

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

HOWARD ADELMAN and JUDITH SCALAWAY-
ADAELMAN, as Co-Personal Representatives of
The Estate of Michael Sclawy-Adelman,

Plaintiffs,

vs.

BOY SCOUTS OF AMERICA, et al.

Defendants.

ORDER REQUIRING COMPLIANCE WITH LOCAL RULE 16.1
OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

THE COURT, on its own motion, **ORDERS AND ADJUDGES:**

1. Unless otherwise exempted under S.D.Fla.L.R. 16.1(B)(5) of the United States District Court and this order, all parties are required to meet and comply with S.D. Fla.L.R. 16.1(B) and this Order within twenty (20) days after the filing of an answer [or the filing of a motion to dismiss] by the last answering defendant(s). **In a case removed from state court, the parties shall comply within thirty (30) days from the date this Order is docketed.** No extensions will be granted absent extraordinary good cause shown.

2. The parties shall conduct a discovery conference¹ and file a joint scheduling report and discovery plan² as required by S.D. Fla. L.R.16.1(B) and Fed.R.Civ.P.26(f). In addition to filing a

¹ Where applicable, the discussion shall include the discovery of electronically stored information as set forth in Fed.R.Civ.P. 26(f) (as amended December 1, 2006).

² In the event a discovery plan cannot be agreed to in good faith, the parties shall state which agreements have been reached, and which disagreements remain to be resolved. Where there is disagreement, the parties shall state their respective positions. Thereafter, the Court shall refer the matter to the Magistrate Judge for hearing and resolution.

joint scheduling report per S.D.Fla.L.R. 16.1(B)(2), the parties shall fill out, and timely file, the following information, no later than the date stated above:

a. Inclusion of dates certain in a completed version of Appendix I and completion of Appendix II (addressing magistrate judge consent) attached to this Order.

b. A designation of the case management track under which the case will be processed, as defined in S.D.Fla.L.R. 16.1(A)(2), based upon the projected time needed for trial and a proposed trial date.

c. A statement of whether the case is to be trial by jury or non-jury.

d. A plain statement of the nature of the claim and any counter-claim, cross-claim, or third-party claim, including the amount of damages claimed, a preliminary statement of how such damages were calculated and any other relief sought.

e. A brief summary of facts which are uncontested or which can be stipulated to without discovery.

f. A recital of the issues as presently known.

g. A list and summary of any pending motions.

h. The progress of discovery in the case, if any, to date, and any pending or anticipated discovery problems which require early court resolution.³

i. Any unique legal or factual aspects of the case requiring special consideration by the Court including jurisdictional issues or questions concerning lack of subject matters jurisdiction.

j. Any potential need for references to a special master or magistrate.

³ Please refer to Magistrate Judge McAliley's discovery procedures which are attached hereto.

k. Any particular need for an early case management conference to be held by the Court.

l. Status of any potential settlement.

m. Specify whether, and the manner in which, the Manual on Complex Litigation, Third Edition, would be of assistance in the cause.

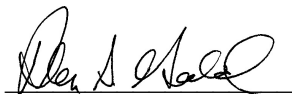
n. If counsel have conferred or not regarding whether the “disclosure requirement” imposed by Fed.R.Civ.P.(26)(a)(1-4), should apply to this case by court order or by “written stipulation of all affected parties” and the result of such conference, if any.

o. Such other matters as may aid the Court in the fair and expeditious administration and disposition of the case.

3. Any failure to abide by the required rules and this Order shall subject the party or counsel to appropriate penalties, **including but not limited to the dismissal of the cause, or the striking of defenses and entry of judgment**, and/or the imposition of monetary or other sanctions as authorities by Fed.R.Civ.P. 16(f).

4. Following the submission of the Conference Report, the Court may require a status conference prior to adopting the Conference Report by order. **The Court will issue a scheduling order based upon the parties submission, therefore a form order is not required.**

ORDERED IN CHAMBERS this 27th day of July, 2010.



