

Adelman v.
Boy Scouts

Andrew Schmidt
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<p>1 said, you know, "Show me where they are, because we 2 may be able to get out there in ATV's and get them," 3 and I said, "Well, here's where they are," and he 4 looked and -- I don't know. He just called the 5 coordinates and kind of dropped that and went on to 6 give the coordinates. 7 Q. Do you know if the reason they dropped it 8 was that they got further information and found out 9 that Michael's condition was more serious than they 10 thought initially? 11 MR. HASTY: Objection to form. 12 A. I have no idea. 13 Q. Did you see any ATV's while you were on the 14 premises anyway? 15 A. No. 16 Q. Okay. What happened after -- while you're 17 waiting in the lounge area? What's the next event 18 that occurred? 19 A. At some point, they -- the helicopters 20 started coming back. There were a couple of them; 21 two or three. I didn't really know what was going 22 on. 23 Q. So you remember seeing at least two or 24 three helicopters? 25 A. Yes.</p>	<p>1 he -- how was he when you saw him? 2 A. I seem to recall that when they took him 3 out of the helicopter, they put him on to a stretcher 4 and then moved him over to the EMS vehicle. 5 Q. So he was still on the stretcher when you 6 saw him? 7 A. Yes. 8 Q. Did he have scratches all over his body? 9 A. They had me -- from a distance -- really, 10 the fire service didn't even want the sheriff and 11 park people out in the immediate flight area, so 12 everything was from a distance; quite a distance. 13 Q. Did you have any further discussions with 14 any of those personnel at all? 15 A. Not until -- you know, someone asked me 16 questions. I don't know who and from which 17 department they were from. That was after Howard 18 came back. 19 Q. Okay. Do you remember what the questions 20 were? 21 A. No. 22 Q. Was Mr. Crompton with you when those 23 questions were being asked, or were you being 24 questioned separately? 25 A. I don't remember exactly.</p>
<p>Page 218</p> <p>1 Q. Were they all Park Service helicopters, or 2 do you know whether one or more might have belonged 3 to the Collier County Sheriff's Department? 4 A. I don't remember whose was whose. I know 5 there was one that was like -- said something on the 6 side; whatever, Med Fly or something like that. 7 I don't know what the name -- it was a 8 medical-type, and at least one of the others was the 9 fire service, the Park Service. I don't remember who 10 it belonged. The third one, I don't know. I don't 11 remember. 12 Q. Okay. What's the next thing you recall 13 occurring? 14 A. I'm not sure the order of events. At some 15 point, you know, I saw them take Michael out; put him 16 in the EMS unit, and then I think they called me back 17 into the room or something, and told me he didn't 18 make it and that they were on their way back out to 19 get Howard, and that he was okay; they just couldn't 20 get him in the helicopter. They had to make a 21 separate flight. 22 Q. Had they declared Michael dead, then, by 23 the time you saw him? 24 A. Well, their words were he didn't make it. 25 Q. Was he in some type of like body bag or was</p>	<p>Page 220</p> <p>1 Q. Okay. 2 A. I know we were together part of the time, 3 and I know I went out to check on the boys a couple 4 of times, so, you know, I'm not sure how it all fell 5 out there. 6 Q. Were the people asking questions taking 7 notes? 8 A. I don't know if they were not. 9 Q. Was anyone recording the conversations in 10 any manner you could tell? 11 A. No, no. Not to my -- no. I didn't see 12 anything. 13 Q. How long were you there when -- during this 14 time period when they were questioning you and 15 Howard? 16 A. I don't really know how much time passed. 17 I know it was dark when we left there. I don't 18 really remember. 19 Q. Do you remember what time it got dark that 20 day? 21 A. No. 22 Q. Did you have any conversations with anyone 23 that evening after you left? 24 A. I phoned my son and told him that we were 25 going to be late, and briefly what happened, and</p>

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1 that -- you know, not to be concerned about what time
2 I got home.
3 Q. Did you have any subsequent conversations
4 with Michael's parents?
5 A. No.
6 Q. I mean, never?
7 A. Oh, that night?
8 Q. No. I'm talking about -- okay. Well, let
9 me ask you, first of all, that night, did you have
10 any conversation with Michael's parents?
11 A. No.
12 Q. Do you know who it was who advised them
13 that their son had died?
14 A. They told us that they were going to call
15 the Broward Sheriff's Office and have someone go out
16 there, rather than phone.
17 Q. Okay. When was the first occasion that you
18 had to speak to either of Michael's parents?
19 A. I really don't remember, and it was -- it
20 was to Judith. I never spoke to Howard.
21 I don't know when it was.
22 Q. Do you remember the circumstances?
23 A. No.
24 Q. Did you go to Michael's funeral?
25 A. Yes.

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1 Q. Did you talk to them there?
2 A. Yes.
3 Q. What did you say?
4 A. Gave them my condolences.
5 Q. What did they say?
6 A. They said, "We know that you did all you
7 could do."
8 Q. At that point in time -- the funeral was
9 several days after the event, after he had died?
10 A. Yes.
11 Q. Had you ever discussed with them when they
12 had that -- when they had this conversation with you
13 what you had seen and what occurred?
14 A. No. This wasn't the time or the place for
15 that. It was a line and, you know, you just went
16 through and spoke to them briefly.
17 Q. Did you ever speak to them after the
18 funeral, either of them?
19 A. I went out to their house.
20 Q. Uh-huh.
21 A. After the funeral.
22 Q. Is that when they were sitting Shiva?
23 A. Yes.
24 Q. Did you speak to them at that time?
25 A. Not to Howard. Briefly to Judith.

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1 Q. And what did you say to her?
2 A. I don't recall.
3 Q. Do you remember what she said to you?
4 A. No.
5 Q. Did you ever speak to either Howard or
6 Judith again?
7 A. I'd seen Judith on a couple of occasions
8 since then.
9 Q. Okay. And when were those occasions?
10 A. Well, I know she came to a couple of troop
11 events, because we have this annual spaghetti dinner
12 and auction. She was at that, and --
13 Q. When was that?
14 A. I believe it was in November.
15 Q. Of 2009?
16 A. Yes. October or November; somewhere around
17 there.
18 Q. Okay. And what was your discussion with
19 her during that time?
20 A. Just, you know, briefly. It was -- those
21 things are kind of really busy and -- I don't
22 remember the conversation, actually. Just brief.
23 Q. You don't remember what anyone said, either
24 way?
25 A. No. Just -- you know, little niceties;

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1 whatever. Short.
2 Q. Did you ever speak to her again or -- did
3 you ever speak to her other than at the annual
4 spaghetti dinner and --
5 A. I saw her at Ira Abrams' Eagle Code of
6 Honor. Her and the daughter -- I don't recall her
7 name at the moment -- came to that.
8 Q. Okay. Did you speak to them at that time?
9 A. I don't remember.
10 I remember seeing them, but I was a part of
11 the ceremony and those are kind of hectic time, so I
12 don't recall --
13 Q. Okay.
14 A. -- if we had a conversation or we didn't.
15 Q. Were there any other occasions that you
16 have either run into or spoken to Judith other than
17 what you've discussed so far?
18 A. I saw her at the Council banquet that was,
19 I guess, the following April.
20 Q. Okay.
21 A. But we didn't speak there.
22 Q. Any other occasions?
23 A. Not that come to mind.
24 Q. Were you involved in any of the discussions
25 with either the Boy Scouts of America, the South

1 Florida Council or the troop regarding whether
2 Michael should receive his Eagle Award or not?
3 A. Yes.
4 Q. Okay. Who did you have discussions with?
5 A. Well, we first discussed it at the
6 committee meeting, troop level.
7 Q. And who was involved in that discussion?
8 A. We have to get the minutes of the meeting
9 to see who was present.
10 Q. There were meeting minutes of every
11 meeting?
12 A. Sure.
13 Q. Okay. And would these be the same place --
14 at the church, in the same closet?
15 A. No.
16 Q. Where would these be?
17 A. Somebody's computer.
18 Q. And whose computer?
19 A. Diane Pombier is the secretary. She would
20 have all the minutes.
21 Q. I'm sorry. What's her name?
22 A. Diane Pombier. P-O-M-B-I-E-R.
23 Q. How long has she been the troop secretary?
24 A. A long time. As long as I've been there.
25 Q. Does she regularly print out the minutes

1 opinions were expressed and by whom on the subject?
2 A. I don't -- the discussion was for more than
3 one meeting, so -- there were opinions on both sides.
4 Q. How many meetings was the issue of Michael
5 receiving the Eagle Award discussed?
6 A. Two or three, if I recall correctly.
7 Q. And would the troop minutes reflect which
8 meetings this was discussed?
9 A. Yes. Well, they would account for the
10 discussion.
11 Q. You said there were opinions on both sides.
12 Who were the people that were against him receiving
13 the Eagle Award?
14 MR. HASTY: I'm going to object to the
15 form.
16 A. Other than myself, I don't know. I can't
17 speak for them.
18 Q. You don't remember anyone else who would
19 have expressed that opinion other than --
20 A. Oh, there were. I just don't recall who
21 and how they presented themselves.
22 Q. Who were the people who expressed an
23 opinion in favor of Michael receiving his Eagle?
24 A. Linda Vedstedt was for.
25 Q. Uh-huh.

1 and circulate them?
2 A. Yes. She'll circulate them. She'll
3 typically bring some copies to the committee meeting,
4 but she sends them.
5 Q. Are copies maintained by anyone other than
6 her for the troop?
7 A. No.
8 Q. So the troop doesn't keep their own
9 official set of minutes?
10 A. Well, she's charged with that.
11 Q. Okay. Do you -- as we sit here today, what
12 recollection do you have as to who was present at
13 that meeting?
14 A. I know Linda Vedstedt was there. I know
15 Diane Pombier was there. I was there.
16 I know people -- other people that should
17 have been there, but I can't say with certainty that
18 they were there without looking at the minutes.
19 Q. Okay. And was there any -- would the
20 meeting -- strike that.
21 Would the minutes reflect what the
22 respective positions were of the different people
23 that were there concerning the issue?
24 A. No.
25 Q. Do you have any recollection as to what

1 A. So those are the only two people I can say
2 with certainty.
3 Q. Okay. Was Linda Vedstedt at that time the
4 chartered organization representative?
5 A. Yes.
6 Q. Did you have any discussions with anyone at
7 the South Florida Council level as to whether Michael
8 should be awarded the Eagle?
9 A. Yes.
10 Q. Who did you speak to?
11 A. Jeff Hunt and Mr. Levinson. I can't recall
12 his first name.
13 Q. Okay. And Mr. Hunt was in favor of Michael
14 receiving the Eagle Award?
15 A. Yes.
16 Q. How about Mr. Levinson?
17 A. Yes.
18 Q. And you expressed the opinion to them that
19 you didn't think he should receive it?
20 A. Yes.
21 Q. Is there anyone else you spoke to from the
22 South Florida Council about this subject?
23 A. Not that I recall.
24 Q. Did you speak to anyone for the Boy Scouts
25 of America's national office on this subject?

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1 A. No.
2 Q. Do you know whether the South Florida
3 Council ever performed any type of investigation into
4 this hike and Michael's death?
5 A. Not to my knowledge.
6 Q. Do you know whether the Boy Scouts of
7 America ever performed any type of investigation into
8 this hike or Michael's death?
9 A. Not to my knowledge.
10 MR. HASTY: Let me object. They got sued,
11 so that's invasive of --
12 MR. PELTZ: I'm talking about apart from
13 this lawsuit.
14 MR. HASTY: Well, you did not make that
15 clear in your question, so --
16 Q. Apart from this lawsuit -- strike that.
17 Before this lawsuit, do you know whether
18 the Boy Scouts of America made any type of
19 investigation into this hike or Michael's death?
20 A. Not to my knowledge.
21 Q. Did you go to the 2010 jamboree?
22 A. No, I did not.
23 Q. Do you know whether anyone from the
24 Troop 111 did?
25 A. Well, my son did.

