

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

HOWARD ADELMAN and JUDITH
SCLAWY-ADELMAN, as
Co-Personal Representatives
Of the ESTATE OF MICHAEL
SCLAWY-ADELMAN,
Plaintiffs,

COPY

vs. No. 10-CV-22236-ASG
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.

Wicker Smith, O'Hara,
McCoy, Graham & Ford,
2800 Ponce de Leon Boulevard,
Coral Gables, Florida,
Monday, 10:26 a.m.,
March 7, 2011.

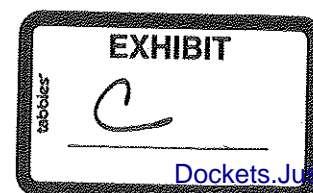
VIDEOTAPED DEPOSITION

Of

ANDREW L. SCHMIDT

taken on behalf of the Plaintiffs
pursuant to a Notice of Taking Deposition

FRIEDMAN, LOMBARDI & OLSON
C O U R T R E P O R T E R S



1 it is, the more interesting you want to make it
2 besides just one foot in front of the other, so it
3 seemed to have offer of, you know, a variety of, you
4 know, vegetation and this and that that they had on
5 their website that made -- you know, seemed like it
6 was enjoyable to go and do it and maybe get to see a
7 bald eagle.

8 Q. You said there was water and rangers at the
9 station. Were you aware of the fact that there was
10 no water on the trail itself?

11 MR. HASTY: Objection to form.

12 A. There's water -- there was water on the
13 trail. That was -- there's water at the two
14 campsites. You know, the Mile 7 and the Mile 10,
15 that -- at seven, it's a well. At ten, you have to
16 go to the cypress hammock and get, you know, water;
17 service water.

18 Q. Okay. You said at Mile 7, there's a well?

19 A. Yes.

20 Q. And were you able to replenish your water
21 there?

22 A. We didn't need to.

23 Q. If you had felt the need to replenish your
24 water, would you have been able to do that at Mile 7?

25 A. I believe so.

1 Q. Did you do anything else to cool him down
2 besides observe him drink water out of his camelback;
3 pour some water on the back of his neck and give him
4 a wet towel to put on his face?

5 MR. SUMMERS: Objection to form. Misstates
6 prior testimony.

7 MR. HASTY: Join. I join in the objection.
8 Go ahead.

9 A. Not -- not that I recall.

10 Q. Okay. And you said that -- earlier that
11 you remained at the clearing for about an hour before
12 you started to head off, so would that mean that from
13 the time that, after the second time that Michael had
14 tried to get up unsuccessfully, which you said was
15 about 15 minutes after you got there, that you had
16 remained another 45 minutes after that?

17 A. About that, or maybe a little longer,
18 because the boys at one point decided they wanted to
19 go on.

20 Q. Okay. That would be Khris and Chase?

21 A. Correct.

22 Q. Okay. So what did Khris and Chase say
23 about moving on at that point?

24 A. Well, after they observed that Michael --
25 that we wanted Michael -- they were hearing all this,

1 of course. We were all right there.

2 After they observed that we wanted Michael
3 to rest longer, then they knew they were going to be
4 there a while.

5 I think they waited another 20 minutes and
6 they started getting antsy. They wanted to head on
7 down the trail at their own pace, and then either we
8 would catch up or they would wait at the end of the
9 trail.

10 They were familiar with what -- where the
11 truck was and the ranger station; that sort of thing,
12 so we let them go ahead.

13 Q. So you told them it was okay for them to
14 head back by themselves?

15 A. Yes.

16 THE VIDEOGRAPHER: Five minutes.

17 Q. And Khris was how old at that time?

18 A. 12.

19 Q. And Chase was how old?

20 A. I think he was 14.

21 Q. Okay. And is it your testimony that the
22 sole reason that they went back at that time was
23 because they were getting antsy and just wanted to go
24 ahead?

25 A. Yes.

1 Q. Was there any other reason they went back
2 at that time?

3 A. No, not that they told me.

4 Q. Did they still have water with them?

5 A. Yes.

6 Q. How much?

7 A. I believe Howard had that conversation with
8 them. I know they had water. I don't know the
9 quantity of the water that they left with.

