

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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

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.

**RESPONSE TO PLAINTIFFS' MOTION TO COMPEL [DE 142] ON BEHALF
OF ANDREW SCHMIDT**

Pursuant to the Order of the Magistrate, Defendant, Schmidt Responds to
Plaintiffs' Motion to Compel Better Answers to Interrogatories as follows:

Interrogatory 1: Defendant Schmidt will provide the length of time he has been a
Broward County resident as opposed to revealing his social security number, his date of
birth, dates of his marriage or marriages, and other identifying information which could
subject him to identity theft.

Interrogatory 2: Undersigned counsel informed Mark Sylvester, Esquire of
Leesfield & Partners law firm that a homeowners' policy for Andrew Schmidt existed but
when the claim for this matter was reported Schmidt was advised by his agent that this

litigation is not a covered loss. This information was communicated to Mark Sylvester. Defendant, Schmidt will file a written response verifying this information.

Interrogatory 6: Defendant Schmidt disclosed the witnesses known to him who would have knowledge of the hike in question when he signed the interrogatories on August 20, 2010. Since August 20, 2010, additional witnesses have been discovered but part of that constitutes attorney-client privilege and part of that constitutes attorney-work product. If the Court requires Defendant, Schmidt to supplement his witness list from August 20, 2010, then Defendant, Schmidt requests Plaintiffs to likewise supplement the disclosure of witnesses made by the Plaintiffs initially as well. The depositions of the parents taken two weeks ago clearly revealed the names of witnesses never disclosed in the Rule 26 Disclosure at the beginning of the case or in the parents' answers to interrogatories. If the Court requires supplementing the witness list and requires Defendant Schmidt to do so, Schmidt asks for simultaneous disclosure by the Plaintiffs.

Interrogatory 9: Defendant, Schmidt stands by his objection to the interrogatory being overbroad, harassing, irrelevant, and immaterial. Defendant, Schmidt stands by his response to interrogatory number 9.

Interrogatory 20: The term "grievance or complaint" is not defined. It could be as simple as a scout complaining about having to go on a hike to as broad as a parent or a scout complaining about the food served at a jamboree. Interrogatory number 20 is vague, overbroad, and burdensome. In addition, Plaintiff, Judith Sclawy was a member of the troop committee which oversaw Troop 111 and had oversight powers over Defendant, Schmidt as the Scout Master so the Plaintiffs are already in possession of

information of any “grievances or complaint” made against Defendant Schmidt. Objection is also made on the grounds of privacy rights of other parents and/or scouts who are not parties to this litigation and who have given no waiver of confidentiality or privacy rights.

Interrogatory 22: Defendant Schmidt will provide any additional information that exists.

Interrogatory 23: A copy of the permit to use the Florida Trail was attached in response to request for production of documents and disclosed by Defendants, Schmidt and Crompton. Defendant, Schmidt stands by his response to interrogatory number 23.

Interrogatory 27: Defendant, Schmidt stands by his objection to his rate of pay, his employment, and his employers and the objection he filed on August 20, 2010. Defendant, Schmidt asserts this is irrelevant, immaterial and burdensome information which is not calculated to lead to admissible evidence at the time of trial pertaining to any allege negligence of Defendant, Schmidt.

REQUEST FOR PRODUCTION

Request 2: Defendant, Schmidt will attempt to find his homeowners policy which declined coverage and provide same to Plaintiffs.

Request 9: Defendant, Schmidt stands by his response to request for production in paragraph number 9.

Request 13: Defendant, Schmidt stands by his objections and responses to number 13.

Request 14: Defendant, Schmidt stands by his responses to number 14.

Request 15: Defendant, Schmidt stands by his responses to request for production number 15 and the objections therein.

I HEREBY CERTIFY that on February 22, 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, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Frederick E. Hasty III
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