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1 Q. Do you know if any of the leaders went?
2 A. 2010?
3 Q. Yes, sir.
4 A. No.
5 Q. Did you go to the 2005 jamboree?
6 A. No.
7 Q. Do you know whether any of the leaders did
8 from Troop 111?
9 A. No.
10 THE VIDEOGRAPHER: We've got five minutes.
11 Q. Other than on the day of Michael's death,
12 did you have any other discussions or interviews with
13 anyone from either the park rangers or the Park
14 Service or Department of Interior?
15 A. After the incident?
16 Q. Yes, sir. On any other day.
17 A. I called -- I called the investigative
18 officer for Collier County on one occasion looking
19 for Michael's belongings, and I believe I may have
20 called the Park Service also for whatever belongings
21 they might have had of his.
22 Q. Did you have any other discussions with
23 them other than trying to track down the belongings?
24 A. No.
25 Q. Did you have any other discussions with the

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1 Collier County Sheriff's Department, whether a
2 discussion or an interview, with regard to the events
3 that occurred during the hike or their investigation?
4 A. No.
5 MR. HASTY: Objection to form.
6 Q. How about the Collier County Medical
7 Examiner's Office, any discussions with them at all?
8 A. No.
9 Q. Did you ever talk to Khris Leon about the
10 events that day?
11 A. No, not individually.
12 Q. Well, were you part of a group that spoke
13 to him?
14 A. We -- he was part of the group that we
15 spoke to.
16 Q. Okay. Who was in the group?
17 A. Whatever Scouts attended the week's -- next
18 week's meeting.
19 Q. Okay. And what did you discuss during that
20 time?
21 A. We just wanted to reassure the Scouts that
22 we did everything that we could do, and that it was
23 an unfortunate and tragic event, but that they should
24 continue in the Scouting program, and we were going
25 to continue in the Scouting program.

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1 We asked them if they had any questions or
2 concerns.
3 Q. When you first started as Scoutmaster in
4 approximately 2003, how many Scouts were in
5 Troop 111?
6 A. I think it was approximately 40.
7 Q. Okay. And how many Scouts were there on
8 May 8th of 2009?
9 A. I would say between 20 and 25.
10 Q. Okay. So the -- you had lost about
11 50 percent of the Scouts in that six-year period?
12 MR. HASTY: Objection to form.
13 Q. Let me put it this way: The size of the --
14 the number of Scouts in Troop 111 had decreased by
15 almost 50 percent between your first year as
16 Scoutmaster and your last year?
17 MR. HASTY: Same objection.
18 A. Yes.
19 Q. Did you ever reach any conclusions as to
20 why the number of Scouts had decreased almost
21 50 percent during that time period?
22 A. I speculated that it was because the
23 schools no longer allowed us to get the Cub level
24 Scouts recruited, and that's where we get most of our
25 cross-overs, so as -- I could see as the pack was

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1 declining, so was the troop going to decline; plus a
2 couple of other packs that would feed us dissolved.
3 Q. Did any of the parents of Scouts or the
4 Scouts express dissatisfaction with the way that you
5 were running Troop 111 --
6 MR. HASTY: Objection to the form.
7 Q. -- when you were Scoutmaster?
8 MR. HASTY: Same objection.
9 A. No.
10 Q. I'm sorry?
11 A. No.
12 Q. Okay.
13 THE VIDEOGRAPHER: I need to change the
14 tape.
15 We're off the record at 5:06.
16 [Short recess taken.]
17 THE VIDEOGRAPHER: We're back on the record
18 at 5:23.
19 Q. Previously, we had talked about insurance
20 coverage through your homeowner's policy.
21 Do you have insurance coverage for this
22 incident through the Boy Scouts of America?
23 A. I have no idea. Do I have insurance
24 coverage?
25 Q. Are you covered for this incident by the

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1 Boy Scouts of America?
2 A. Yes.
3 Q. Have the -- do you know what the limits of
4 the coverage are provided by the Boy Scouts of
5 America for you?
6 A. No, I've not been told or seen anything.
7 Q. Has anyone indicated that there's been any
8 reservation of rights or denial of coverage for you
9 under the coverage afforded by the Boy Scouts of
10 America?
11 A. No.
12 Can I ask you -- on the question before we
13 ended the last tape, I just wanted to clarify or have
14 you clarify.
15 You had asked about if anyone had ever said
16 about my general running of the troop.
17 Q. Oh, okay.
18 A. I mean, there were -- there's been specific
19 incidents, but I didn't really -- I just thought
20 about -- I don't know what you mean by "general
21 running of the troop".
22 Q. What specific incidents were there?
23 A. Like in -- I mean, there's always cases of
24 people questioning policies or rank advancements or
25 just incidents. I don't know if I can recall them

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1 over the years.
2 There were a couple of incidents that
3 came -- more seriously dealt with and went to, like,
4 committee or, you know, someone wrote something up.
5 Either I wrote it up or they wrote it up.
6 Q. Well, since you've raised this issue, why
7 don't you tell me about the specifics?
8 MR. HASTY: Well, you asked the question.
9 He didn't raise the issue. I object to the
10 characterization.
11 Do we have a timeframe? Was it before this
12 or after this?
13 THE WITNESS: Before.
14 Q. Okay. You've mentioned there were some
15 specific incidents or complaints about the way you
16 ran the troop. What specific incidents or complaints
17 were there?
18 A. In no specific order, like this is where
19 the -- you know, I don't know what you meant by the
20 term -- there was one, like, say, regarding a Scout's
21 rank advancement, whether I was signing off certain
22 requirements, whether they were met or they weren't
23 met.
24 Q. Who was the Scout?
25 A. Scott Hazel.

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1 Q. Okay. And when did this occur?
2 A. I can't recall.
3 Q. I mean, do you remember generally?
4 A. No, I can't. It's hard in a five, six-year
5 stint to remember.
6 Q. Did this have to do with Eagle Scout or
7 other ranks?
8 A. He was advancing to the next -- to Eagle
9 Scout, yes.
10 Q. And so the complaint was that you were not
11 signing off on his requirements?
12 A. Yes.
13 Q. Okay. And did he remain with the troop?
14 A. No. He ultimately transferred to a crew.
15 Q. What's a crew?
16 A. It's a --
17 Q. Venture?
18 A. Co-ed Venture.
19 Q. Okay. Venture Scout.
20 Okay. And did he continue toward his Eagle
21 after he transferred to Venture Scouting?
22 A. Yes, he did.
23 Q. You can still get Eagle Scout as a Venture
24 Scout?
25 A. Yes.

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1 Q. Okay. Did he get his Eagle Scout?
2 A. I think he did.
3 Q. Okay. Did you ever contact him or his
4 parents after he indicated he was going to transfer
5 to discuss with them your objection to him
6 transferring and getting his Eagle Scout with another
7 outfit, Venture?
8 MR. SUMMERS: Objection to form.
9 MR. HASTY: Objection. He didn't say he
10 objected to the transfer.
11 MR. PELTZ: I wasn't -- I don't care. That
12 was my question. My question is what it is.
13 MR. HASTY: Well, objection to the form.
14 A. All of our discussions about the issue took
15 place before the decision to transfer took place.
16 Q. But did his parents or he advise you that
17 he was contemplating transferring because of their
18 concerns about the fairness of how he was being
19 treated as he advanced toward Eagle Scout?
20 A. No, not to my knowledge.
21 Q. Did you ever indicate to either Scott or
22 his parents that you would contact the South Florida
23 Council and try and prevent him from getting his
24 Eagle Scout if he transferred to another troop or
25 Venture?

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1 A. No, but by him transferring, he would have
2 to meet those requirements over there.
3 Q. Okay. But you never told either Scott or
4 his family that you would try and block him from
5 receiving his Eagle Scout --
6 A. Oh --
7 Q. -- if he transferred to another troop or
8 Venture Crew?
9 A. No, no.
10 Q. What was the -- what other incidents were
11 there?
12 A. There was another one regarding a
13 disciplinary issue with a Scout on a hike that was
14 conducted in Collier Seminole State Park.
15 Q. What's the Scout's name?
16 A. Keith Burns.
17 Q. Okay. And what was the issue?
18 A. He was on a hike with a number of other
19 boys. I don't remember the exact number.
20 Howard Adelman was actually the other adult
21 leader on the hike with me.
22 Q. Uh-huh.
23 A. We do the same procedure. The boys can
24 take a map and they can choose to lead if they want
25 to.

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1 Simple rules. Stay within earshot or
2 eyesight of us and have another buddy with you, and
3 you can lead the hike.
4 Q. How long was the hike?
5 A. I think that trail is seven-plus miles.
6 It's basically a loop; egg-kind of an oval.
7 Q. And so what was the issue there?
8 A. The issue was that he and two others went
9 ahead and then, at some point, they got a little
10 further ahead and then Keith proceeded further ahead;
11 separated himself from those two Scouts, and
12 ultimately -- well, we caught up to the other two and
13 realized -- you know, of course, realized he wasn't
14 with them.
15 We asked them where Keith was. He went
16 ahead, so we just continued on the trail.
17 We went to the end. He wasn't there, so I
18 believe I waited at the trailhead. Howard took the
19 boys back to the campsite; came back, and then we
20 split up and went opposite directions on the trail
21 and went around, and by the time we did that, he
22 had -- I don't recall if he got out or one of us came
23 upon him, but what he ultimately had done was he took
24 an offshoot off the trail that goes to a primitive
25 campsite, so by the time he went there and turned

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1 around and came back to the trail, he got behind us
2 so, of course, by the time, you know, we went
3 off -- but then he went back the other direction,
4 which was the longer way, so we kept missing each
5 other for a time.
6 Q. Okay. And was there any --
7 A. So ultimately the discipline was that he
8 separated from the group.
9 I didn't allow him to participate in the
10 rest of the activities on the camp-out. He didn't
11 like that idea.
12 Told him his other choice was to call his
13 dad and have him come get him and he could go home.
14 He chose that. He called his dad.
15 I talked on the phone with his dad, and his
16 dad told him he can stay with me; you know, and he
17 knew what the consequences of it were, and then we
18 went -- on Sunday -- that was Saturday.
19 On Sunday, when we got back, there was some
20 more discussion about it in our shed, where we return
21 all our gear and stuff, so I went ahead and explained
22 some more to him.
23 He left with -- the Scouts all left. Brad
24 and -- my son and I, he was on the camp-out also, so
25 we finished closing up the shed and whatnot.

