

Composite Exhibit 1



January 19, 2011

William S. Reese, Esquire
Lane Reese Summers Ennis
& Perdomo, P.A.
Suite 304, Douglas Centre
2600 Douglas Road
Coral Gables, FL 33134

IRA H. LEESFIELD
Board Certified Civil Trial Lawyer

PATRICIA M. KENNEDY

MARK A. SYLVESTER

Re: *Estate of Michael Sclawy-Adelman v. Boy Scouts of America, et al.*
Your File No. 40756

THOMAS SCOLARO

Dear Mr. Reese:

I am writing pursuant to both the Local Rules as well as the Federal Rules of Civil Procedure to request better answers to the following interrogatories, which were originally served on your client, the Boy Scouts of America:

ALEXANDER J. PERKINS
Also Admitted in District of Columbia

7. This interrogatory which requests an identification of those individuals who have knowledge of, possession, custody or control of various specific items of evidence was objected to on the grounds of work product privilege. Not only did your responses fail to include the required privilege log, but this request is taken verbatim from the standard approved interrogatories appended to the Florida Rules of Civil Procedure. Since both the Federal and Florida Rules are generally interpreted in the same manner, the information sought by this interrogatory is clearly not privileged. Accordingly, I am writing to request that you provide us with a full and complete response to this interrogatory.

Reply to Miami Office only:
2350 South Dixie Highway
Miami, Florida 33133
305/854-4900
800/836-6400
Fax: 305/854-8266
E-mail: Info@Leesfield.com
Internet: www.Leesfield.com

Key West:
615 1/2 Whitehead Street
Key West, Florida 33040

South Beach:
1111 Lincoln Road
Miami Beach, Florida 33139

Winter Park/Orlando:
Of Counsel
Bounds Gonzalez
222 W. Comstock Avenue
Suite 215
Winter Park, Florida 32789

9. This interrogatory seeks information regarding the existence of lawsuits involving your client relating to allegations of negligence resulting in injuries or death to Scouts while participating in hikes and hiking activities. Clearly, the existence of such prior incidents are not only discoverable, but generally admissible in evidence. Even to the extent that they are not admissible, they are certainly calculated to lead to the discovery of admissible evidence, particularly to the extent that such claims involve the failure to properly plan, prepare and conduct such activities, the failure to obtain proper and adequate weather information, the improper selection, evaluation, training and retention of scout masters, the failure to utilize the proper equipment for hiking, the failure to take the appropriate steps to

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prevent, recognize, combat and deal with heat related ailments, the failure to promulgate appropriate policies and procedures, the failure to take the appropriate actions to insure that existing policies and procedures are followed and the failure to properly plan for such activities and which are all issues in this case. Despite the fact that you have not indicated that your client would be unable to obtain this information in a reasonable fashion, I am willing to discuss a shorter time period than set forth in the interrogatory and other potential limitations with you.

10. Once again, this interrogatory seeks the same type of information concerning prior law suits arising out of other outdoor activities, which involve the same types of issues and claims as in this case, including those specific claims and issues identified in the paragraph above.

11. Rather than answering this interrogatory, you merely responded by stating that "BSA has no first hand knowledge of this information." As you are aware, a party's obligation to answer interrogatories is not limited to situations where it has merely first hand knowledge. Accordingly, we are entitled to a response to this interrogatory as well.

Please also promptly provide a properly executed jurat page for your client's answers to interrogatories, since that has not been done.

Please give me a call after you have had the opportunity to review my comments, so that we can attempt to reach an amicable resolution without having to involve the Court or Magistrate. If I do not receive a response from you prior to January 24, I will assume that you are not willing to provide the requested better answers and will proceed forward accordingly.

