

**THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Miami Division

Howard Adelman and Judith Sclawy,
as Co-Personal Representatives of
The Estate of Michael Sclawy-Adelman,

Plaintiffs,

CASE NO. 1:10-cv-22236-ASG

District Ct. Judge: Alan S. Gold

vs.

Boy Scouts of America, a Foreign Corporation; Magistrate Judge: Chris M. McAliley
The South Florida Council Inc.,
Boy Scouts of America;
Plantation United Methodist Church;
Howard K. Crompton, individually; and
Andrew L. Schmidt, individually,

Defendants.

JOINT MOTION TO EXTEND NON-EXPERT DISCOVERY CUTOFF

PLAINTIFFS, Howard Adelman and Judith Sclawy, as Co-Personal Representatives of The Estate of Michael Sclawy-Adelman and DEFENDANTS, Boy Scouts of America (“BSA”), The South Florida Council, Inc. (“SFC”); Plantation United Methodist Church (“PUMC”); Howard K. Crompton and Andrew L. Schmidt, by and through their undersigned counsel, and pursuant to Federal Rules of Civil Procedure 6(b); 16(b)(4); 29(b), jointly move for an order extending the non-expert discovery cutoff date from April 8, 2011, to June 15, 2011, and state:

1. This is a wrongful death action stemming from an incident that occurred on May 9, 2009, when Michael Sclawy-Adelman died while taking part in a hike in the Big Cypress National Preserve.
2. On August 30, 2010, this Court issued an “Order Setting Pretrial and Trial Dates, Referring Discovery Motions, Directing Parties to Mediation, and Establishing Pretrial Dates and Procedures.” *See* Order attached as *Exhibit “A.”*
3. The “Time Schedule and Requirements” of that Order indicates that “All non-expert discovery shall be completed” by April 8, 2011.

4. The parties have diligently been working to depose all fact witnesses in this case and respond to written discovery. Tremendous progress has been made since the filing of the Joint Discovery Plan [D.E. 113] on January 25, 2011. Since that time, the parties have taken the following depositions:
 - a. Howard Adelman
 - b. Judith Sclawy
 - c. Jeff Hunt (SFC)
 - d. John Anthony (SFC)
 - e. Richard Bournal (BSA, Dallas)
 - f. Frank Reigelman (BSA, Dallas)
 - g. Howard Crompton
 - h. Andrew Schmidt
 - i. Tim Smiley (PUMC)
 - j. Kris Leon
 - k. Dr. William Lee Hearn
 - l. Dr. Ronald Bullock
 - m. Joshua Christ (SFC)
5. In addition, the following depositions are presently set to take place *prior* to the existing April 8 discovery cut off:
 - a. Detective Kevin O'Neill (Naples, 4/4/11)
 - b. Dispatcher Ronny Turi (Naples, 4/4/11)
 - c. Medical Examiner Dr. Manfred Borges (Naples, 4/4/11)
 - d. Chase Crompton (4/7/11)
 - e. Patti Anderson (Naples, 3/31/11)
6. At this time, there are some additional depositions of the parties that must be scheduled and/or concluded, however, the parties have not been able to complete them due to the time constraints of the witnesses.
7. The depositions of the witnesses identified in paragraph four above have also resulted in considerable follow-up written discovery, related to the testimony given. New fact

witnesses whose testimony is critical to the issues in this case, have been revealed through both the deposition testimony and the answers to written follow-up discovery. Many of those witnesses are now set for deposition. However, these could not be scheduled prior to the current discovery cut-off.

8. The following depositions are currently scheduled after the April 8th discovery cut-off:
 - a. Eric Martin, Jenny Martin & Fred Martin (5/23/2011)
 - b. Doug Beals (5/26/2011)
 - c. Patricia Geyer (5/26/2011)
 - d. Sherrill Kent & Sam Kent (6/1/2011)
 - e. Keith Byrns & David Byrns (6/2/2011)
 - f. Philip King & Wendy King (6/7/2011)
 - g. Linda Vedstedt (4/20/11)
9. There are several additional depositions that are necessary but not yet scheduled including:
 - a. Lars Daniel, the expert who downloaded the Defendant Crompton's GPS pursuant to Court order. See [DE 169].
 - b. Several Park Rangers from the U.S Park Service/Department of the Interior. *See also* [DE 143]. The Plaintiffs previously filed a *Touchy* request with the Park Service to depose four (4) Rangers and one (1) EMT. Although this request was recently denied, Plaintiffs' counsel has filed a renewed request and been advised by the Department of Interior that a response should be issued shortly. If the renewed request is denied, Plaintiffs intend to seek a Court order compelling the Park Service to produce its employees for deposition. [DE 167 at ¶ 12].
 - c. Garnette Tritt c/o U.S. Park Service/Department of the Interior.
 - d. Representatives of the CDC, who were involved in monitoring the 2005 BSA Jamboree and compiling the CDC Report on the incident of heat related incidents.
10. The recent deposition of the Miami-Dade Medical Examiner's Office has also uncovered the need to schedule testing of blood samples still in the possession of the Medical Examiner's

Office. These samples will need to be sent to a reference laboratory in Pennsylvania for such testing.

11. There are also issues still pending regarding the Court ordered inspections of the phones carried by the decedent Michael Sclawy-Adelman and Defendant Howard Crompton. The download of data from Howard Crompton's mobile phone and Michael Sclawy-Adelman's mobile phone is presently the subject of pending motions before the Court.
12. There remains pending responses to previously served written discovery, which also may reveal the need for additional discovery and/or depositions.
13. Much essential discovery cannot be completed by the April 8th cutoff date. Therefore, the parties respectfully request an extension of the non-expert discovery deadline through June 15, 2011.
14. This extension will not affect the dispositive motion deadline of August 26, 2011 and will not affect the trial period commencing on December 5, 2011.
15. All parties assert that there is good cause for extending the non-expert discovery cutoff due to the ongoing and expanding nature of discovery in this complex wrongful death action.

WHEREFORE, PLAINTIFFS, HOWARD ADELMAN AND JUDITH SCLAWY, as Co-Personal Representatives of The Estate of Michael Sclawy-Adelman and DEFENDANTS, Boy Scouts of America; The South Florida Council, Inc.; Plantation United Methodist Church; Howard K. Crompton and Andrew L. Schmidt, respectfully request that this Honorable Court extend the non-expert discovery cutoff to June 15, 2011.

By: _____s/Kevin D. Franz_____

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true copy of the foregoing was sent March 31, 2011 to:
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