1 Well, Mr. Burns came back without Keith;
2 tried to have another discussion about it.
3 I was tired. It was a long time. We had
4 exchange of words, and he was upset that I was upset,
5 and I was upset that I was repeating myself for the
6 third time, and he was relying on his son's word that
7 was not true, untruthful, so that upset me; that he
8 was listening to lies, basically, so we left.
9 He ultimately went to another assistant
10 Scoutmaster who lived near him; explained it all, and
11 I could go on and on and on, and it ended up being
12 diffused.
13 I apologized. He apologized. They stayed
14 with the troop and -- family squabble, basically.
15 Q. Okay. Anything else? Any other incidents?
16 A. There was one early on, when I took on
17 Scoutmaster, so it must have been like 2003; 2004, at
18 the latest.
19 We were going to take -- we were going down
20 to Everglades National Park. We were going to
21 Flamingo.
22 We were taking a backpacking trip out to a
23 primitive campsite. I believe it was nine miles each
24 direction.
25 The other adult leader was Renee Dewitt,

1 the three that made it to some letter writing or, you
2 know, dispute about specific policies.
3 Q. Were there any -- either these or any other
4 incidents where people actually sent a letter or
5 filed something in writing with either the church as,
6 the charter organization, or the South Florida
7 Council regarding you?
8 MR. SCHEVIS: Form.
9 A. Not to my knowledge.
10 Q. So were all of these complaints dealt with,
11 you said, on the committee basis?
12 A. Actually, you know, the Martin one, I don't
13 know that that even went to the committee. I would
14 have to look at the minutes. I don't think it did.
15 I think that was just a personal opinion about how
16 something should be run.
17 For sure, the Hazel one went to committee.
18 They upheld my position.
19 The Burns, I think I mentioned it at the
20 committee, without going through every detail of it.
21 I think we just agreed that it was just, you know,
22 misunderstanding and --
23 Q. Would the committee minutes reflect any
24 other complaints in reference to the manner in which
25 the troop was being run?

1 and I think there was one more leader on the trail,
2 but I'm not positive, and then there was a couple
3 more leaders that stayed in the campsite at Flamingo.
4 Some female leaders stayed at the campsite.
5 In preparation for that, one of the Scouts'
6 dads' didn't feel that all of the Scouts were
7 prepared for that --
8 Q. Uh-huh?
9 A. -- and we disagreed on that, and his sons
10 didn't go.
11 All those that did go made it back, and I
12 think they ultimately -- his son quit the troop, and
13 I don't believe he joined another troop.
14 Q. Okay. I'm sorry. What was his name?
15 A. That was -- the Scout's name was Erick
16 Martin.
17 Q. Okay.
18 A. The dad was Fred Martin, I believe.
19 Q. Fred and Jenny, right?
20 A. What's the last --
21 Q. Fred and Jenny?
22 A. Jenny. That sounds -- yes. Jenny.
23 Q. Okay. Any other specific incidents?
24 A. Well, there's always somebody that doesn't
25 like something you're doing, but I think those were

1 A. There would. If there's something going on
2 that's, you know, meant to be told, I have no problem
3 in telling.
4 Q. And would those be the troop minutes or
5 would those be the committee minutes? What do we
6 call those?
7 A. That is. It's the troop committee minutes.
8 Q. Is that the same thing as the troop minutes
9 that Diana keeps?
10 A. Yes. Diane. Yes.
11 Q. Okay. It's one and the same thing?
12 A. Yes.
13 Q. Okay. You had previously indicated that
14 when you had made the recommendation that the Scouts
15 bring three to four quarts of water for this
16 particular hike, as reflected in the e-mail that was
17 marked as an exhibit, that you based that on your
18 experience; particularly the April hike.
19 A. Yes.
20 Q. Are there any -- at the time, were there
21 any specific guidelines that you're aware of that
22 were contained in any Boy Scout of America books,
23 manuals, training modules, that provided any specific
24 guidance as to how much water would be appropriate
25 for a 10 or 20-mile hike?

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1 A. No. I've searched for such formulas and I
2 have not yet found any.
3 Q. Basically, do the guidelines that are
4 contained -- as a matter of fact, do you have the
5 hiking merit badge book?
6 A. I think it is here. Yes.
7 Q. If you would go to -- okay. If you go to
8 Page 37, for example --
9 A. Uh-huh.
10 Q. -- where there's a reference to food and
11 water.
12 A. Yes.
13 Q. And they talk about "Water is even more
14 important to a hiker than food. Fill at least one
15 water bottle before you start out and sip it often.
16 "In hot weather, you may need to carry
17 several water containers?"
18 A. Yes.
19 Q. Are you aware of anything that is any more
20 specific in any of the manuals or guidelines or the
21 policy statements that are prepared by the Boy Scouts
22 of America?
23 A. No, I'm not.
24 Q. If you go to Page 39, where it talks about
25 10-mile hikes --

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1 A. Yes.
2 Q. -- and it says, "Drink water frequently to
3 stay hydrated."
4 A. Uh-huh.
5 Q. Is there anything more specific that you're
6 aware of; any more specific guidance they give?
7 A. No.
8 Q. If you look at the next page, or the
9 next -- Page 41, they talk about the 20-mile hike.
10 A. Uh-huh.
11 Q. And says, "Be sure to plan for an adequate
12 water supply for the trail."
13 Is there anything more specific you're
14 aware of that the Boy Scouts provide in any of -- Boy
15 Scouts of America provide in their manuals or
16 statements or guides?
17 A. No, not that I'm aware of.
18 Q. You said you've looked?
19 A. I've looked. And when I said that, I meant
20 not only on Boy Scouts. I've looked even in the
21 hiking books that I have; that you typically have
22 some lists and things, but I've never seen yet some
23 kind of a chart or, you know, miles -- you know,
24 water -- gallons per mile or -- I haven't found a
25 formula yet.

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1 Q. Would that be helpful?
2 MR. HASTY: Object to form.
3 A. I think it would be.
4 Q. Let me change the question. There's been
5 an objection.
6 Would that be helpful, as either a
7 Scoutmaster or merit badge counselor, in preparing
8 for a hike of this nature?
9 MR. HASTY: Object to the form.
10 A. Yes. I mean --
11 Q. Okay.
12 A. Eventually what you're left with is what --
13 we went by with our experience from similar hikes
14 or -- you know, but, yes, that would be helpful.
15 Q. Well, you hadn't really been on any similar
16 hikes of 20 miles in one day, had you?
17 MR. SUMMERS: Objection to form.
18 A. Well, no, but we've been in the area of
19 Shark Valley and then -- you know, I'm basically kind
20 of doubling the 10 into 20, is my guideline.
21 Q. But there's -- as I understand your prior
22 testimony, you had never been on another hike that
23 was 20 miles in one day?
24 A. That's correct.
25 MR. PELTZ: Let me show you something which

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1 we'll mark as Exhibit 16.
2 Do you guys need more of these?
3 [The document referred to was marked for
4 identification as Plaintiffs' Exhibit No. 16.]
5 Q. Exhibit 16 is a leaders' update for the
6 2010 Jamboree?
7 A. Okay.
8 Q. Do you get leaders' updates?
9 A. No, I do not.
10 Q. Do you know what leaders' updates are?
11 A. No, I do not.
12 MR. PELTZ: Okay.
13 MR. HASTY: Let me just interpose an
14 objection to use of the document, since it's after
15 Michael's death. Relevance and materiality.
16 Foundation, predicate.
17 Go ahead.
18 Q. Had you ever seen this document or any
19 other document from the Boy Scouts of America
20 conveying the same information as this document?
21 MR. SUMMERS: Objection to form.
22 A. No.
23 Q. The Exhibit 16 refers to the heat index
24 flag system that was used at the 2010 Jamboree.
25 Had you ever been provided any information

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1 concerning the heat index flag system or its
2 equivalent at the -- that was being used at the 2010
3 National Scout Jamboree?
4 MR. SUMMERS: Objection to form.
5 A. No.
6 Q. There's been some -- well, strike that.
7 Have you ever received any information
8 concerning the heat index flag system that was used
9 at the 2005 Boy Scout of America Jamboree?
10 MR. SUMMERS: Objection to form.
11 A. No.
12 Q. This document, the heat index for the flag
13 system contains very specific statements with regard
14 to the amount of water that should be used under
15 different circumstances, does it not?
16 A. Yes.
17 MR. PELTZ: Want one for you?
18 MR. HASTY: Yes, please.
19 MR. PELTZ: Sure.
20 Q. Are you familiar -- have you ever heard of
21 a similar flag system like this, either used by the
22 military or any other organization?
23 A. No.
24 Q. Okay. You see where it indicates for black
25 flag days, it says "Limit activity; increase your

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1 fluids to one quart per hour with frequent rest
2 breaks and stay in the shade?"
3 A. Yes, I do.
4 Q. And if you look at the second page, there's
5 a little heat index badge that they gave to the
6 Scouts, and that would be when the heat index exceeds
7 90 degrees, that would be a black flag?
8 MR. SUMMERS: Objection to form.
9 Q. You see that?
10 A. Yes, I see that.
11 Q. And if it's between 88 and 90, it would be
12 a red flag?
13 MR. SUMMERS: Object to the form.
14 A. Yes. I mean, you're telling me the colors,
15 so I assume -- in that order, yes.
16 Q. And on red flag days, it says, "Limit
17 strenuous activity and increase your fluids to three
18 quarters to one quart per hour."
19 A. Uh-huh.
20 Q. Is that correct?
21 MR. SUMMERS: Object to the form.
22 A. I see that.
23 Q. Okay. And they define red flag days as
24 with a heat index of 88 to 90 degrees?
25 MR. SUMMERS: Objection to form.

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1 THE WITNESS: I see that.
2 Q. And the next flag, working backwards, would
3 be a yellow flag day, and that would be -- the heat
4 index would be 85 to 88?
5 MR. SUMMERS: Objection to form.
6 A. I see it.
7 Q. Okay. And on a yellow flag day, that would
8 be "Increase your fluids to one quart per hour."
9 MR. SUMMERS: Objection to form.
10 Q. Is that correct?
11 A. I see that.
12 Q. Okay. I'm not sure why yellow is one quart
13 per hour and red, which is a higher ranking, is
14 three-quarters of a quart to one quart, but whatever.
15 The green would be --
16 A. Well, green --
17 Q. Green would be the next level, and that
18 would be 82 to 85 on the heat index?
19 MR. SUMMERS: Objection to form.
20 Q. Is that accurate?
21 A. Okay. I see.
22 Q. And then the lowest, or least flag would be
23 white, which says, "Continue your normal activities
24 and drink half-a-quart of fluid per hour." Is that
25 accurate?

