

Andrew Schmidt
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Adelman v.
Boy Scouts

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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.

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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?

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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.

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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

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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.

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1 Q. Okay. Let me show you the map which you
2 have produced, which has been marked as Exhibit
3 Number 9, and under the section marked "Hiking," what
4 does it say about the existence of potable water on
5 the trail?
6 A. Section 9?
7 Q. No. The part on hiking. Exhibit 9.
8 A. "Campsite -- primitive campsite with no
9 potable water on the trail."
10 Q. So does --
11 A. "Three Snail Hammock Trail" -- okay.
12 Q. So the map which you had picked up sometime
13 in advance of the hike, which you said was part of
14 your research for this hike, expressly states that
15 there is no potable water on the Cypress Trail that
16 you were taking -- or the Florida Trail that's in the
17 Cypress Park?
18 MR. HASTY: Objection to form.
19 Q. Let me rephrase the question.
20 You said -- earlier you testified that you
21 picked up this map to assist you in the planning of
22 the hiking?
23 A. Yes, I did.
24 Q. And the Big Cypress map and explanation
25 expressly states that there is no potable water on

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1 the trail, does it not?
2 A. Yes.
3 Q. Thank you.
4 MR. HASTY: Can I see that?
5 MR. PELTZ: There's something else I want
6 to -- okay.
7 Well, while he's looking at that, I'll move
8 onto something else.
9 Q. At the time that you decided you were going
10 to leave to follow after Khris and Chase, you said
11 that Michael had fallen asleep. Did you hear him
12 snore at all while he was sleeping?
13 A. Yes.
14 Q. And was the reason that you were going --
15 the reason that you were leaving at that point in
16 time was simply to follow after the two other
17 Scouts -- Crompton -- I mean, Chase and Khris?
18 MR. SUMMERS: Objection to form.
19 A. No. I was also leaving to go get more
20 water.
21 Q. More water for Howard?
22 A. Yes.
23 Q. Any other reason?
24 A. I did say I would check at the ranger
25 station and -- because I had to do something with the

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1 Scouts. I wasn't planning on bringing them back, so
2 I had the keys to his truck. I had to situate them.
3 Q. So your intent on checking with the ranger
4 station had to do with making arrangements for Khris
5 and Chase while you went back to Howard?
6 A. Yes. Well, I was going to explain the
7 situation and see if there was -- see what they had
8 to say about it.
9 Q. And at the point that you left, it was your
10 understanding at that time that Michael would recover
11 enough to continue the hike?
12 A. That's right.
13 Q. So at the time you left, you did not feel
14 that Michael was in any type of life-threatening
15 emergency or condition?
16 A. No.
17 Q. So the reason -- strike that.
18 So you weren't going to the ranger station
19 to ask them for help; you were going for -- to get
20 arrangements made for the other two scouts while you
21 went back up the trail?
22 MR. HASTY: Objection to form.
23 MR. SUMMERS: Objection to form.
24 A. Well, as I got down toward the end of
25 the -- you know, as I was getting closer to it, then

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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.

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1 Q. Uh-huh.
2 Okay. At some point in time, did you catch
3 up to Khris and Chase?
4 A. Yes.
5 Q. About how long did it take you to catch up
6 with them?
7 A. I don't really know. I was walking at a
8 pretty good pace. I don't know for sure. I don't
9 know.
10 Q. Were -- was Mr. Crompton in agreement with
11 you at the time that you left that Michael was not in
12 any type of life-threatening or emergency situation?
13 A. Yes.
14 Q. Okay. Was there any attempt at that point
15 for Mr. Crompton to use his cell phone to see if he
16 could call, or did you just deem it wasn't necessary?
17 A. No. There was no reason to think that
18 there was a reason to call emergency services or
19 anything.
20 Q. Now, at the time you left, Michael was
21 asleep, so I take it that he was not in a position to
22 use his cell phone?
23 MR. HASTY: Objection to form.
24 A. I didn't even know he had a cell phone.
25 Q. If he had a cell phone, he wouldn't have

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1 been in a position to use it at the time you left,
2 would he?
3 A. No. No.
4 Q. I'm sorry. And you said you caught up with
5 Khris and Chase about how much longer?
6 A. I don't know. You know, it was -- it was
7 approximately five miles to get back there.
8 They had been gone at least 20 minutes, so
9 they had a 20-minute head start, but I was -- you
10 know, I don't know if we can do the math or not.
11 They had a 20-minute head start, but I was
12 walking faster, so I don't know. I'm guessing they
13 may have been halfway there -- halfway back, so maybe
14 they were somewhere between -- around the 18-mile
15 mark by the time I caught them.
16 Q. Okay. So you were going at a much higher
17 rate of speed than they were?
18 MR. SUMMERS: Objection to form.
19 A. Yes.
20 Q. I mean, they had had a 20-minute head
21 start, and then you caught them?
22 A. At least 20 minutes, and then, yes, and
23 then eventually I caught them.
24 Q. Okay. And when you met up with them, did
25 they indicate to you that they were out of water?

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1 A. Yes. When I caught them -- actually, I
2 picked up a water bottle on the way.
3 The first thing I asked them was whose
4 empty water bottle this was that you dropped, and
5 then they said that was their last one, and it came
6 out of their pocket; you know, they stuck it in their
7 pocket and it fell out, so they didn't even realize
8 they dropped it, so I still had another bottle of
9 water, so I gave them my bottle -- last bottle of
10 water to split; share.
11 Q. Okay. In your answers to interrogatories,
12 you indicate that you caught up with them at about
13 three miles after they had left?
14 A. That seems reasonable. Uh-huh.
15 Q. Okay. So in that three miles, they had
16 used up the water that Mr. Crompton gave them; they
17 used up whatever water they had brought with them,
18 and they were out of water again.
19 MR. SUMMERS: Objection to form.
20 Q. Is that -- well, let me ask the question
21 this way: When you caught up with them at the --
22 approximately the 18-mile mark of the hike, they were
23 out of water?
24 A. They were out of water.
25 Q. They had previously been given water by