

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 10-CV-22236-ASG  
Magistrate Judge: Magistrate Judge Chris M. McAiley

HOWARD ADELMAN and JUDITH SCLAWY-  
ADELMAN, as Co-Personal Representative 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.

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**DEFENDANTS, HOWARD K. CROMPTON AND ANDREW L. SCHMIDT'S  
NOTICE OF FILING GPS MEMORANDUM AS REPLY TO PLAINTIFF'S  
RESPONSE REGARDING GPS DEVICE**

Defendants, Howard K. Crompton and Andrew L. Schmidt, hereby give notice of  
filing their GPS Memorandum, as follows:

Plaintiffs are correct that using the GPS device could result in overriding earlier  
stored data. [DE 105; p.2]. Turning the GPS device on is tantamount to using the GPS  
device. The GPS device searches for a signal when it is turned on; when a signal is  
established, the device can write/record new data, which in turn can delete existing data.  
Therefore, turning on the GPS device can destroy data. The forensic laboratory suggested  
by the Defendants uses a special casing that shields the device from connecting to a

signal when it is turned on, allowing data retrieval and analysis without any destruction of existing information.

In addition to the necessary equipment and hardware, the forensic laboratory uses Paraben Corporation's Device Seizure for analysis of mobile GPS units. It is an advanced forensic acquisition and analysis tool that is capable of finding data other than the standard logical data files, including deleted data. The Digital Forensics Examiner at the forensic laboratory holds the Encase Certified Examiner (EnCE) from Guidance Software, and the Digital Forensics Certified Practitioner from the Digital Forensics Certification Board through the Center for Forensic Science at the University of Central Florida.

The safest way to test the GPS device is in a laboratory under forensically controlled circumstances. The forensic laboratory can objectively take data off the GPS device and provide it to the parties. Once the data is obtained from the GPS device, it will be made known to all parties by the laboratory.

Plaintiffs first raised the issue of the importance of preserving the data on the GPS device. [DE 55]. Now, Plaintiffs will not agree to the precaution of utilizing an experienced forensic laboratory even though they acknowledge that the existing data is at risk of being destroyed permanently. Thus, Plaintiffs now are discounting the importance of preserving this data. This Court instructed counsel on December 29, 2011, to make an inquiry into alternative forensic laboratories in south Florida. Plaintiffs' lawyers have not disclosed or advise us of any forensic laboratories in south Florida capable of doing the examination. Undersigned counsel did make such inquiry, through our retained expert,

and we have been advised there are no such forensic laboratories that could be located in south Florida.

The National Park Service has already tapped into the GPS device and performed testing. The National Park Service is not a forensic laboratory. The risk of spoiling evidence of what the National Park Service did to the GPS device, as well as destroying the data from the date of incident, cannot be guarded against properly without the use of a forensic laboratory. The Defendants will be severely prejudiced if the GPS device is not examined in a safe environment by an experienced digital forensics examiner.

I HEREBY CERTIFY that on January 27, 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 identified on the attached Service List in the manner specified, via transmission of Notices of Electronic Filing generated by CM/ECF.

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