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1 MR. SUMMERS: Objection to form.
2 A. I see that.
3 Q. And on the accompanying badge that the
4 children -- or that the Scouts were given -- strike
5 that.
6 On the accompanying badge that the Scouts
7 were given, that would be with a heat index of
8 between 78 degrees and 82?
9 MR. SUMMERS: Objection to form.
10 A. Yes.
11 Q. Okay. Previously, you indicated that you
12 anticipated that this hike was going to take at least
13 nine hours, from 9:00 in the morning till 6:00 or
14 later.
15 Using even the white heat index, that would
16 have required the Scouts to drink at least a
17 half-a-quart of water per hour. Correct?
18 MR. SUMMERS: Council, you're wasting a lot
19 of time here, because you're using -- you're acting
20 like this is Fahrenheit temperature, and we all know
21 it's not, so you're wasting time.
22 May I have a standing --
23 MR. PELTZ: And I object to you coaching
24 witnesses.
25 MR. SUMMERS: May I have a standing

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1 objection?
2 He has no idea what this whole temperature
3 is. I can't coach him in here.
4 MR. PELTZ: Yes, you can, and I --
5 MR. SUMMERS: May I have --
6 MR. PELTZ: I really expect more from you.
7 MR. SUMMERS: May I have a standing
8 objection to this?
9 MR. PELTZ: You can have your standing
10 objection.
11 MR. SUMMERS: Okay.
12 MR. HASTY: I also join in that.
13 MR. PELTZ: Fine.
14 Q. Sir, if the conditions existing at the time
15 of your hike were consistent with what would be a
16 white flag day as defined by the 2010 Jamboree
17 system, would the minimum amount of water which the
18 Scouts should have brought with them be at least
19 four-and-a-half quarts of water?
20 MR. HASTY: Objection to form. Calls for
21 speculation. Foundation. Predicate.
22 A. According to this document?
23 Q. Yes, sir.
24 A. Yes.
25 Q. And if -- and the white flag is the lowest

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1 flag in the sequence. Correct?
2 A. Uh-huh.
3 Q. Okay. And if it -- if the conditions at
4 the time of this hike were consistent with being or
5 meeting the criteria for a black flag day, should the
6 Scouts have brought with them one quart per hour, or
7 a total of at least nine quarts of water?
8 MR. HASTY: Objection to form. Calls for
9 speculation. Foundation, predicate.
10 A. For the black flag?
11 Q. Yes, sir.
12 A. Yes.
13 Q. And if it was, say, a yellow flag day,
14 would that also have been nine quarts for the hike?
15 A. Yes.
16 Q. Now, if the Boy Scouts of America --
17 A. But let me just say that, you know, you're
18 reading the yellow flag. It says, "Strenuous
19 activity."
20 I don't describe a day hike as strenuous
21 activity.
22 Q. It says, "Limit strenuous activity".
23 A. Yes, I understand that.
24 Q. And then it says, "and increase your fluids
25 to" --

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1 A. Uh-huh.
2 Q. -- "one quart per hour."
3 A. Okay. I don't understand all of this.
4 This is not instruction to me. This is just a piece
5 of paper with a formula on it.
6 Q. Well, wouldn't it have been helpful to you
7 if the Boy Scouts of America had provided this type
8 of information to you with specific hydration levels
9 for planning hikes and camp-outs?
10 MR. HASTY: Objection to form.
11 A. Yes. It would be a good tool.
12 Q. And if the Boy Scouts of America had
13 conveyed either this form or the information
14 contained in this form to you, would you have used
15 this as a guideline in setting up troop activities
16 that involved camping and hiking?
17 MR. HASTY: Objection to form. Calls for
18 speculation.
19 A. Yes. It would be something else to
20 consider, yes.
21 Q. And would you -- and if you were going to
22 be hiking on a black flag day for at least 9 or
23 10 hours, would that have involved in bringing almost
24 three times as much water as the Scouts were
25 instructed to bring for this particular hike?

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1 MR. HASTY: Object to the form.
2 A. That's what this formula would indicate,
3 yes.
4 Q. You said that each of the Scouts had their
5 own knapsack?
6 A. Yes.
7 Q. And in addition to the water they brought,
8 did they bring their first-aid kit?
9 A. They were supposed to.
10 Q. And what other -- they brought food?
11 A. Yes.
12 Q. And what other materials did they bring?
13 Do you know?
14 A. No. I didn't go through their backpacks.
15 Q. Does the troop have its own troop
16 equipment?
17 A. Yes.
18 Q. And what are the categories of equipment
19 that the troop has?
20 A. Well, tents; what we call chuck boxes,
21 which is all their cooking gear.
22 Rope; first-aid kit. We have extra cooking
23 grills, pots and pans; that sort of thing.
24 We own a couple of canoes. The tools that
25 are commonly used, like ax, saw. We own a fire

1 extinguisher; some fishing gear.
2 We have flotation devices; other gear for
3 the campsite, like the flies, which are like tarps;
4 washtub-type gear.
5 Coolers; both water coolers and then the
6 food-type coolers. Then you have like the Dutch
7 oven-type stuff, with all that -- those kind of
8 things that go along with those.
9 Q. How much money does the troop raise
10 annually which it uses to buy equipment during the
11 time period that you were Scoutmaster?
12 MR. SUMMERS: Objection to form.
13 MR. HASTY: Let me just object on the basis
14 of relevancy and ability to pay, and interjecting
15 this in the lawsuit.
16 I don't understand --
17 THE VIDEOGRAPHER: Wait. Do you have a
18 mike, sir?
19 MR. HASTY: I thought I did.
20 Q. Go ahead, sir.
21 A. The troop raises -- their only fundraiser
22 is the spaghetti dinner that they do, and that
23 varies. Average, maybe \$8,000 a year --
24 Q. Okay.
25 A. -- but that covers all of our expenses.

1 It includes -- I've never been responsible for the
2 contents of the kit, but I've been told that it
3 includes a lot of things that are unnecessary.
4 Whatever that means, you know.
5 Q. Well, are ice packs used to treat
6 heat-related ailments, such as heat exhaustion and
7 heat stroke?
8 A. I've read where they can be used in the
9 treatment of heat stroke, not -- I have not read
10 where they can be used for heat exhaustion. Where
11 they're necessary to be used for heat exhaustion.
12 Q. Okay. And those are the type of ice packs
13 that you had in the troop first-aid kit?
14 A. Well, there's a number of reasons you can
15 use ice packs -- swollen ankles or, you know, any
16 kind of swelling situation.
17 Q. So they're all-purpose when you're outside,
18 outdoors?
19 A. Yes, that's my understanding.
20 Q. Okay. Did anyone have any ice packs in
21 their personal first-aid kits that were brought on
22 the hike?
23 A. I couldn't tell you.
24 Q. Did you have ice packs in your personal
25 first-aid kit?

1 Not just gear, but we can buy gear as needed.
2 Q. Approximately how much a year does the
3 troop spend on gear?
4 A. It's going to vary widely.
5 Tents -- if we buy all new tents, that's
6 over a thousand dollars. If we just need to buy some
7 new camp sets, it's a couple hundred dollars.
8 It's going to -- you know, you might -- I
9 would say it's at or under a thousand dollars a year
10 for the actual gear.
11 Q. Okay. That would be a good ballpark for an
12 annual basis?
13 A. Yes.
14 Q. Okay. Does the troop first-aid kit include
15 any type of thermometers?
16 A. I don't really know.
17 Q. Does the troop first-aid kit include any
18 type of ice packs?
19 A. I have seen ice packs in there.
20 Q. Did -- and you all did not bring the troop
21 first-aid kit on this hike?
22 A. No, we did not.
23 Q. What is the purpose of the ice packs in the
24 troop first-aid kit?
25 A. It's part of -- that kit was donated to us.

1 A. No, I did not.
2 Q. Do you know whether Mr. Crompton did?
3 A. I don't know.
4 Q. Do you suspect that, if he did, he would
5 have used them to help Michael?
6 MR. HASTY: Object to the form. Calls for
7 speculation.
8 A. I would -- I would -- I don't know. I
9 don't know.
10 Q. What Boy Scout books do you have in your in
11 your own -- excuse me. What Boy Scouts of America
12 books do you have in your own personal library that
13 relate to outdoor activities?
14 A. I have the handbook.
15 Q. Scoutmaster's?
16 A. Well, I have both the Scoutmaster's
17 handbook and the Boy Scouts handbook.
18 Q. Okay.
19 A. I have a copy of the Guide to Safe
20 Scouting. I have the -- an older edition of the
21 field book, and then I have -- I think that's all
22 that I have that are my personal books.
23 Q. Did you have access to the hiking merit
24 badge book?
25 A. Yes.

1 Q. The troop has the merit badge books?
2 A. Yes, they own all the merit badge books.
3 Q. Okay. Does the hiking merit badge book
4 warn to be alert for changes in the weather during
5 the course of a hike?
6 A. Yes.
7 Q. Does the hiking merit badge book advise to
8 turn back during the course of a hike if the weather
9 begins to change so that the continuation of the hike
10 becomes unsafe?
11 A. Yes.
12 Q. Does the hiking merit bike book advise that
13 the -- that hiking should be done either early in the
14 morning or in the evening and to avoid the hottest
15 part of the day?
16 A. Yes, it recommends that.
17 Q. Does the hiking merit badge book warn to
18 be -- that it's important to prepare for extreme
19 weather, hazards and emergencies?
20 A. Yes.
21 Q. Does the hiking merit badge book warn that
22 the danger of injuries becomes magnified the further
23 that the hike is conducted away from civilization?
24 A. The danger of injuries?
25 Q. Does the hiking merit badge book warn that

1 Q. Okay. You said you have your own copy of
2 the Guide to Safe Scouting?
3 A. Yes. It may not be the latest edition, but
4 I have a copy, and the troop owns the latest edition.
5 Q. Okay. And, actually, the full name of this
6 is "Guide to Safe Scouting for Unit Activities"?
7 A. Yes.
8 Q. So this is a guide for use at the troop
9 level?
10 A. Yes.
11 Q. Okay. If you would turn to Page 18.
12 A. Uh-huh.
13 Q. And first of all, is it your understanding
14 that, in conducting outdoor activities, that the
15 Guide to Safe Scouting sets forth the procedures and
16 guidelines and standards of the Boy Scouts of
17 America --
18 MR. HASTY: Object to form.
19 Q. -- for the performance of those activities?
20 A. Yes. Yes.
21 Q. Okay. And is it your understanding that
22 you are required to comply with the provisions of the
23 Guide to Safe Scouting for Unit Activities when
24 performing troop functions?
25 MR. HASTY: Objection to the form.

1 the dangers arising from a serious --
2 A. Oh, arising.
3 Q. -- injury are magnified the farther away
4 you are from emergency response?
5 A. Yes, it does.
6 Q. And as a result, is it important to plan
7 how to meet such responses; particularly when you're
8 going to be far away from an emergency response?
9 A. Yes.
10 MR. PELTZ: Let me mark as Exhibit 17,
11 excerpts from the Guide to Safe Scouting, and we
12 can -- if you need the whole guide, we can try to
13 find that.
14 Do you need these again? They're the same
15 ones from before.
16 MR. SUMMERS: From earlier today?
17 MR. PELTZ: No, no. From Dallas.
18 MR. SUMMERS: Oh, thank you.
19 MR. PELTZ: You guys need to have your own
20 copies of your own stuff.
21 MR. SUMMERS: I can't second-guess what
22 you're going to use.
23 MR. PELTZ: Yes. That's hard.
24 [The document referred to was marked for
25 identification as Plaintiffs' Exhibit No. 17.]

1 A. Yes.
2 Q. If you turn to Page 18, where it talks
3 about back country treks, and it states -- talks
4 about the supervisor, and it says, "This person
5 knowingly accepts responsibility for the well-being
6 and safety of the youth in his or her care."
7 MR. SUMMERS: Objection to relevance.
8 Q. You see that?
9 A. I see that.
10 Q. And do you understand that your obligation,
11 as the merit badge counselor who was conducting this
12 activity, was to accept responsibility for the
13 well-being and safety of the youth in your care
14 during the course of this activity?
15 MR. HASTY: Objection to form.
16 A. I understand the obligation, but you're
17 reading from overnight and beyond treks.
18 Q. Well, are you saying that there's a
19 different standard for day trek as far as a leader's
20 responsibility than for an overnight trek?
21 A. I'm just pointing out that you're applying
22 the overnight trek regulations to a day hike.
23 Q. Well, do you agree that, as the merit badge
24 instructor --
25 A. Uh-huh.

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1 Q. -- who was -- strike that.
2 As the merit badge instructor, were you the
3 adult who was supervising this activity?
4 A. I was one of the adults.
5 Q. And the other adult was Mr. Crompton, who
6 was the Scoutmaster?
7 A. Yes.
8 Q. And do you agree that as the adults who
9 were supervising this activity, that you knowingly
10 accepted responsibility for the well-being and safety
11 of the Scouts in your care, including Michael?
12 A. Yes.
13 Q. Do you further agree that it was your
14 obligations to -- as part of your duty to supervise,
15 to plan the activity to anticipate potential risks
16 that were associated with it?
17 A. Yes.
18 Q. Do you further agree that it was your
19 responsibility as part of this planning function to
20 anticipate the range of foreseeable weather
21 conditions and temperatures and to develop an
22 alternative itinerary in the event that some adverse
23 conditions developed?
24 A. Yes.
25 Q. And that would include excessive heat?

