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 DENYING MOTION TO COMPEL

Pending before the Court is Plaintiffs' Motion to Compel and for Sanctions [DE 172]. Plaintiffs ask the Court to direct Defendant Howard K. Crompton to provide the password for his cellular phone, a Blackberry Storm, in order to allow inspection of the phone. [DE 172, p. 4]. Defendant Crompton has filed a response stating that he "has made a diligent search and inquiry and there is no known password." [DE 176, ¶ 17].

In support of this assertion, Defendant Crompton has provided affidavits from George Crompton, the owner of the Park Row Printing, the business that provided the cellular telephone at issue to Defendant Crompton; and David Rourke, who used the cellular telephone at issue from November 30, 2010 through January 27, 2011, as part of his employment by Park Row Printing. [DE 176-3, 176-5]. Both affiants aver that they never had a password for the cellular telephone. [DE 176-3, ¶ 8, 176-5, ¶ 11]. The Court cannot

compel Defendant Crompton to provide information he does not possess. Based on the foregoing, the Court ORDERS that:

Plaintiffs' Motion to Compel and for Sanctions [DE 172] is **DENIED**.[1]

DONE and ORDERED in chambers in Miami, Florida this 29th day of March, 2011.

CHRIS McALILEY
UNITED STATES MAGISTRATE JUDGE

cc:
The Honorable Alan S. Gold
Counsel of record

[1] The Motion also asks the Court to order that Plaintiff be allowed to depose Mr. Crompton "regarding matters revealed by the inspection ordered by the Court." [DE 172, p. 5]. That request is premature, as it is not yet clear that any new information will be gathered from an inspection of Mr. Compton's cell phone. Therefore, that request for relief is denied without prejudice, and may be renewed, if necessary.