Sincerely,



ROBERT D. PELTZ
RDP/bl



January 19, 2011

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IRA H. LEESFIELD
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PATRICIA M. KENNEDY

MARK A. SYLVESTER

Re: *Estate of Michael Sclawy-Adelman v. Boy Scouts of America, et al.*
Your File No. 40756

Dear Mr. Reese:

THOMAS SCOLARO

I am writing pursuant to the applicable Local Rules and Federal Rules of Civil Procedure in a good faith effort to resolve your objections to the Plaintiffs' initial Request for Production directed to South Florida Council. Accordingly, I am writing to request better responses to the following items:

ALEXANDER J. PERKINS
Also Admitted in District of Columbia

1. This is a basic request for documents that is routinely asserted in virtually all litigation in this state. The fact that materials may have been "compiled" or "gathered" by counsel following the filing of this suit, does not somehow make them privileged. For example, if an attorney requests a copy of the police report from an incident, the fact that it is requested by the attorney following the filing of suit does not somehow make this document privileged from discovery.

It is impossible to tell from the generic descriptions contained in your privilege log whether the claimed privileges are in fact valid. For example, your first item refers to a "narrative report of fatal or serious injury or illness and related documents." Nevertheless, there is no indication as to who prepared this report, whether it was prepared in anticipation of litigation and what the "related documents" consist of.

Therefore, I am writing to request a full and complete response to item no. 1 as well as a more detailed privilege log (as to all of the items), indicating at a minimum: (1) The preparer of each document upon which a privilege is claimed; (2) the purpose for which the document was prepared, and (3) a specific description of all documents upon which a privilege is claimed that

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is sufficient to allow both Plaintiff's counsel and the court to determine whether or not a valid privilege applies.

2. Although you have responded to this request for copies of all insurance policies providing coverage to your clients by indicating that copies of the policies providing "the primary and first level of excess coverages" have been provided, you have not produced copies of any insurance providing additional coverage beyond these policies. In the event that there is no such additional coverage, please indicate as such. Otherwise, please produce copies of these policies.

3. If you are claiming that the Plaintiffs made statements to the media upon which you are relying in this case, we are entitled to copies of the articles and/or statements. As to any additional statement upon which you are claiming a privilege, we are entitled to an identification of those statements, so that a determination can be made as to whether the claimed privilege is valid or has been waived.

4. Although certain investigative materials may be work product, others may not. As noted above, it is impossible to tell from your privilege log exactly what materials you have coming within the description of the request, the preparer of the materials, the source of the information and the reasons for their preparation, which are all necessary to determine the validity of your claim of privilege. Accordingly, we are once again reiterating our request for a more complete privilege log, which will be sufficient to allow both Plaintiff's counsel and the Court to determine the validity of your privilege claims.

5-8 and 12-15. It cannot be determined from your response to these items whether the documents produced are the only ones in your client's possession meeting the request. If this is the case, please advise us. Otherwise, please produce any additional documents meeting these descriptions.

9. The Plaintiff is clearly entitled to copies of all Boy Scout guidelines, training manuals, check lists, policies, procedures, handbooks and manuals, whether in written, videotaped or computerized form, that relate to the instruction, guidance and training of Scout Masters with reference to any

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of the issues in this case. Since the Plaintiffs' complaint asserts claims based upon the following activities, we are at the very least entitled to the above-described materials relating to the following:

- Planning and properly preparing for hiking and other outdoor activities
- Properly conducting hiking and other outdoor activities
- Obtaining proper and adequate weather information
- Participating in hiking and other similar activities
- Leading scouts during hiking and other outdoor activities
- Recognizing, combating and dealing with the signs and symptoms of heat exhaustion, heat stroke and similar conditions,
- Proper and necessary equipment for hiking and outdoor activities
- Proper and adequate equipment for handling emergencies during outdoor scouting activities
- The selection of Scout Masters
- The training of Scout Masters
- The instruction and training of Local Council and Troops relative to the planning, preparation and conduct of Boy Scout hikes and other outdoor activities, recognizing and responding to emergency situations on Boy Scout hikes and other outdoor activities, the selection of Scout Masters and the review and evaluation of the performance of Scout Masters.

As such, we are not limited to receipt of the few selected handbooks which you have chosen to identify, but are instead entitled to a full and complete response to this request.