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1 MR. HASTY: Object to the form.
2 Q. Would that include excessive heat?
3 A. Yes.
4 Q. Do you agree that it was your
5 responsibility to be responsible for making good
6 decisions during the hike, estimating the
7 capabilities and stamina of the Scouts that were on
8 the activity?
9 A. I agree in shared responsibility for that.
10 Q. You and Mr. Crompton together?
11 A. And the Scout.
12 Q. Okay. Do you see on Page 19 of the Guide
13 to Safe Scouting where it says, "The leaders are
14 responsible for making good decisions during the
15 trek, conservatively estimating the capabilities and
16 stamina of the group."
17 A. Where is that --
18 MR. SUMMERS: Objection to form.
19 A. -- exactly?
20 Q. Number 6, Page 19.
21 A. Yes. The first sentence there?
22 Q. Yes, sir.
23 A. Yes. Uh-huh. I agree.
24 Q. And the leaders would be you and
25 Mr. Crompton?

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1 A. Yes.
2 Q. And do you further agree that the leader's
3 responsibility includes continually assessing the
4 conditions that are occurring at the hike, including
5 whether terrain and water supplies, and other factors
6 to determine the difference between what is difficult
7 and what is dangerous?
8 MR. HASTY: Objection to form.
9 A. Where is that? Is that in that same
10 section?
11 Q. Same paragraph.
12 A. Yes.
13 Q. Okay. Would you turn to Page 29.
14 A. 29?
15 Q. Yes, sir.
16 A. I don't think I have a 29.
17 Q. First aid.
18 MR. SUMMERS: There is no 29 in the
19 handout.
20 THE WITNESS: I don't have a 29.
21 Q. What's the last page you have?
22 A. It goes from 19 to 35.
23 MR. PELTZ: Okay. Let's see.
24 We can mark separately as Exhibit Number
25 18, Pages 29 and 30 from the Guide to Safe Scouting,

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1 which is the first aid section.
2 MR. SUMMERS: Is that the general first aid
3 section?
4 MR. PELTZ: From the Guide to Safe
5 Scouting.
6 MR. SUMMERS: Right, but not the one that's
7 limited to trek?
8 MR. PELTZ: Correct.
9 MR. SUMMERS: Okay. We're off the trekking
10 area. Is that correct?
11 MR. PELTZ: I'm asking a first aid question
12 now.
13 MR. SUMMERS: I know, but rather than get
14 over there and look over your shoulder and make sure
15 we're out of the trekking section, is this the
16 general first aid section?
17 MR. PELTZ: It's a chapter that says "First
18 aid".
19 MR. SUMMERS: Well, then, let me look at
20 it.
21 MR. PELTZ: I'm not as familiar as you are
22 with these things.
23 MR. SUMMERS: May I see the page before
24 this, please? 28.
25 MR. PELTZ: It's all -- I don't have one.

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1 Must be a blank page. 27 and then -- I
2 took it out of here, so that's my copy of that.
3 MR. SUMMERS: Thank you.
4 MR. PELTZ: You figured out what you
5 needed?
6 MR. SUMMERS: Yes.
7 MR. PELTZ: Okay.
8 [The document referred to was marked for
9 identification as Plaintiffs' Exhibit No. 18.]
10 Q. Now, referring to the first aid section of
11 the Guide to Safe Scouting, does it indicate
12 suggested first-aid kit contents?
13 A. Yes.
14 Q. Okay. And is one of the items that is
15 recommended, instant ice packs?
16 A. Yes.
17 Q. Okay. Does this section actually start by
18 saying, "A first-aid kit well stocked with the basic
19 essentials is indispensable"?
20 A. Yes.
21 Q. And then it goes on to give suggested
22 first-aid kit contents?
23 A. Yes, it does.
24 MR. SUMMERS: And I'll object to the
25 relevancy of the troop kit contents on a hike.

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1 Q. Okay. And one of the items listed is
2 instant ice packs?
3 A. I see that.
4 Q. Another item listed is a clinical oral
5 thermometer?
6 A. I see that.
7 Q. Are you familiar with the "Sweet 16 of BSA
8 safety"?
9 A. Yes.
10 Q. Okay. If you turn to Page 35 in the --
11 A. Oh, we're back in the other?
12 Q. In the Guide to Safe Scouting.
13 A. Uh-huh.
14 Q. Are the "Sweet 16 of BSA safety," safety
15 points that are applicable to all Boy Scouts of
16 America activities?
17 A. Yes.
18 Q. Is the first safety point in the "Sweet 16
19 of BSA safety," "Every BSA activity should be
20 supervised by a conscientious adult who understands
21 and knowingly accepts responsibility for the
22 well-being and safety of the children and youth in
23 his or her care."
24 A. I see that.
25 Q. Okay. And do you agree with that?

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1 A. I think it conflicts with some of the
2 programs that are in place that don't require adults
3 to be involved in the activity.
4 Q. So you do not agree with the statement
5 contained in Statement Number 1 --
6 A. No.
7 Q. -- of the "Sweet 16 of BSA safety"?
8 A. I don't agree with that first sentence.
9 Q. Okay. Do you agree that, on this
10 particular hike, that under the BSA safety
11 regulations as set forth in this document, that it
12 was required to be supervised by a conscientious
13 adult who understands and knowingly accepts
14 responsibility for the well-being and safety of the
15 children and youth in your care?
16 A. Repeat that again.
17 Q. Yes, sir.
18 Do you agree that this particular activity
19 that we're talking about --
20 A. Uh-huh.
21 Q. -- the hike in which Michael died --
22 A. Uh-huh.
23 Q. -- that under the applicable Boy Scouts of
24 America safety guidelines, the activity was required
25 to be supervised by a conscientious adult, meaning

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1 you and Mr. Crompton, who understands and knowingly
2 accepts responsibility for the well-being and safety
3 of the children and youth in your care?
4 A. No.
5 Q. Do you agree that field knowledge of all
6 applicable BSA standards and a commitment to follow
7 BSA policy and procedures are an essential part of
8 the supervisor's qualifications?
9 A. Is that the next sentence you're reading
10 from, or the last sentence?
11 Q. Last sentence in the same paragraph.
12 A. Yes. I agree with that one.
13 Q. Okay. So you would agree that as the --
14 that you and Mr. Crompton, as the supervisors in
15 charge of this activity, were required to have field
16 knowledge of all applicable BSA standards and you
17 were committed to follow all BSA policies and
18 procedures during the course of this activity?
19 A. Yes.
20 Q. Do you further agree that a key part of
21 your responsibility was to know the area where you
22 were going and to determine that it was well-suited
23 and free of hazards for the children?
24 A. Yes.
25 Q. Do you further agree that it was your

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1 responsibility to assure that every participant in
2 the activity has the appropriate personal safety
3 equipment?
4 A. Where is that one?
5 Q. I'm reading Number 6.
6 A. I don't see the application to a hike
7 there.
8 Q. So you do not believe that you and
9 Mr. Crompton were required to assure that the Scouts
10 on this hike had and used the appropriate personal
11 safety equipment?
12 MR. HASTY: Objection to form. Misstates
13 his testimony.
14 A. I don't know what personal safety equipment
15 you're talking about.
16 Q. So you have no idea what that phrase,
17 "personal safety equipment," means in the context of
18 a 20-mile hike?
19 A. Not beyond, you know, personal first-aid
20 kit; sunglasses; a hat; that sort of thing, but I
21 don't think that's what they're implying here.
22 But to the extent that there's some
23 equipment involved, then everything would be -- in
24 this case, it would be personal first-aid kit; if
25 they choose to wear sunglasses or a hat; sunblock;

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1 that sort of thing.
2 Q. If glasses or a hat or sunblock were
3 required to safely perform this activity, was it your
4 responsibility as the supervisor to assure that the
5 Scouts were using those items?
6 A. No.
7 MR. HASTY: Objection to the form.
8 A. No. It's -- it doesn't work like that.
9 It's a shared responsibility.
10 The Scouts, this is their last hike.
11 They've already done 50 miles or more, and at this
12 point, they know what they -- what they want to use
13 as their personal safety equipment.
14 Some people don't like sunblock, or some
15 people don't like to wear a hat. Some people don't
16 like to wear sunglasses.
17 They make those choices based on what they
18 read in the appropriate merit badge book and their
19 experience up to that point.
20 Q. And if a Scout makes a choice which is
21 unsafe and threatens his physical well-being during
22 the course of such an activity, is it your
23 obligation, as the supervisor, to point that out to
24 the Scout?
25 MR. HASTY: Objection to form.

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1 A. Yes.
2 Q. And since in this case -- well, strike
3 that. Never mind.
4 Do you agree that the risks of many outdoor
5 activities vary substantially with weather conditions?
6 A. Yes.
7 Q. Do you agree that potential weather hazards
8 and the appropriate responses should be understood
9 and anticipated by the supervisor of the activities?
10 A. Yes.
11 THE VIDEOGRAPHER: Five minutes.
12 Q. Do you agree that good planning minimizes
13 risks and also anticipates contingencies that may
14 require emergency response or a change of a plan
15 during the course of an activity?
16 A. Yes.
17 Q. Do you agree that it's important for the
18 supervisor of an activity to consider emergency
19 communications in advance of the activity for any
20 foreseeable contingencies?
21 A. Yes.
22 Q. You said you had a copy of the Field Book.
23 What year is that?
24 A. I would have to check. I just know it's
25 not the new, recent edition.

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1 MR. PELTZ: Okay. Let me show you -- we'll
2 mark this as Exhibit 19, and these are portions of
3 the Field Book.
4 Sorry, guys. I only have one.
5 [The document referred to was marked for
6 identification as Plaintiffs' Exhibit No. 19.]
7 Q. Let me ask you if that's a copy of the one
8 you have, or let me ask you if you have a copy of the
9 same book. It's not a copy of yours, per se.
10 MR. HASTY: Is there a year on this?
11 MR. SUMMERS: The most recent one.
12 MR. HASTY: I don't see a year, so if
13 you're asking him if he's got -- he's already made
14 some reference that he doesn't know what edition he's
15 got.
16 I don't see a year on it. Does anybody
17 know if there's a year on this?
18 MR. SUMMERS: That's the most recent one.
19 THE WITNESS: This doesn't look like the
20 cover of the one I have, and I did not -- I did not
21 read it cover-to-cover. I would refer to it from
22 time-to-time.
23 Q. Is this the one you have?
24 A. No.
25 Q. Okay. This one that has been marked as an

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1 exhibit is the 2004 version, so yours would be
2 earlier?
3 A. The edition before that.
4 Q. Well, let me ask you --
5 MR. PELTZ: How much time do we have left?
6 THE VIDEOGRAPHER: We have three minutes.
7 MR. PELTZ: Okay.
8 Q. Let me ask you to turn to Page 5.
9 A. Five? Okay.
10 Q. And see the little box that says, "How Far?
11 How Fast?"
12 A. Yes.
13 Q. Okay. And it goes on to give you a guide
14 as to how far your group can travel in a given time?
15 A. Uh-huh. Yes.
16 Q. And what does it indicate that the expected
17 speed of average hikers crossing gentle terrain is?
18 A. Two miles per hour.
19 Q. And if it's rugged country with heavy
20 packs?
21 A. One mile per hour.
22 MR. SUMMERS: Objection to relevance.
23 Q. Did you consider these guidelines when you
24 were setting up this particular hike?
25 A. No.

