

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
CIRCUIT CIVIL DIVISION

CASE NO. 10-CV-22236-ASG

HOWARD ADELMAN and JUDITH  
SCLAWY-ADELMAN, as Co-Personal  
Representatives of the Estate of  
MICHAEL SCLAWY-ADELMAN,

COPY

Plaintiffs,

vs.

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.

One Bob Hope Road  
Miami, Florida  
March 10, 2011  
Thursday, 10:40 a.m.

DEPOSITION OF WILLIAM HEARN, Ph.D.

Taken before Teri Naar-Cohen, Registered  
Professional Reporter and Notary Public in and for the  
State of Florida at Large, pursuant to Notice of Taking  
Deposition filed in the above cause.

- - -



1           **Q     May I see it, please?**

2           A     Yes. Let me see. This is divided into  
3 individual data sets from each of the analyses that we  
4 did.

5           **Q     What is meant by a basic drug screen?**

6           A     The basic drug screen is an analysis that we do  
7 on an extract made from the blood, and the way we prepare  
8 it is we add base to the blood so that basic drugs become  
9 extractable from that blood.

10                   In other words, we extract the basic drugs and  
11 then we analyze them on an instrument called a gas  
12 chromatograph.

13                   To further that, that would be as opposed to an  
14 acidic drug screen, so basic is what we're looking for.

15           **Q     And in the gray topped tube for blood what was  
16 found?**

17           A     We found a peak that was initially identified as  
18 ephedrine, but I noted on here that it could also be  
19 pseudoephedrine because this method doesn't distinguish  
20 between those drugs.

21                   They're isomers or mirror images of one another  
22 basically.

23           **Q     Is there a way of quantifying how much ephedrine  
24 or pseudoephedrine was in the blood?**

25           A     It can be done. We didn't do it in this case.

1           Q     How many different drugs would give that test  
2     result of ephedrine, pseudoephedrine?

3           A     This particular test there might be something  
4     else that would give a response that would indicate the  
5     presence of ephedrine or pseudoephedrine, but the next  
6     test that we did would conclusively identify which drug it  
7     was.

8           Q     Did you do that?

9           A     Yes.

10          Q     What was that?

11          A     Let's see. Where is it?

12                     That's what we call our confirmation of  
13     sympathomimetic amines. Do you need spelling of that?

14          Q     I'm sure she does.

15          A     S-y-m-p-a-t-h-o-m-i-m-e-t-i-c.

16                     Those are a large class of drugs that mimic the  
17     neurotransmitters of the sympathetic nervous system and  
18     there's a long list of them on this analysis.

19                     We've added more since then, but amphetamine,  
20     methamphetamine, MDMA, which is commonly known as Ecstasy  
21     and its metabolite MDA and then ephedrine and  
22     pseudoephedrine and phenylpropanolamine, which is a  
23     metabolite of the ephedrine and pseudoephedrine and used  
24     to be on the market as a nasal decongestant. PPA it was  
25     called.

1           Then phentermine, which is a diet drug.

2           Fenfluramine, another diet drug.

3           Paramethoxymethamphetamine, which is a designer  
4           drug, an amphetamine derivative that's very toxic.

5           Paramethoxyamphetamine, which is its metabolite  
6           and which is also very toxic.

7           Phenethylamine which is a product of  
8           putrefaction. We often see that so we include it as a  
9           standard in our method.

10          Another one called mephentermine and then  
11          hydroxyamphetamine which is a metabolite of amphetamine  
12          and then phendimetrazine and phenmetrazine, which are two  
13          of the older diet drugs.

14          **Q     In Michael's case what was detected in his blood?**

15          A     The test identified pseudoephedrine and  
16          phenylpropanolamine and the metabolite of pseudoephedrine.

17          **Q     But they are two different drugs?**

18          A     They are two different drugs, but one is derived  
19          from the other by the metabolic process in the liver.

20          **Q     So you identified pseudoephedrine?**

21          A     Yes, we did.

22          **Q     And then the other drug was phenylpropanolamine?**

23          A     We can call it PPA if you like.

24                 You'll get a copy of these documents so the  
25                 spelling of everything will be included.

1 Q You said PPA was taken off the market. Why?

2 A There was an excessive number of adverse events  
3 associated with the use of that medication.

4 Q Such as what?

5 A It's a common cold medication. I don't recall  
6 specifically, but we know that it raises blood pressure.

7 To the best of my recollection, this occurred  
8 about ten years ago, and there were strokes that were  
9 occurring and there may have also been some cardiac  
10 arrhythmias.

11 It wouldn't surprise me, but definitely it raises  
12 blood pressure.

13 Q And when it was on the market what kind of form  
14 would the drug take?

15 A There were a number of usually combination  
16 products. There were a combination of a decongestant,  
17 that's the PPA, and an antihistamine, usually  
18 chlorpheniramine and sometimes there would be Tylenol or  
19 aspirin included with it.

20 Q The presence of pseudoephedrine would do what to  
21 the body? What are the properties of that drug?

22 A Well, the reason --

23 MR. PELTZ: Let me just object to the form and  
24 predicate in that you're not specifying whether the  
25 person took it or if you're referring to it as a

1 metabolite.

2 THE WITNESS: PPA is used as a decongestant.  
3 When it was present in the cold medications it was  
4 used to shrink the mucous membranes by constricting  
5 the blood vessels in those membranes.

