

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 FOLLOWING FEBRUARY 11, 2011 DISCOVERY CONFERENCE

On February 11, 2011, the Court held a discovery conference on: (1) Defendants, Boy Scouts of America and the South Florida Council's Motion for Protective Orders [DE 120], (2) Defendant, South Florida Council's Motion for Protective Order [DE 121], and (3) Plaintiff's Motion to Compel Discovery from the Boy Scouts of America and South Florida Council, Inc. [DE 129]. At the hearing, the Court also heard argument regarding Plaintiffs' Motion to Shorten the Time in Which Defendants Must Respond to Recent Written Discovery.¹ [DE 133]. The Court has considered the record, as well as the argument of counsel during the discovery conference. For the reasons stated at the conference, which are incorporated in this Order, the Court ORDERS as follows:

¹ The Order also addresses the procedure for resolving other pending discovery motions and any future discovery motions. *See* p. 4.

(1) Defendants, Boy Scouts of America and the South Florida Council's Motion for Protective Orders [DE 120] is **GRANTED IN PART** as follows:

a. Regarding Items 1 and 2 on Schedule A for each defendant, the area of inquiry is limited to hiking, trekking and first aid emergencies.

b. Regarding Item 12, Schedule A (Boy Scouts), Item 13, Schedule A (South Florida Council), the area of inquiry is limited to all lawsuits related to outdoor scouting activities involving exposure to heat, from 2004 to the present.

c. Regarding Item 14, Schedule A (Boy Scouts), Item 15, Schedule A (South Florida Council), the motion for protective order is denied.

d. Regarding Item 19, Schedule A (Boy Scouts), Item 20, Schedule A (South Florida Council), the area of inquiry shall be limited to: "The facts and circumstances surrounding and related to all incidents in which scouts died or required third-party medical assistance, as a result of exposure to heat while performing any outdoor Boy Scout activities from the 2005 Jamboree to the present. As to the 2005 Jamboree, the witness shall not be required to testify to the individual injuries or circumstances for each scout who suffered a heat related injury."

e. Regarding Items 1 through 7, Schedule B for both defendants, the motion is denied as moot as these categories have been limited by the applicable rulings on the scope of Schedule A.

f. Regarding Item 12, Schedule B for both defendants, the request is limited to telephone records of contacts made by any employee, officer, manager, agent of

representative of Defendants by or with the decedent or Plaintiffs on May 9, 2009.

g. Regarding Item 19, Schedule B (South Florida Council), the request is limited to complaints relating to Boy Scout hikes that resulted in death, illness or injuries serious enough to require third party medical care for the past five years.

h. Regarding Item 25, Schedule B (South Florida Council), the request is limited to the past five years.

(2) Defendant, South Florida Council's Motion for Protective Order [DE 121] is **GRANTED IN PART** as follows:

a. Regarding Items 1, 3, and 6, Schedule A, the requests are limited to documents or other items, in the deponent's personal records, concerning Troop 111, the hike on May 9, 2009, or supervision, guidance or oversight of scouting matters for one year leading up to the May 9, 2009 hike.

b. Regarding Item 19, Schedule A, the request is limited to complaints concerning heat-related death or illness requiring third party medical care, on hikes in the past five years.

c. Regarding Item 25, Schedule A, the request is limited to the past five years.

(3) Plaintiff's Motion to Compel Discovery from the Boy Scouts of America and South Florida Council, Inc [DE 129], is **GRANTED IN PART** as follows:

a. Regarding Request for Production No. 9, the request is denied as Defendants have fully responded.

b. Regarding Request for Production No. 10, the request is limited to claims

made in connection with heat related deaths or illness requiring third party medical care, on hikes, in the five years prior to May 9, 2009.

c. Regarding Request for Production No. 16, the request is limited to limited to claims filed in connection with heat related deaths or illness requiring third party medical care, on hikes, in the five years prior to May 9, 2009.

d. Regarding Interrogatory No. 9, Defendant shall provide information for the five years prior to May 9, 2009.

e. Regarding Interrogatory No. 10, the motion to compel is denied.

4. Plaintiffs' Motion to Shorten the Time in Which Defendants Must Respond to Recent Written Discovery [DE 133] is **DENIED**.

5. Regarding Plaintiff's motions to compel Defendants Crompton and Schmidt [DE 141, 142], Defendants shall each file a response, no longer than five pages, **on or before February 22, 2011**.

6. Going forward, prior to filing any discovery motions, the parties shall meet and confer **in person or by telephone** in a good faith attempt to resolve the issues. **The parties are warned that failure to comply in good faith with the conferral requirement may result in summary denial of a discovery motion.**

If, despite the meet and confer process, a discovery motion is still necessary, the party from whom relief is sought shall file a response to the motion, no longer than 5 pages, within

4 days of the filing of the motion.

DONE and ORDERED in chambers in Miami, Florida this 17th day of February,
2011.


CHRIS McALILEY
UNITED STATES MAGISTRATE JUDGE

cc:
The Honorable Alan S. Gold
Counsel of record