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1 Q. If you would go to Page 15 --
2 THE VIDEOGRAPHER: We're down to the end.
3 Can I change the tape?
4 MR. PELTZ: Okay.
5 THE VIDEOGRAPHER: We're off the record at
6 6:24.
7 [Short recess taken.]
8 THE VIDEOGRAPHER: We're back on the record
9 at 6:31.
10 Q. Okay. We left off on Page 15 of the
11 Field Book?
12 A. Yes.
13 Q. Do you see where it indicates that it is
14 the responsibility of leaders to ensure a safe
15 environment for their groups and themselves, and the
16 little box under "Leadership Qualities"?
17 A. Yes.
18 Q. Do you agree with that statement?
19 MR. SUMMERS: Which exhibit are we on?
20 THE WITNESS: The Field Book.
21 MR. PELTZ: The Field Book.
22 THE WITNESS: Oh, the number? 19. Yes.
23 Q. Can you turn to Chapter 14? I'm not sure
24 if it's got a page number.
25 A. Chapter 14.

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1 Q. Has a caption that says, "Humidity".
2 A. Oh --
3 Q. Picture of Scouts drinking.
4 A. The first page?
5 Q. Chapter 14.
6 A. Okay. I got it.
7 Q. You see where it says, "Thirst is not
8 always the best indicator of your body's need for
9 water"?
10 A. Yes.
11 Q. Is that an accurate statement?
12 MR. HASTY: Objection to form. Foundation.
13 Predicate.
14 A. I would agree with that, but not so much in
15 hot weather. Thirst is pretty much -- you're thirsty
16 all the time.
17 Q. Is -- strike that.
18 If you go to the next page, where it says,
19 "Planning hot weather trips" --
20 A. Yes.
21 Q. -- do you see where the bullet points next
22 to the picture?
23 A. Uh-huh.
24 Q. First one, "Once in the field, travel early
25 in the morning and in the evening, rather than in the

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1 midday heat."
2 A. Yes.
3 Q. Is that a good idea?
4 A. Well, when you can do it. We couldn't
5 accomplish a 20-mile hike in that manner.
6 Q. Is it your contention that Michael was in
7 any way negligent in connection with his death?
8 MR. HASTY: Objection to form. Calls for
9 legal conclusion.
10 A. I don't -- I know Michael. I've known
11 Michael since he's been in the troop.
12 I know he's a -- he likes new challenges
13 and he's one of those that sticks it out, but I don't
14 know, you know, all of his history, but he -- you
15 know, he was fine when we started and seemed
16 physically fit and was doing fine on the hike.
17 Q. Okay. So do you contend that he was
18 negligent in any way?
19 MR. HASTY: Objection to the form.
20 A. I don't -- I don't know; you know, unless
21 he failed to verbalize something to us in place of
22 trying to get through the hike, instead of telling us
23 something is wrong and just wanted to get to the end.
24 That would be my only concern and question.
25 Q. Okay. Do you have any -- seen anything to

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1 support that?
2 A. I did not or, of course, did not -- did not
3 foresee someone dying on the hike, regardless;
4 Michael or anybody else in our party.
5 I -- I just find it hard to believe that
6 minor symptoms of heat exhaustion, if, in fact, it
7 was that. I mean, that's what we were treating.
8 We recognized some -- a couple of questions
9 that were answered correctly. We saw dizziness, a
10 couple of episodes of that, which resulted in some
11 stumbling in one case, and then the -- you know, all
12 the other symptoms were nonexistent.
13 He wasn't vomiting. He wasn't red. He
14 wasn't hot. He wasn't telling us anything. He
15 didn't tell us he had a headache. He didn't tell us
16 he had cramps.
17 You know, the only thing it looked to us
18 was he was beginning to be fatigued or tired,
19 whichever word you want to use, and then the -- you
20 know, then from there, within the next few minutes
21 were the other symptoms that we experienced, but I
22 didn't see any clear symptoms of, you know -- he
23 wasn't drinking. He didn't appear dehydrated. He
24 was sweating, so I just find how those few symptoms
25 resulted in the death of a 17, almost 18-year-old

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1 that had been on all the other hikes and was five
2 miles from being done with this one.
3 Q. Is there anything specific that you
4 can -- well, strike that.
5 Do you contend that Michael had any
6 preexisting medical conditions which were not
7 revealed during any of the Scout medical forms?
8 MR. SUMMERS: Objection to form.
9 MR. HASTY: Join in the objection.
10 A. It's not my contention. That's what we go
11 by. That's why it specifically says -- there's boxes
12 to check, all activities or partial activities,
13 and --
14 Q. The troop requires a Class 3 Boy Scout of
15 America medical certificate?
16 A. Yes.
17 Q. And that medical certificate, what's
18 required is something that is set by the Boy Scouts
19 of America?
20 A. Yes.
21 Q. In other words, you don't leave it up to
22 the pediatrician or the family doctor who does the
23 examination. There's a specific form that's been
24 developed by the Boy Scouts of America that asks for
25 specific things?

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1 MR. HASTY: Objection to form.
2 A. Yes.
3 Q. Okay. And Michael had brought in a fully
4 and properly executed Class 3 medical certificate by
5 his -- from his pediatrician?
6 A. Yes.
7 Q. Which indicated that he was cleared from a
8 medical standpoint to engage in all activities?
9 A. Correct.
10 Q. Do you have any reason whatsoever to
11 believe that that was not accurate?
12 A. Other than the question I just raised with
13 you, that I don't see how these few symptoms could
14 result in the death of a physically fit 17,
15 50-week-year-old boy.
16 Q. Would you take a look at the exhibit that
17 you sent out about the hike, the e-mail.
18 A. That's going to be in that pile here.
19 MR. HASTY: It's Number 4.
20 THE WITNESS: Okay. I have it.
21 Q. Now, when you sent this out, you sent this
22 out to a number of different people whose e-mail
23 addresses are indicated on this document?
24 A. Yes.
25 Q. And was this meant as a troop

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1 communication?
2 A. I don't think this is the entire troop.
3 Q. Well, what I meant was, was this meant as a
4 communication to certain members of the troop about
5 an activity that the troop or a portion of the troop
6 was performing?
7 A. Oh, yes.
8 Q. Okay. I mean, this was not -- strike that.
9 And the people that provided you with their
10 e-mail addresses did that for the purpose of allowing
11 you to communicate with them as to troop activities?
12 A. Yes. Uh-huh.
13 Q. Okay.
14 A. And other troop notices.
15 Q. Right. I mean, this is -- these e-mail
16 addresses were voluntarily given to you by the --
17 A. Oh, yes.
18 Q. -- parents of the troop so that you could
19 communicate with them about things that were going on
20 in the troop?
21 A. Yes.
22 Q. Do you know -- I would like you to identify
23 as many of these people as you can from the e-mail
24 addresses. "Eaglesoar" is you?
25 A. That's correct.

1 Q. How about "Etacop"?
2 MR. HASTY: I don't think we -- just a
3 minute.
4 I'm going to make an objection to that.
5 These people have not authorized the use or
6 disclosure of their personal, private e-mail
7 addresses to you in this litigation simply because
8 you brought suit, and I don't think he's authorized
9 to breach confidentiality, and so I don't think it's
10 appropriate to ask him the names of these people.
11 MR. PELTZ: I think that is a blatantly
12 frivolous objection --
13 MR. HASTY: That's fine.
14 MR. PELTZ: -- and I intend to ask him, and
15 if you are going to instruct him not to answer, then
16 you will instruct him not to answer and we'll let the
17 Court decide.
18 MR. HASTY: If you persist, then I'll
19 instruct him.
20 I'll allow him to answer if an Adelman is
21 on there, because it's your client, but otherwise, I
22 don't think it's appropriate for him to do that.
23 If we have to go to court, we'll go to
24 court. That's fine.
25 MR. PELTZ: Just so we're clear on this,

1 MR. HASTY: Well, you can tell the names of
2 the Scouts.
3 THE WITNESS: Uh-huh.
4 MR. HASTY: But don't link up the Scout
5 name with the e-mail address.
6 MR. PELTZ: Just so we're clear, I will go
7 ahead and answer that particular question, but I'm
8 going to come back to my question, so let me know the
9 names of all the people that are -- who received this
10 particular e-mail that's reflected on the address
11 chain.
12 THE WITNESS: Hope I remember all them.
13 Q. Okay. Do the best you can.
14 A. Well, yes. Howard Adelman is on here. My
15 son, Brad Schmidt, is on here. Khrls Leon is on
16 here. Howard Crompton is on here.
17 Jim Rice is on here.
18 Q. Is he a father or Scout?
19 A. He's a father of a Scout and an assistant
20 Scoutmaster.
21 Q. Okay.
22 A. Phillip King is on here. He's a Scout.
23 Terry Beck is a parent. Cynthia Weems,
24 who's with the church. No longer with the church,
25 but was with the church at the time.

1 I'm going to ask you who the people are that you sent
2 this document to, and I'd like you to identify them
3 by their e-mail address so that we can identify
4 potential witnesses in this case.
5 MR. SUMMERS: What if he just simply,
6 without telling you which e-mail address goes to
7 which person, gives you names? Would that make you
8 happy, or do you insist on putting a name with an
9 e-mail address on the record?
10 MR. PELTZ: I think I'm entitled to a name
11 to go with an e-mail address, because there are other
12 e-mails that have been produced in this case, and I
13 think he's -- I already made my statement, so are you
14 instructing him not to answer that question?
15 MR. HASTY: I think Mr. Summers has a good
16 solution.
17 If you want to tell him who the recipients
18 are without identifying which name goes with which
19 e-mail address, I'll allow you to do that.
20 That meets his needs, as far as I'm
21 concerned, and doesn't bridge their confidentiality
22 and privacy.
23 THE WITNESS: Some of these are minors.
24 Does that make a difference? Some of these are
25 Scouts' e-mail addresses.

