

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-CV-22236-ASG/GOODMAN

HOWARD ADELMAN AND JUDITH SCLAWY  
as Co-Personal Representatives of the  
ESTATE OF MICHAEL SCLAWY-ADELMAN,

Plaintiffs,

v.

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.

**UNITED STATES OF AMERICA'S MOTION FOR ENLARGEMENT OF TIME  
TO RESPOND TO PLAINTIFF'S MOTION FOR JUDICIAL REVIEW OF  
DENIAL OF *TOUHY* REQUESTS AND TO COMPEL APPEARANCE OF  
NATIONAL PARK SERVICE  
EMPLOYEES FOR DEPOSITION (D.E. 217)**

The United States of America, by and through the undersigned Assistant United States Attorney, respectfully moves for a fourteen (14) day extension of time, up to and including August 2, 2011, to respond to Plaintiff's Motion for Judicial Review of Denial of *Touhy* Requests [D.E. 217]:

1. On June 2, 2011, Plaintiff filed the instant motion in response to the denial of its requests for the testimony of employees of the National Park Service (NPS), an agency of the United States Department of the Interior, in the above-styled matter. [D.E. 217].

2. This Court issued an order [D.E. 218] requiring that the United States respond to the motion by June 22, 2011.

3. On June 20, 2011, the United States sought a ten (10) day enlargement of time, up to and including July 5, 2011, in which to respond to Plaintiff's motion, which the Court granted.

4. On July 5, 2011, the undersigned filed another motion for extension of time, requesting an additional fourteen (14) days to respond to Plaintiff's motion, up to and including July 19, 2011. At that time, the United States represented to the Court that the United States and Plaintiff had reached an agreement regarding the information Plaintiff requested in the Motion; however, the parties needed additional time to finalize the details.

5. Since that time, the Plaintiff and the United States have continued to work together to reach an agreement and to draft a proposed order for the Court to enter, which Plaintiff requested in lieu of withdrawing its Motion to Compel. Counsel for the United States, however, was unexpectedly out of the district for a family emergency from July 2, 2011, through July 10, 2011. In addition, counsel for Plaintiff notified the undersigned on Friday, July 15, 2011, that he would be out-of-town the week of July 18, 2011. Plaintiff and the United States did not have an opportunity to finalize the proposed order for the Court before Plaintiff's counsel went out-of-town.

6. The United States has agreed to provide the deposition testimony of four National Park Service employees, and Plaintiff and the United States have agreed over the telephone to the deposition topics for each deponent. Moreover, the United States has agreed to provide, and the Plaintiff is willing to accept, an affidavit regarding a sign at the

beginning of the trail at Big Cypress National Preserve on May 9, 2009. Between the depositions and the affidavit, all of the testimony requested in Plaintiff's Motion to Compel will be addressed.

7. Furthermore, on July 8, 2011, Defendants sent a letter to the undersigned requesting depositions of National Park Service employees. Although the United States maintains that Defendant has not complied with the requirements of *Touhy*, and Defendant has not yet sought to compel testimony from employees of the United States, the United States would prefer to resolve all issues pertaining to the depositions with both Plaintiff and Defendant in an effort to avoid unnecessary litigation and duplicative depositions.

8. Accordingly, the United States respectfully requests a fourteen (14) day enlargement of time, up to and including August 2, 2011, to serve its Response to Plaintiff's motion [D.E. 217]. The United States anticipates filing a joint motion with the Plaintiff requesting the Court enter a proposed order prior to August 2, 2011, but will file either the joint motion or a response no later than August 2, 2011.

9. The United States submits that this Motion is not made for purposes of undue delay, nor will it prejudice the Plaintiff to grant this Motion for Extension of Time. Moreover, the United States is mindful of the Court's previous order, which stated "[b]arring unexpected developments of an emergency nature this already-extended deadline will not be extended again." [D.E. #242]. The United States will make every effort to ensure this matter is resolved in a timely fashion.

10. The undersigned was not able to confer with counsel for Plaintiff prior to filing this Motion because he is out-of-town. The undersigned did try to reach plaintiff's

counsel by telephone on Friday, July 15, 2011, but was unable to speak with him before he went out-of-town.

**WHEREFORE**, for the foregoing reasons, the United States respectfully requests that its Motion for a fourteen (14) day extension, up to and including August 2, 2011, be granted.

Date: July 19, 2011  
Miami, Florida

Respectfully submitted,

WIFREDO A. FERRER  
UNITED STATES ATTORNEY

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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on this July 19, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/AMANDA A. KESSLER  
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