

Exhibit "B"

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Case No. 10-Cv-22236-GOLD/McALILEY

HOWARD ADELMAN, Co-Representative
of the Estate of Michael
Selaway-Adelman & JUDITH
SELAWAY-ADELMAN,

Plaintiffs,

vs.

MIAMI, FLORIDA
FEBRUARY 11, 2011

BOY SCOUTS OF AMERICA,
a Foreign Corporation,
HOWARD K. CROMPTON
Individually, ANDREW
L. SCHMIDT, et al.,

Defendants.

TRANSCRIPT OF DISCOVERY CONFERENCE HEARING
BEFORE THE HONORABLE CHRIS M. McALILEY,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:

LEESFIELD & PARTNERS, P.A.
2350 South Dixie Highway
Suite 300
Miami, Florida 33131
BY: ROBERT D. PELTZ, ESQ.
BY: PATRICIA KENNEDY, ESQ.

REPORTED BY:

JERALD M. MEYERS, RPR.
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1 that, and there is evidence in the record to support this, that
2 the Adelmans entrusted their 17 year-old son to the Boy Scouts
3 on this Boy Scout activity. They went hiking on a 20 mile hike
4 through the Great Cypress Preserve.

5 THE COURT: I am really familiar with these facts.
6 You reassert them in every single pleading.

7 MR. PELTZ: But I just think they are important for
8 determining what would be relevant discovery, and I won't
9 belabor the point, other than the point that temperatures got
10 over 100 degrees that day.

11 So we are dealing with issues that relate to planning,
12 that relate to being able to recognize heat related injuries
13 and symptoms, the conducting of the hike and many issues along
14 those lines, and we have attached to the response, there was an
15 article which I think is particularly relevant.

16 THE COURT: I read it. It was the 2005 jamboree?

17 MR. PELTZ: That's correct.

18 THE COURT: I have read it.

19 MR. PELTZ: And this was just a jamboree. This was
20 not hiking, and on the jamboree, as reported in the article of
21 2005 --

22 THE COURT: You are going to get some discovery on the
23 jamboree, by the way.

24 MR. PELTZ: But I think this goes to show why we
25 shouldn't be limited to hiking because the point is --

1 have identified who had some heat related illness in 2005, and
2 that strikes me as we would expect an extremely broad response
3 to that discovery request where you are going to get more
4 generalized information.

5 MR. PELTZ: But that's what the case is about, Your
6 Honor, with you due respect. The fact that they may have
7 messed up with respect to big time as opposed to just little
8 time doesn't mean that we should be precluded in our discovery.
9 I mean, this case is about the failure to --

10 THE COURT: Okay. Do you know what I am going to do?
11 I am going to take this under advisement.

12 MR. PELTZ: Okay. Thank you, Your Honor.

13 THE COURT: It is not productive any more.

14 MR. PELTZ: Thank you.

15 THE COURT: Okay. So now we are on item number 14 of
16 Boy Scouts of America Schedule A, item 15 of South Florida
17 Council, Schedule A, and this is all internal investigations,
18 analysis, research, studies performed by Boy Scouts of America
19 and/or their agents, employees or representatives related in
20 any manner to the heat related, I assume you mean incident
21 occurring during the 2005 jamboree, as well as any changes in
22 the Boy Scouts procedures, policies or guidelines considered as
23 a result.

24 Okay. Generally speaking, I think that the plaintiff
25 gets to find out what happened at that jamboree and how the Boy

1 Scouts understood what happened and what policies and
2 guidelines they promulgated after that which would certainly
3 presumably apply to this hike.

4 You raise the question of work product. Have you
5 presented a privilege log? Have you done any inquiry?

6 MR. FRANZ: Judge, we did. Actually, we just amended
7 a privilege log. It does not include the 2005 jamboree,
8 though.

9 I was just basically objecting to the term "internal
10 investigations." I don't know how to write a privilege log to
11 internal investigations that are conducted.

12 THE COURT: Well, you would go find out if there are
13 responsive documents and read them and decide if you think you
14 have a claim of work product. I mean, there is no magic. It
15 is just kind of pick and shovel work, you know.

16 MR. FRANZ: I understand. I am just objecting based
17 on the terms, you know, but I understand.

18 THE COURT: Well, so here is what we could do: I am
19 going to not grant a protective order on that. At the
20 deposition you hopefully have prepared your witness. And if
21 you have a claim of privilege, you have the right under the
22 rule to instruct the witness not to answer and be prepared to
23 justify your claim of privilege. That would be expected.

24 Look at the discovery handbook; the discovery
25 practices handbook in our district which talks about that