1 Q. W-E-E-M-S?
2 A. Yes.
3 Q. Okay.
4 A. Estelle Abrams is an adult and an assistant
5 Scoutmaster. Sandy Mohip. Adult parent.
6 Q. How do you spell the last name, please?
7 A. M-O-H-I-P.
8 Q. Okay.
9 A. Cheryl Kent. Andrew Novack, Scout. Doug
10 Beals. Cindy Inklebarger, I-N-K-L-E-B-A-R-G-E-R.
11 Q. I-N-K-B-A-R-G-E-R?
12 A. Correct.
13 Tommy Mulrine. That's actually the parent,
14 so I guess it's Thomas Mulrine.
15 I think it's Wesley Dupuis, D-U-P-U-I-S;
16 parent.
17 Candy Russell. It's a parent. Chris
18 Zimmerman, parent and assistant Scoutmaster.
19 Enrique Alamo. He was on the troop
20 committee, and there's a couple here I don't recall.
21 I don't think -- they're no longer active in the
22 troop. I'd have to check them.
23 Yes. There's three -- three I'm not sure
24 of.
25 MR. PELTZ: Okay. And my next question

1 would be to tell me which of these people link up to
2 which e-mail address, and you're not going to let him
3 answer that?
4 MR. HASTY: Not going to let him answer
5 that.
6 MR. PELTZ: Okay.
7 Q. Is there a -- does Troop 111 have a troop
8 record book?
9 A. No.
10 Q. Does it have any book which serves as a
11 compilation of its activities and history over the
12 years?
13 A. No.
14 Q. In response to my request for the
15 production of various documents from the
16 troop -- let's see.
17 Okay. In response to my earlier request
18 for copies of documents that you might have that
19 relate to Troop 111, you or your attorneys responded
20 by saying that whatever documents exist are in the
21 possession of Troop 111 from Plantation United
22 Methodist Church and troop controls space at the
23 church, so is it my understanding that it's your
24 contention that the troop documents are not under
25 your control, but that they are under the church's

1 Q. Is there a list of all the books in the
2 troop library?
3 A. Yes. Well, there's a list of all the merit
4 badge books.
5 Q. But that's all?
6 A. Yes.
7 Q. Is there some type of roster or document
8 that would indicate the number of Scouts that were in
9 the troop for each year?
10 A. Yes.
11 Q. What would we call that?
12 A. Patrol roster.
13 MR. PELTZ: Let me show you a document
14 which we'll mark as Exhibit 20, which is identified
15 as a Merit Badge Counselor Instructor's Guide, and I
16 would like to ask you if you are familiar with that.
17 MR. HASTY: Let me object to the use of
18 document that's not authenticated. There's no year
19 on here. I don't know what book it's from.
20 [The document referred to was marked for
21 identification as Plaintiffs' Exhibit No. 20.]
22 Q. Are you familiar with that document?
23 A. It doesn't immediately look familiar. If
24 I've seen it, it hasn't been -- I don't know how
25 to -- I don't know. I can't say I've never seen it,

1 control?
2 MR. SCHEVIS: Form.
3 A. Well, that's our repository. That's where
4 we meet. That's our official address.
5 Q. Well, what I'm asking -- what I'm getting
6 at is, we've gone over and we've discussed various
7 documents during the course of the deposition, such
8 as the hiking merit badge file; the various other
9 files which you indicated would exist inside the --
10 at the church?
11 A. Yes.
12 Q. Do you have control over those documents,
13 or do you consider those to be documents that are
14 under the control of the church?
15 A. No. We have control over them.
16 Q. So you can produce those documents if
17 they're asked -- if you're asked for them?
18 MR. HASTY: Objection to form.
19 MR. SUMMERS: Objection.
20 A. Yes. Provided they're still in there;
21 they're in a common area and they're not locked up,
22 so -- so someone can go through the files.
23 Q. All right. Is there actually a list of all
24 the equipment that the troop owns?
25 A. No. I wish there was.

1 but it's not a memorable document here.
2 Q. Okay. Let me show you some documents that
3 have been produced in this case, I think by your
4 attorneys, which we'll mark as Exhibit 21.
5 [The document referred to was marked for
6 identification as Plaintiffs' Exhibit No. 21.]
7 Q. Are these applications that you submitted
8 to the Boy Scouts of America?
9 A. The bottom one is. The top one is not my
10 signature, and there's no date on it that I see. I
11 don't really know what that is.
12 Q. The top one is not your signature?
13 A. No.
14 Q. Did you authorize someone to sign on your
15 behalf?
16 A. Well, if I knew what year it was, then I
17 might be able to answer that.
18 Q. I don't know. I got it from your
19 attorneys. That's all I can tell you.
20 A. But the other one is my handwriting.
21 Q. Okay. So the document with the date on it
22 of November 30, 2008, is your handwriting?
23 A. Uh-huh. Yes.
24 Q. And that's your signature?
25 A. Yes.

1 Q. And your signature appears right below
2 where it says, "I agree to comply with the charter
3 and bylaws and the rules and regulations of the Boy
4 Scouts of America and the local council."
5 A. Yes.
6 Q. And was this an application for what
7 position, if you know? Scoutmaster?
8 A. Well, there -- it's a registration form,
9 but it does need approval.
10 Q. Well, it says "Adult application" on the
11 top?
12 A. Yes.
13 Q. What was it an application for?
14 A. You know, you could get your position.
15 Q. I'm sorry. You could --
16 A. You could get your position after this has
17 been submitted.
18 Q. Now, was this for both merit badge
19 counselor and Scoutmaster?
20 A. If you register as a leader, then it would
21 include merit badge counselors that you applied
22 for -- that you submit the additional paperwork for.
23 Q. So every leader, whether they're a
24 Scoutmaster or merit badge counselor, would have to
25 submit at least this adult application, plus possibly

1 Q. Okay.
2 A. And I would say probably did.
3 Q. Okay. Let me show you one more thing here
4 which we'll mark as Exhibit 22, which is entitled
5 "Unit Committee Training, Scout Oath Or Promise."
6 MR. SUMMERS: Thank you.
7 MR. PELTZ: You're welcome.
8 [The document referred to was marked for
9 identification as Plaintiffs' Exhibit No. 22.]
10 MR. SUMMERS: Counsel, are you representing
11 this is a BSA publication, or just --
12 MR. PELTZ: No. Actually, I think it was
13 something -- I'm going to ask the witness, but I
14 think something he prepared, so --
15 MR. SUMMERS: Okay.
16 Q. Is this document that's entitled "Unit
17 Committee Training, Scout Oath or Promise," a
18 document you've seen before?
19 A. No.
20 Q. Okay. So you didn't prepare it?
21 A. No.
22 Q. Do you have any idea where this comes from?
23 A. Excuse me?
24 Q. Do you have any idea where this comes from?
25 A. It appears that it was prepared for someone

1 additional documents?
2 A. Yes.
3 Q. Okay. Would you have submitted one every
4 year?
5 A. No, it's not required every year.
6 Q. That one was dated 200 -- the end of 2008.
7 Would you have submitted earlier ones?
8 A. Yes.
9 Well, there would have been one at the pack
10 level. You know, when I was in the Cub Scout part of
11 it.
12 Whether or not I had to fill one out when
13 my boy crossed over and I -- I don't recall that.
14 That would have been a long time ago.
15 Q. Well, you were -- you told us you first
16 became a Scoutmaster in 2003, I believe it was.
17 A. I believe so.
18 Q. Would you have filled out an application at
19 that time?
20 A. I don't -- that was the point I was trying
21 to make. I don't remember if when you move from Cub
22 Scouts to Boy Scouts, if you have to fill out a new
23 one or it's just a transfer that you fill out.
24 Q. Okay.
25 A. You know, I could very well have.

1 that was teaching adults about the role of the
2 committee in a troop.
3 You know, the actual title, it
4 combines -- it's called -- looks like "Unit Committee
5 Training," and then the first section is "Scout Oath
6 or Promise".
7 Q. Okay. But you've never seen this
8 particular document before?
9 A. No, I have not.
10 THE WITNESS: Do we have this in our files?
11 Is that where it came from?
12 MR. PELTZ: I don't know where it came
13 from, to be honest with you.
14 THE WITNESS: I might use it. I'm going to
15 have to go through some files. I was asked --
16 there's some files in there that are ancient.
17 MR. PELTZ: We'll have to figure out where
18 that came from so you can give them the proper --
19 THE WITNESS: I don't like to reinvent the
20 wheel if I don't have to.
21 Q. Let me show you some portions of the Troop
22 Committee Guidebook for Successful Troop Operaton,
23 which we'll mark as Exhibit 23.
24 [The document referred to was marked for
25 identification as Plaintiffs' Exhibit No. 23.]

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1 MR. PELTZ: The other ones are not
2 complete, so I'll let you guys share that one.
3 Sorry.
4 Q. Are you familiar with the troop committee
5 guidebook?
6 A. Yes, I am.
7 Q. Okay. It looks like this?
8 A. Yes.
9 Q. Okay. If you turn to Page 7.
10 A. Uh-huh.
11 Q. You see where it says, "The chartered
12 organization. Your troop is 'owned,' by a charter
13 organization."
14 A. Yes.
15 Q. Okay. Is that your understanding, that the
16 Plantation United Methodist Church, as the chartered
17 organization, in fact, owns Troop 111?
18 A. Well, I have read that; seen that word.
19 It's always been -- you know, referred to me as a
20 franchise set-up, but I guess that would be a similar
21 term.
22 Q. Okay. Would you go to Page 9. See where
23 it says "How your Scout troop works"?
24 A. Yes.
25 Q. And it states, "The Scoutmaster is the

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1 adult leader responsible for the image and the
2 program of the troop." Is that a correct statement?
3 A. Yes.
4 Q. And going to the following page, is one of
5 the responsibilities of a Scoutmaster, as reflected
6 therein, to conduct all activities under qualified
7 leadership, safe conditions and the policies of the
8 chartered organization and the Boy Scouts of
9 America."
10 A. Oh, okay. I see where you're reading from.
11 Yes.
12 Q. That's an accurate statement?
13 A. Yes.
14 MR. PELTZ: Okay. Thank you.
15 I don't have any other questions.
16 MR. SUMMERS: No questions. Thank you.
17 Appreciate your time.
18 MR. HASTY: I have a couple.
19 CROSS EXAMINATION
20 BY MR. HASTY:
21 Q. Let's go back to Exhibit 4 of the e-mail
22 for a moment, please.
23 A. Okay.
24 Q. Would you read into the record verbatim the
25 part relating to cell phones.

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1 A. "Since cell phone service is limited in
2 that area, we will call parents for pickup on our way
3 back, sometime after 8:00 p.m."
4 Q. The reason for advising the parents about
5 the cell phone issue was to allow them to understand
6 if they were calling their son, they might not get
7 through; if they were calling to the Scouts when
8 they're out at the Big Cypress Preserve?
9 MR. PELTZ: Objection to form.
10 Q. Or in between?
11 MR. PELTZ: Sorry. Object to the form.
12 Predicate.
13 A. Yes. Well, generally speaking. I just
14 want the parents to know they can't rely on
15 contacting us on a lot of our camp-outs, because many
16 are state parks and areas that just don't have
17 reliable cell phone coverage, so that would apply
18 here, yes.
19 Q. Mr. Peltz asked you this morning whether or
20 not cell phone coverage inside the Big Cypress was
21 something that was problematic, was the term he used
22 this morning.
23 Did you ever tell anybody it was
24 problematic?
25 MR. PELTZ: Object to the form.

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1 A. No.
2 Q. During the hike -- he asked you many
3 questions about if you monitored the Scouts as they
4 hiked; as they drank their water; as they conducted
5 their hike.
6 What did you understand to mean when he
7 asked you if you monitored them in their activities?
8 A. If we were watching, keeping an eye on
9 them.
10 Q. In addition to monitoring them, did you
11 observe the Scouts at all times?
12 A. Yes. That's -- that's what I would call
13 monitoring.
14 Q. And so you were observing Michael, Chase
15 and Khris as they hiked; as they drank their water;
16 as they talked to one another; as they rested; as
17 they interacted with one another and as they
18 interacted with you and with Howard?
19 MR. PELTZ: Object to the form of the
20 question.
21 A. Yes. That's correct.
22 Q. At any time when you were monitoring
23 Michael Adelman after the ten-mile stop, did Michael
24 ever complain to you of muscle cramps in his legs?
25 A. No.