10 I believe it was either one or two bottles
11 apiece, but I don't recall for certain.

12 Q. Did anyone ever instruct them to go back to
13 get more water to bring it back to the group?

14 A. No.

15 Q. So it was not your intent that they would
16 come back --

17 A. No.

18 Q. -- after they had reached the ranger
19 station?

20 A. No.

21 Q. About 20 minutes after they left, then you
22 went?

23 A. Correct. About 20 minutes.

24 Q. And what was the purpose of your leaving at
25 that time?

1 A. Well, Michael had fallen asleep by this
2 point, and I sat there with Howard. We sat on the
3 downed tree, and then now 20 minutes had passed, so I
4 was a little concerned that the boys were going to be
5 down the trail and making further distance from us,
6 and now he had given them -- I still had water, but
7 Howard had given them his water, and now we had
8 poured more water on Michael, so Howard no longer had
9 any water.

10 Q. You said Howard had given who his water --
11 the boys?

12 A. One of the boys. One or both of the boys.

13 Q. Chase or Khris?

14 A. Uh-huh. So I told him I would go check on
15 the boys; overtake them and go get more water.

16 Q. Now, if Howard gave one of the boys his
17 water, that would indicate that at least one of the
18 boys had run out of water. Correct?

19 MR. HASTY: Objection. Form.

20 MR. SUMMERS: Objection to form.

21 A. Yes. Like I said, he had that conversation
22 with them about the water, that I don't know -- I
23 don't know all the details about it, but I know he
24 had given one or both of them water. I don't know
25 how it went.

1 Q. Well, would he have given them water if
2 they hadn't run out?

3 A. Excuse me? Oh, I don't know. I don't know
4 how much water that they said they had left and what
5 he decided they need to go back with.

6 MR. HASTY: Then you clearly didn't
7 understand the last question he asked.

8 THE WITNESS: What was that?

9 MR. HASTY: Read the last two questions and
10 the last two answers back, please.

11 MR. PELTZ: Once again, I object to counsel
12 coaching his witness.

13 MR. HASTY: I'm not coaching.

14 MR. PELTZ: Yes, you are.

15 MR. HASTY: Read the last --

16 MR. PELTZ: You don't like the answers and
17 you don't like the testimony, so you're asking him
18 to --

19 MR. HASTY: No. I'm asking for the
20 questions, Mr. Peltz.

21 MR. PELTZ: I see. You're a mind-reader.
22 I understand that.

23 MR. HASTY: Go back two questions, please,
24 before the soliloquy from Mr. Peltz, and read the
25 questions and answers the witness gave so he can hear

1 them, please.

2 THE VIDEOGRAPHER: We're going to run out
3 of tape, so I'm going to change the tape at this
4 juncture.

5 MR. HASTY: Okay.

6 MR. PELTZ: Well, let's not do anything
7 without being on tape.

8 THE VIDEOGRAPHER: We're off the record at
9 3:42.

10 MR. SUMMERS: Let's take a break.

11 [Short recess taken.]

12 THE VIDEOGRAPHER: We're back on the record
13 at 4:04.

14 Q. What is potable water?

15 A. Drinkable.

16 Q. Okay. You remember early on in the
17 deposition, you said that you weren't sure where you
18 had gotten the understanding that there was -- you
19 would be able to replenish your water, if you needed
20 it, during the hike, and you weren't sure whether you
21 got that information from your hiking books or
22 whether you got that from the Cypress Park visitor
23 map?

24 A. No. I think I said that it was in my
25 books, and I may have also seen it on the park guide.

1 I had it running through my mind that maybe they knew
2 of another way out there to help shorten their time
3 to get back, because I didn't know how far in the
4 trail they might -- I didn't know if I was going to
5 meet them back halfway or they were going to still be
6 there when I returned there, so I had in my mind to
7 just let the rangers know what the situation was as I
8 left and what we needed to do with the two Scouts,
9 and that someone -- me or somebody needed to get back
10 there with more water for Howard.

11 Q. Okay. Well, at the time you left the
12 clearing, you didn't feel that there was an emergency
13 situation for the rangers to respond to?

14 A. No, I did not.

15 Q. Were you concerned at all about the fact
16 that Khris and Chase might just wander off down the
17 trail someplace?

18 A. No.

19 Q. Didn't enter your mind?

20 A. No.

21 Q. They had never been on that trail before,
22 other than on your way out?

23 A. Yes. They had been there on the way in.

24 Q. That's what I said. Way out.

25 A. Out and back? Yes.