for two weeks.

Rather, it is hereby **ORDERED that the Emergency Motion [DE 112] is GRANTED IN PART. I will hold a telephonic discovery conference tomorrow, Thursday January 27, 2011 at noon.** Counsel shall contact the undersigned's chambers for call-in information. We will address the following motions: (1) Plaintiff's Motion for Preservation of Evidence (GPS) [DE 55], (2) Defendants' Motion to Preserve Evidence (cell phones) [DE 85], (3) Defendants' Motion to Preserve Evidence (computers) [DE 86], and (4) Defendants' Appeal of Magistrate Judge's Order Following Discovery Conference in Part. [DE 97].

The Court enters the following **ORDERS** regarding other pending discovery motions:

First, in their Joint Discovery Report the parties announce that they have come to an agreement on Defendants' Motion for Preservation of Evidence [DE 84], and will submit a proposed order that resolves that motion. [See Joint Discovery Plan, DE 113-1, p. 6]. The Court **ORDERS** that the parties electronically submit that proposed order (in Word Perfect format) to my chambers **no later than 3:00 p.m. on Friday, January 28, 2011.**

Second, in the Joint Discovery Plan the parties also announce that Plaintiffs have

produced to Defendants copies of the items Defendants inspected on November 24, 2010, and therefore two pending motions by Defendants to Compel Plaintiffs to Produce Copies [DE 92, 93] may be moot, but that Defendants need to review that production to make sure that it is complete, before they can agree that their motions are moot. [See DE 113-1, p. 5-6]. Accordingly, the Court **ORDERS** Defendants complete that review **no later than Wednesday February 9, 2011**, and file with the Court by that date written notice that the motions are moot, or that specifically states what documents are missing from Plaintiffs' production, and recounts specifically the reasonable efforts of counsel for both Plaintiffs and Defendants to resolve the dispute.

DONE and ORDERED in chambers in Miami, Florida this 26th day of January, 2011.


CHRIS McALILEY
UNITED STATES MAGISTRATE JUDGE

cc:
The Honorable Alan S. Gold
Counsel of record