6 BY MR. HASTY:

7 Q Are you familiar with something called Claritin  
8 or Claritin-D?

9 A Yes, I am.

10 Q Does Claritin-D have pseudoephedrine in it?

11 A I believe it does. The D would be the  
12 decongestant portion.

13 Claritin is the antihistamine.

14 Q What level of phenylpropanolamine was in his  
15 blood?

16 A Enough that we could clearly identify it, but we  
17 didn't attempt to quantify it.

18 Q Could the identification part of the  
19 quantification be done presently?

20 A Assuming that we have a sufficient sample it  
21 could be done.

22 We don't do it in our laboratory. We would have  
23 to send it out to a reference laboratory. We would send  
24 it to a lab called NMS Labs.

25 Q Where are they located?

1 wood alcohol, which is very toxic.

2 Q The next category is barbiturates.

3 A Yes.

4 Q What does that mean?

5 A That includes things like phenobarbital and  
6 butalbital, which are pretty much the only ones that we  
7 currently see.

8 It used to include a lot more like secobarbital  
9 and pentobarbital, but we don't see that much anymore.

10 Q Another category is opiates. What is meant by  
11 opiates?

12 A Opiates are things that are derived from opium,  
13 like morphine, codeine and some of the semisynthetics like  
14 hydrocodone and hydromorphone.

15 Also with that test if there were a high enough  
16 concentration we would detect Oxycodone.

17 Q Another category is benzodiazepines. What are  
18 those?

19 A That's a class of drugs including things like  
20 Valium and Xanax. They're sedative, hypnotic and  
21 anxiolytic drugs.

22 Some of them at least are drugs of abuse so we  
23 include that in our routine screen.

24 Q Going back to the phenylpropanolamine for a  
25 moment you mentioned that was detected.

1                   Is that ever used as a diet drug or in connection  
2                   with diet drugs sold?

3                   MR. PELTZ: Object to the form and predicate.

4                   THE WITNESS: It may have been. Both  
5                   pseudoephedrine and phenylpropanolamine are in the  
6                   class of compounds called ephedra alkaloids and there  
7                   are others like ephedrine and those were definitely  
8                   marketed as diet drugs.

9                   I believe they were taken off the market back  
10                  about six or seven years ago, something like that by  
11                  the FDA.

12                 BY MR. HASTY:

13                 Q     If those drugs were taken off the market six or  
14                 seven years ago do you have any way of figuring out why it  
15                 would be present in this young man's blood when he died in  
16                 2009?

17                 A     Well, what was taken off the market was the,  
18                 quote, nutritional supplements which were generally  
19                 unregulated as far as the amount of drug and that kind of  
20                 thing that they might contain.

21                 They might be assay, but they were not as tightly  
22                 regulated as pharmaceuticals.

23                 Now, ephedrine and pseudoephedrine are still on  
24                 the market as medications. Pseudoephedrine is  
25                 nonprescription.



1           Ephedrine is used to support blood pressure  
2           during like spinal anesthesia, things like that and so it  
3           is still used as a medication, but the unregulated  
4           product, the crude extract of the plant ephedra is not  
5           used in this country presently.

6           **Q     Was it in 2009?**

7           A     It was, yes. I'm pretty sure it was about five  
8           or six years ago that it was taken off the market.

9           **Q     Okay.**

10          A     It may have been even longer than that, but it  
11          was in the 2000's and my recollection is it was around the  
12          middle of the decade.

13          **Q     Were you ever given any history as to why or how**  
14          **Michael Adelman got pseudoephedrine or phenylpropanolamine**  
15          **in his system?**

16          A     I was never given any information about that, but  
17          typically it would be by taking a decongestant, generally  
18          an over-the-counter decongestant which would contain  
19          pseudoephedrine, and then the phenylpropanolamine would be  
20          a metabolic product produced in the body from the  
21          pseudoephedrine.

22          **Q     But those are two separate drugs I thought.**

23          A     They are, yes, but one can be produced from the  
24          other in the body and that's the most likely explanation  
25          for these findings.

1 Exhibit No. 3 for Identification.")

2 BY MR. HASTY:

3 Q Where it says blood GT, is that gray top?

4 A That would be gray top, yes.

5 Q In the document known as three, the first sheet  
6 there are some things that say not tested.

7 Do you see that?

8 A Yes.

9 Q How do you pronounce this?

10 A Methamphetamine.

11 Q Not tested?

12 A Correct.

13 Q So there was no effort to see if Michael was  
14 taking meth?

15 A Not with that test, but the subsequent test ruled  
16 that out.

17 Q The next one was amphetamine. That was not  
18 tested?

19 A Correct.

20 Q And then cannabinoids would be what? Marijuana?

21 A Marijuana.

22 Q That was not tested?

23 A Correct.

24 Q The decision to not test or test was made by  
25 whom?

1           A     That's our routine panel. We had those other  
2 tests available, but we didn't do them routinely unless  
3 there was a specific request.

4           MR. HASTY: The next batch of documents is what's  
5 called volatiles by Head Space GC.

6           We'll mark that as four composite.

7           (The documents were marked "Defendant's Composite  
8 Exhibit No. 4 for Identification.")

9 BY MR. HASTY:

10          Q     I count three pages, but one page has a front and  
11 back to it.

12          A     I'm missing something here. The one I'm missing  
13 is the ELISA data so let me check. I found it. It was  
14 stuck together.

15          Q     We're okay?

16          A     Yes. I need to add something to my testimony  
17 here.

18                A non-routine test that we don't usually do here  
19 for Fentanyl, which is a very potent narcotic that is  
20 often requested by the Collier County Medical Examiner,  
21 that test was done.

22                It doesn't appear on the report, but it was done  
23 and it was negative.

24          Q     Okay.

25          MR. PELTZ: Is that in one of those sheets you