10. This request seeks information regarding the filing of lawsuits and/or the other written assertion of claims or complaints to your client relating to allegations of negligence resulting in injuries or death to scouts while participating in hikes and hiking activities. Clearly, the existence of such prior incidents are not only discoverable, but generally admissible in evidence. Even to the extent that they are not admissible, they are certainly calculated to lead to the discovery of admissible evidence, particularly to the extent that such claims involve the failure to promulgate appropriate policies and procedures, the failure to take the appropriate actions to insure that existing policies and procedures are followed, proper training, failure to properly plan for such activities and other matters spelled out regarding

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William S. Reese, Esquire
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item 9 above, which are all issues in this case. Despite the fact that you have not indicated that your client would be unable to obtain this information in a reasonable fashion, I am willing to discuss a shorter time period than set forth in the interrogatory and other potential limitations with you.

17.-18. We are entitled to a response to this request from the Defendant Boy Scouts of America.

Please give me a call after you have had the opportunity to review my comments, so that we can attempt to reach an amicable resolution without having to involve the Court or Magistrate. If I do not receive a response from you prior to January 24, I will assume that you are not willing to provide the requested better answers and will proceed forward accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Peltz", with a horizontal line extending to the right.

ROBERT D. PELTZ
RDP/bl

LANE REESE SUMMERS ENNIS & PERDOMO, P. A.

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January 26, 2011

Robert Peltz
Patricia Kennedy
Leesfield & Partners
2350 S Dixie Hwy
Miami, FL 33133

RE: Adelman, Howard & Judith Sclawy as Co-PR/Michael Adelm v BSA
Our File No. :40756

Dear Bob and Patricia:

It was a pleasure speaking with you yesterday in an attempt to work out discovery disputes. This represents what we agreed upon and what we could not agree upon. If this does not represent your understanding of our conversation, please let me know.

Notice of Deposition Duces Tecum (BSA and SFC)

Schedule A

- Plaintiffs agree that community related emergencies are unnecessary. Plaintiffs only seek information pertaining to first aid related emergencies. Plaintiffs wish to limit the scope to activities involving physical exertion and exposure to elements. BSA and SFC object and seek to limit the same in solely to hiking, trekking, and first aid.
- Plaintiffs and BSA/SFC maintain the same positions for numbers 2, 5 and 6.
- Plaintiffs agreed to limit # 3 to first aid emergency situations.
- As to number 11, Plaintiffs seek a corporate representative with knowledge about the organizational structure, the different types of scouting and who is responsible for running those areas, the policies and guidelines of BSA/SFC, the manuals that define each levels responsibilities. I indicated that I would get back to you as to whether we still object or

would agree to this area of inquiry.

- As to number 12, BSA/SFC agrees to producing a representative with knowledge of lawsuits concerning heat related serious illnesses and/or deaths stemming from hiking activities within the past five years. Plaintiffs maintain their request number 12 is valid.
- As to number 14, BSA/SFC object to the request, but this office will request from BSA/SFC documentation it possesses concerning heat related incidents occurring during the 2005 Jamboree. We will try to accomplish this within 10 business days.
- As to number 19, I believe the parties agreed to limit the area of inquiry to scouts who died or who required medical assistance (from a doctor or EMT) as a result of exposure to heat or dehydration. However, BSA/SFC seeks to limit this to the past five years and to hiking only as we discussed throughout the conversation.

Schedule B

- For items 1, 2, 3, 4, 5, 6, and 7, BSA/SFC seeks to limit the records to hiking, trekking and first aid. Plaintiffs believe it should include all outdoor activities that could involve physical exertion and/or involve the elements of nature.
- For item 12 Plaintiffs agree only to limit the request to those phones that are paid for by BSA and SFC. BSA / SFC wishes to limit the request to calls made to or received from Plaintiffs on May 9, 2009.