ALAN S. GOLD
UNITED STATES DISTRICT JUDGE

APPENDIX I

**The *Joint Scheduling Report* is also available on the Court's website @ www.flsd.uscourts.gov in WordPerfect Format.
[Please refer to *Judge's Information* section]**

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Joint Scheduling Report

Pursuant to the Court’s Order Requiring Compliance with Local Rule 16.1, the parties have agreed to the following deadlines:

<u>DATE</u>	<u>ACTION</u>
By	The parties shall exchange the information required by Fed.R.Civ.P. 26(a)(1).
By	Plaintiff’s counsel, or any other attorney agreed upon by all parties, shall file a Designation of Mediator. If there is no agreement on a mediator, the parties shall notify the Clerk in writing and the Clerk shall designate a mediator.
By	Each party shall exchange preliminary lists of all witnesses then believed to have knowledge of the facts supporting the material allegations of the pleading filed by that party, and each party shall exchange all documents then available or subject to its control that they contemplate using as evidence in support of any allegations of the pleading filed by that party.

DATE

ACTION

By		All non-dispositive pretrial motions (including motions pursuant to Fed.R.Civ.P. 14, 15, 18 through 22, and 42 motions) shall be filed. Any motion to amend or supplement the pleadings filed pursuant to Fed.R.Civ.P. 15(a) or 15(d) shall comport with S.D.Fla.L.R. 15.1 and shall be accompanied by the proposed amended or supplemental pleading and a proposed order as required. When filing non-dispositive motions, the filing party must attach a proposed order to the motion well as emailing the proposed order to gold@flsd.uscourts.gov. Failure to provide the proposed order may result in denial of the motion without prejudice. Please refer to the docket entry number on the proposed order. The Complete CM/ECF Administrative Procedures are available on the Court's Website at www.flsd.uscourts.gov
By		Plaintiff shall furnish opposing counsel with a written list containing the names and addresses of all <u>expert</u> witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify.
By		Defendant shall furnish opposing counsel with a written list containing the names and addresses of all expert witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify.
By		The parties shall comply with S.D.Fla.L.R. 16.1 K concerning the exchange of expert witness summaries and reports. This date shall supercede any other date in local rule 16.1 K.
By		Rebuttal expert reports shall be filed.
By		All expert discovery shall be completed.
By		All non-expert discovery shall be completed.

DATE

ACTION

By		All dispositive pretrial motions and memoranda of law must be filed. If any party moves to strike an expert affidavit filed in support of a motion for summary judgment [for reasons stated in <i>Daubert v. Merrill Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579, 125 L.Ed. 2d 469, 113 S.Ct. 2786 (1993) and <i>Kumho Tire Company, Ltd. v. Carmichael</i> ,_-U.S._, 119 S.Ct. 1167, 143 L.Ed.2d 238 (1999)], the motion to strike shall be filed with that party's responsive memorandum. Please carefully review the instructions for filing motions for summary judgment.
By		Mediation shall be completed. [Ninety days prior to the mediation date, counsel for Plaintiff shall file a notice with the Court indicating the name of the Mediator as well as the place, date and time mediation will take place].
By		Pretrial Stipulation and <i>Motions in Limine</i>. The joint pretrial stipulation shall be filed pursuant to S.D.Fla.L.R. 16.1(E). In conjunction with the Joint Pretrial Stipulation, the parties shall file their motions in limine.
On		Proposed pretrial conference date.
On		Proposed trial date.

APPENDIX II

**The *Consent to Jurisdiction* is also available on the Court's website @ www.flsd.uscourts.gov in WordPerfect Format.
[Please refer to *Judge's Information* section]**

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**CONSENT TO JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE FOR FINAL DISPOSITION**

In accordance with the provisions of Title 28, United States Code, Section 636(c), the undersigned party to the above-captioned civil matter, by and through undersigned counsel, hereby voluntarily consents to have a United States Magistrate Judge decide the following matters and issue a final order or judgment with respect thereto:

- | | | | |
|----|----------------------------------|---------|--------|
| 1. | Discovery Motions | Yes ___ | No ___ |
| 2. | Motions for Costs | Yes ___ | No ___ |
| 3. | Motions for Attorney's Fees | Yes ___ | No ___ |
| 4. | Motions for Sanctions | Yes ___ | No ___ |
| 5. | Motions to Dismiss | Yes ___ | No ___ |
| 6. | Motions for Summary Judgment | Yes ___ | No ___ |
| 7. | Jury or Non-Jury Trial on Merits | Yes ___ | No ___ |
| 8. | Other _____ | Yes ___ | No ___ |