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1 Q. Did Michael ever tell you that he felt
2 fatigued at any time?
3 A. No.
4 Q. At any time, did Michael ever tell you that
5 he had run out of water?
6 A. No.
7 Q. At any time, did Michael Adelman tell you
8 that he felt nauseous?
9 A. No.
10 Q. At any time, did Michael Adelman tell you
11 that his skin felt hot or he felt over-hot?
12 A. No.
13 Q. Or too hot?
14 A. No.
15 Q. And when you got to the 15-mile mark and
16 you put a wet cloth on him on the back of his neck,
17 around his neck and his head and you offered him
18 water and he drank the water, was he able to comply
19 with your suggestions or requests for him to intake
20 fluids and drink water?
21 MR. PELTZ: Object to the form. Predicate.
22 A. Yes.
23 Q. Now, Mr. Peltz also interjected the use of
24 the word "incoherent".
25 When you were hiking with Michael, your

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1 first indication that something might not be right
2 with him was when you were talking in a conversation
3 with him, and the terminology you used was, "At about
4 15 miles in the hike, Michael started talking off the
5 subject and was expressing random thoughts. I asked
6 if he was okay. He said yes."
7 Did you ever use the word "incoherent" in
8 your description of Michael Adelman in your sworn
9 answers to interrogatories?
10 MR. PELTZ: Object to the form. Predicate.
11 A. No, I did not.
12 Q. What do you understand incoherent to mean;
13 that he can't express himself?
14 MR. PELTZ: Object to the form.
15 A. I would understand incoherent to mean that
16 you couldn't make sense of what was being said.
17 Q. He can't understand you and you can't
18 understand him?
19 A. Yes.
20 Q. Was his speech ever slurred at any time
21 from the time that you saw that he was expressing
22 random thoughts and you asked him to go into the
23 clearing, and calm things down, sit down, cool off,
24 drink fluids, and rest? Did he ever say anything to
25 you from that point on to make you feel that he was

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1 incoherent?
2 MR. PELTZ: Object to the form. Predicate.
3 A. No. He understood our instructions.
4 Q. And he was able to talk to you and to
5 Howard?
6 A. Yes, he was talking and doing as we told
7 him.
8 Q. At any time between the time that he
9 started talking with random thoughts until you left
10 to go down the trail to catch up to Khris and Chase,
11 did Michael Adelman ever tell you or tell Howard he
12 didn't know where he was or didn't understand what
13 was happening to him, or words to that effect?
14 MR. PELTZ: Object to the form.
15 A. No.
16 Q. In fact, did he ever tell you or Howard
17 that he just didn't feel right?
18 A. No.
19 Q. You knew that Michael was very much
20 involved in his senior year in high school in the
21 debate team. Correct?
22 A. Yes.
23 Q. From the years that you knew Michael, did
24 you ever form an opinion that he had difficulty
25 expressing himself if he needed to communicate a need

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1 or a thought or a request to you, as Scoutmaster?
2 A. No.
3 Q. At any time from the time that you decided
4 that something might be wrong with Michael until the
5 time you left Michael in the clearing, did Michael
6 ever ask anybody for any type of help?
7 A. No, he did not.
8 Q. From the time that you thought there might
9 be something wrong with Michael until the time you
10 left Michael in the clearing, did he ever suggest
11 that somebody try to call his mother or his father?
12 A. No.
13 Q. From the time you thought there might be
14 something wrong with Michael and until the time you
15 left him in the clearing, did he ever ask you to call
16 anybody for emergency help or aid?
17 A. No.
18 MR. HASTY: That's all I have. Thank you.
19 MR. PELTZ: I just have a few follow-up
20 questions.
21 Actually, before I forget, too, I would
22 like to just mark the rest of the exhibits that
23 haven't been identified as a composite exhibit so
24 that we have those. I guess we'll make that
25 Composite Exhibit 24.

1 MR. SUMMERS: What goes in there? I mean,
2 that's a pretty broad category.
3 MR. PELTZ: Whatever it is. I don't have.
4 MR. SUMMERS: Composite exhibit whatever is
5 out of there.
6 MR. HASTY: Well, they asked us to bring
7 some documents to the deposition.
8 MR. SUMMERS: Oh, that's what it is?
9 MR. HASTY: And we did, and there are just
10 random --
11 MR. SUMMERS: So Composite 24 is everything
12 produced in the deposition which has not been
13 discussed?
14 MR. PELTZ: Exactly.
15 MR. SUMMERS: Okay.
16 [The document referred to was marked for
17 identification as Plaintiffs' Composite Exhibit
18 No. 24.]
19 REDIRECT EXAMINATION
20 BY MR. PELTZ:
21 Q. You were asked by your attorney to describe
22 incoherent, what that meant to you, and you said
23 incoherent is when someone does not make sense?
24 A. Yes.
25 Q. Okay. And when someone asks someone a

1 express random thoughts, that was your terminology?
2 A. Yes, I would say that.
3 Q. Okay. And, actually, let me ask you about
4 that.
5 Did you write out this answer to
6 interrogatory or was this something that your counsel
7 prepared?
8 MR. HASTY: Don't answer the question.
9 it's attorney-client privilege.
10 Q. Did you type this out?
11 MR. HASTY: Same instruction.
12 MR. PELTZ: Whether he typed out the
13 answer?
14 MR. HASTY: Uh-huh.
15 MR. PELTZ: Okay.
16 Q. Did you, yourself, provide all of the
17 phrasing and all the words in this answer to
18 interrogatory that we're talking about?
19 Just so we're clear, it's the one that
20 we -- there's no doubt I'm talking about the response
21 to Interrogatory Number 3 that's be marked as an
22 exhibit.
23 MR. HASTY: You can answer.
24 A. Yes. Yes, I believe so.
25 Q. You provided all the words and phrasing for

1 question about one subject, such as, "How's your
2 college applications going," and the person starts
3 talking about the Miami Heat or the Miami Dolphins or
4 some other random subject, that's a situation where
5 the person is not making sense?
6 A. Well, see, I've been -- I've been
7 struggling with a word to describe that, what that
8 was, because I understood what he was saying.
9 It just didn't -- the answer didn't match
10 the question or the topic, so there were two topics
11 being discussed.
12 Q. You were saying -- asking him about one
13 thing and he's giving you a response about a totally
14 different topic?
15 A. Or --
16 Q. Correct?
17 A. Yes. Or didn't understand what I was
18 saying and he's telling his own story.
19 Q. And you described his responses as not only
20 being off subject but -- when you say "off subject,"
21 you mean you would ask something about -- like the
22 example I gave you?
23 A. As your example.
24 Q. Okay. Fair enough.
25 And then when you said, instead he would

1 that?
2 A. Let me see. Number 3, you're talking
3 about?
4 Q. Yes. The one that asks what happened.
5 A. Oh, the description of the day?
6 Q. Yes.
7 A. It looks like my thoughts there.
8 Q. Well, my question specifically was: Is
9 this something you wrote, word-for-word, including
10 the phrasing?
11 A. The last paragraph looks like more of a
12 compilation of what I submitted.
13 Q. How about the rest?
14 A. The rest looks like my sentences.
15 Q. Verbatim?
16 A. Yes.
17 Q. Okay. You were asked by Mr. Hasty, your
18 attorney, about the reason for e-mail Number 4. I'm
19 sorry. The e-mail that's been marked as Exhibit
20 Number 4, and he asked you whether that had to do
21 with Scouts making phone calls during the hike.
22 The troop regulation was that Scouts were
23 not allowed to use their cell phones during any
24 Scouting activities. Correct?
25 MR. SUMMERS: Objection to form.

1 Q. Is that --
 2 A. Yes. That is our policy.
 3 Q. So this e-mail had nothing to do with
 4 Scouts' abilities to call their parents during the
 5 activity because, as far as you were concerned, they
 6 weren't supposed to be taking -- having phones during
 7 the course of the activity?
 8 A. That was our policy, but there was many
 9 violations in that policy.
 10 Q. But --
 11 A. Scouts would have their phones. They may
 12 or may not turn them off on the activity, but they
 13 still had access to them without us knowing they had
 14 them, or sometimes they were caught with them.
 15 Q. The purpose of the reference -- well,
 16 strike that.
 17 In the e-mail, this is your word -- you
 18 wrote the e-mail?
 19 A. Yes.
 20 Q. And you're the one had said, "Since cell
 21 phone service is limited in that area". That's your
 22 language?
 23 A. Yes.
 24 Q. And you've previously told us, I believe,
 25 that you had a -- you discussed it with Mr. Crompton,

1 move.
 2 Q. And isn't it true that you only observed
 3 the Scouts when they were in close proximity to you?
 4 MR. HASTY: Objection to form.
 5 A. Well, which was most of the time.
 6 Q. Well, there were -- Scouts were in
 7 different orders and there's people between you and
 8 different Scouts and so on?
 9 A. That's correct.
 10 Q. And so we went through in significant
 11 detail earlier in the deposition about the order and
 12 what you were able to see and what you were observing
 13 and when you were talking to Mr. Crompton and when
 14 you were not. That testimony was accurate and you
 15 stand by it now. Correct?
 16 MR. HASTY: Objection to form.
 17 A. Yes. We weren't -- yes. It wasn't every
 18 Scout every minute, but we were -- but two-to-three
 19 ratio is pretty -- one of us, I think, was watching
 20 them the majority of the time.
 21 Q. And, finally, you know from your training,
 22 don't you, that you cannot rely upon people suffering
 23 from heat exhaustion and heat stroke to self-diagnose
 24 themselves all the time?
 25 MR. HASTY: Objection to form.

1 and Mr. Crompton said he thought that you could get
 2 cell phone service there, and you said you didn't
 3 think you could?
 4 MR. HASTY: Object. Mischaracterization of
 5 testimony.
 6 Q. Is that what you said?
 7 A. I mean, he did say that he went to the
 8 Verizon website, and they listed the area as fully
 9 covered.
 10 Q. Okay. And you said, basically -- you said
 11 that you didn't think you could get cell phone
 12 service, at least with your phone?
 13 A. That's what I said, yes.
 14 Q. Okay. So you chose to use -- with that
 15 understanding of that discussion, you were the one
 16 that chose to use the word "Cell phone service is
 17 limited"?
 18 A. Yes.
 19 Q. Okay. You were asked by your attorney
 20 about your observations of the Scouts during the
 21 course of the hike and it was kind of one question
 22 where everything was put together.
 23 Isn't it true that you only observed the
 24 Scouts when you were looking at them?
 25 A. Well, sure. I wasn't watching their every

1 A. All the time, yes.
 2 MR. PELTZ: I have no other questions.
 3 Thank you.
 4 MR. HASTY: We will read.
 5 THE VIDEOGRAPHER: OFF the record at 7:21.
 6 [Thereupon, the taking of the deposition was
 7 concluded at 7:21 p.m.]
 8
 9
 10
 11
 12 ANDREW L. SCHMIDT
 13 Sworn to and subscribed
 14 before me this day
 15 of , 2011.
 16 Notary Public, State
 17 of Florida at Large.
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CERTIFICATE

STATE OF FLORIDA }
COUNTY OF MIAMI-DADE }

I, Maria Vila, a Notary Public in and for the State of Florida at Large, do hereby certify that, pursuant to a Notice of Taking Deposition in the above-entitled cause, ANDREW L. SCHMIDT was by me first duly cautioned and sworn to testify the whole truth, and upon being carefully examined testified as is hereinabove shown, and the testimony of said witness was reduced to typewriting under my personal supervision and that the said deposition constitutes a true record of the testimony given by the witness.

I further certify that the said deposition was taken at the time and place specified hereinabove and that I am neither of counsel nor solicitor to either of the parties in said suit nor interested in the event of the cause.

WITNESS my hand and official seal in the City of Miami, County of Miami-Dade, State of Florida, this 25th day of MARCH, 2011.

Maria Vila

Commission No. DD 772211
Expires April 4, 2012
Bonded through
Notary Public Underwriters.