Notices of Deposition Duces Tecum (named SFC representatives)

- As to number 1, SFC wishes to limit the inquiry to the particular deponent's communications with Troop 111 concerning Michael and the hike dating back to January 1, 2009. Plaintiffs would not change the request other than to limit it to the past three years.
- As to number 3, SFC wishes to limit the inquiry to the particular deponent's communications with Crompton or Schmidt concerning Michael and/or the hike dating back to January 1, 2009. Plaintiffs would not change the request other than to limit it to the past three years.
- As to number 6, SFC wishes to limit the inquiry to the particular deponent's communications with Crompton or Schmidt concerning Michael and the hike dating back to January 1, 2009. Plaintiffs would not change the request other than to limit it to the past three years.
- As to number 13, I believe the parties agreed that the request would be subject to the privilege log previously produced as well as the upcoming supplemental privilege log.

- Plaintiffs would not agree to limit number 19 in any way. SFC believes it is vague, ambiguous, overbroad, a fishing expedition. SFC would be willing to limit it to documentation regarding lawsuits brought by any individual over the past 5 years concerning heat related serious illnesses/death.
- Plaintiffs agree to limit request 25 only to the past 5 years involving outdoor activities that require physical exertion. SFC request to limit it to lawsuits in the past 5 years stemming from heat related serious illness/death on hikes.

BSA/SFC's Responses to Requests for Production

- As to number 1, BSA/SFC will review the documents it claims privileged and amend the privilege log if possible to include (1) the preparer of the document(s), (2) the purpose for which it was prepared and (3) will provide a more specific description of the document(s) to the extent possible.
- As to number 2, BSA/SFC provided primary and excess levels of insurance coverage up to approximately \$10 millions. BSA/SFC objects to producing further insurance policies to the extent they exist.
- As to number 3, BSA/SFC agrees to provide a better response
- As to number 4, BSA/SFC will amend the privilege logs to the extent possible
- As to 5-8 and 12-15, BSA/SFC already provided valid responses. However, as discussed these responses represent the complete and full responses from BSA/SFC.
- As to number 9, the response given encapsulates the additional requests made through the January 19, 2011 letter to the best of our knowledge.
- As to number 16, BSA/SFC seeks to limit the request to litigation initiated in the past five years against BSA/SFC that stem from serious heat related illnesses and heat related deaths from a BSA/SFC hiking activity. Plaintiffs seek to limit the request to litigation initiated in the past five years against BSA/SFC that stem from heat related illnesses, heat related death from any outdoor related activity that involves physical exertion and/or the elements of nature.
- As to numbers 17, 18, BSA/SFC will provide a better response.

BSA/SFC's Answers to Interrogatories

- BSA/SFC agree to amend its answer to number 7.
- As to number 9, BSA/SFC seeks to limit the request to litigation initiated in the past five years against BSA/SFC that stem from serious heat related illnesses and heat related deaths from a BSA/SFC hiking activity. Plaintiffs seek to limit the request to litigation initiated in the past five years against BSA/SFC that stem from heat related illnesses, heat related death from any outdoor related activity that involves physical exertion and/or the elements of nature.
- As to number 10, BSA/SFC seeks to limit the request to litigation initiated in the past five years against BSA/SFC that stem from serious heat related illnesses and heat related deaths from a BSA/SFC hiking activity. Plaintiffs seek to limit the request to litigation initiated in the past five years against BSA/SFC that stem from heat related illnesses, heat related death from any outdoor related activity that involves physical exertion and/or the elements of nature.
- BSA/SFC agree to amend its answer to number 11.

BSA/SFC will move for a protective order regarding the notices of deposition no later than February 2, 2011. BSA/SFC will represent through such motions the concessions made by both parties despite the inability to reach an agreement. Plaintiffs will move to compel better answers/responses no later than February 5, 2011. Plaintiffs will represent through such motions the concessions made by both parties despite the inability to reach an agreement. BSA/SFC will provide better answers and an amended privilege log as indicated above by February 10, 2011.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin D. Franz", written over a horizontal line.

Kevin D. Franz

KDF/mg