(Date)

(Signature)

(Printed name of attorney)

Attorney for _____

(Date)

(Signature)

(Printed name of attorney)

Attorney for _____

*****PLEASE READ CAREFULLY*****

INSTRUCTIONS FOR SUMMARY JUDGMENT BRIEFS

The parties shall comply with the following instructions when filing summary judgment briefs:

1. When filing a Motion for Summary Judgment, the moving party shall contemporaneously file a Local Rule 7.5 Statement of Undisputed Material Facts delineating by number each material fact, supported with citations to the record. **Failure to do so may result in dismissal of the Motion for Summary Judgment without prejudice.**

2. The opposing party shall file contemporaneously with its Opposition a Response to the Statement of Undisputed Material Facts which shall respond, by corresponding number, to each of the moving party's statements of fact. The opposing party shall state, based on citations to the record, whether each fact is disputed or undisputed. If the fact is disputed, the opposing party shall state why the dispute is a material one. If the opposing party wishes to state additional facts not included in the moving party's Statement of Undisputed Material Facts, those facts shall be delineated by number and supported by citations. **Pursuant to Local Rule 7.5 and Eleventh Circuit case law, a failure to respond to each of the moving party's undisputed material facts may lead the Court to accept those material facts as undisputed.** *See United States v. One Piece of Real Property Located at 5800 SW 74th Avenue*, 363 F.3d 1099, 1103 n.6 (11th Cir. 2004) (stating that a court, after reviewing the record and concluding that there is no genuine issue of material fact, may consider summary judgment movant's facts admitted if the facts are not controverted by the nonmoving party).

3. If the moving party chooses to reply to the nonmoving parties' statement of disputed facts, the reply shall, by corresponding number, respond to each of the opposing party's facts, stating whether each fact is disputed and/or material.

Pursuant to the Amendments to the Local Rules, effective January 17, 2008, the Statement of Material Facts submitted either in support of or in opposition to a motion for summary judgment shall:

4. Consist of separately numbered paragraphs.

Statements of material facts submitted in opposition to a motion for summary judgment shall correspond with the order and with the paragraph numbering scheme used by the movant, but need not repeat the text of the movant's paragraphs. Additional facts which the party opposing summary judgment contends are material shall be numbered and placed at the end of the opposing party's statement of material facts; the movant shall use that numbering scheme if those additional facts are addressed in the reply.

Local Rule 7.5(C)(3).

**DISCOVERY PROCEDURE FOR
MAGISTRATE JUDGE CHRIS McALILEY**

MEET AND CONFER

Counsel **must** actually confer (in person or via telephone) and engage in reasonable compromise in a genuine effort to resolve their discovery disputes **before** filing discovery motions. The Court may impose sanctions, monetary or otherwise, if it determines discovery is being improperly sought or is being withheld in bad faith.

DISCOVERY MOTIONS

If, after conferring, the parties are unable to resolve their discovery disputes without Court intervention, the moving party shall file a motion, **no longer than 5 pages in length**. The moving party may attach as exhibits to the motion materials relevant to the discovery dispute. For example, if the dispute concerns interrogatories, the interrogatory responses (that restate the interrogatories) shall be filed, with some indication which interrogatories remain in dispute. The movant shall include in its motion a certificate of good faith that complies with S.D. Fla. L. R. 7.1 (A)(3). **Counsel shall also deliver a courtesy hard copy of the motion and tabbed exhibits to Judge McAliley's chambers at the time of filing.**

Once a discovery motion is filed, the Court will review the motion. In most instances, the Court will issue an order placing the motion on its next available discovery calendar.

RESPONSES TO MOTIONS

The responding party shall file a response to the discovery motion no later than the close of business three days before the discovery conference noticed by the Court. The response shall be limited to **3 pages in length**. The responding party may attach as exhibits materials relevant to the discovery dispute, as referenced above. **Counsel shall also deliver a courtesy hard copy of the response and tabbed exhibits to Judge McAliley's chambers at the time of filing.**

On the rare occasions when the Court believes the motion might be resolved without a hearing it will order the non-moving party to file a response.

These procedures do not relieve parties from the requirements of any Federal Rule of Civil Procedure or Local Rule.