

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

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

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

Plaintiffs,

v.

BOY SCOUTS OF AMERICA;
THE SOUTH FLORIDA COUNCIL INC.,
BOY SCOUTS OF AMERICA; PLANTATION
UNITED METHODIST CHURCH; HOWARD
K. CROMPTON, Individually, and
ANDREW L. SCHMIDT, Individually,

Defendants.

**ORDER ON PLAINTIFF'S MOTION FOR JUDICIAL
REVIEW OF DENIAL OF *TOUHY* REQUEST**

THIS CAUSE having come on to be heard before the Court on the Plaintiff's Motion for Judicial Review of Denial of *Touhy* Request [D.E. 217], counsel for the Plaintiff and the United States of America having reached an agreement thereon, is ordered and adjudged as follows:

1. On June 2, 2011, the Plaintiff filed a Motion for Judicial Review of the Department of Interior's Denial of its *Touhy* request for the deposition of various specified employees of the National Park Service, which is an agency of the United States Department of Interior, in the above-captioned matter. [D.E. 217]. On June 2, 2011, this Court entered its order [D.E. 218] providing the Department of Interior 20 days in which to respond to the motion. This order further gave the Defendants in this case the opportunity to submit a response "either in support of or in opposition to the motion." The Court notes that no such response has been filed by any of the Defendants.

2. In this Court's order of June 2, it further require[d] counsel for Plaintiffs and Department of Interiors to again confer in an attempt to avoid significant motion practice." [D.E. 218].

3. The Court having been advised that the Plaintiff and counsel for the government have continued their discussions pursuant to the directive of the Court and have reached an agreement as follows:

a. The Department of Interior will produce Park Ranger Gary Sheffler to testify concerning the following matters:

- A description of the back country use permit process at the Big Cypress Preserve, the purpose for requesting the execution of such permits by hikers, the Park Service's retention of all back country use hiking permits which had been filled out and deposited on May 9, 2009 at the Big Cypress Preserve and their storage and retention up until the date of the inspection by the parties on April 14, 2011, the location and purpose of the "hiking log" for the Big Cypress Preserve for May 9, 2009 and its storage and retention from the date of Michael's death up until the inspection by the parties on April 14, 2011.
- The contents of discussions between each of the Rangers and the Defendants Crompton and Schmidt on May 9, 2009 in order to respond to Howard Crompton and Andrew Schmidt's claim that they did not make specific statements attributed to them in the Park Service Report and/or that information which they provided was taken down inaccurately.
- A description of the efforts by the Park Service to provide emergency services to Michael Adelman following Howard Crompton's 911 call in response to the claims made by Howard Crompton that the Park Service was negligent in its emergency response.

b. The Department of Interior will produce Park Ranger Drew Gilmour to testify concerning the following matters:

- A description of the back country use permit process at the Big Cypress Preserve, the purpose for requesting the execution of such permits by hikers, the Park Service's retention of all back country use hiking permits which had been filled out and deposited on May 9, 2009 at the Big Cypress Preserve and their storage and retention up until the date of the inspection by the parties on April 14, 2011, the location and purpose of the "hiking log" for the Big

Cypress Preserve for May 9, 2009 and its storage and retention from the date of Michael's death up until the inspection by the parties on April 14, 2011.

- An identification of the weather information contained in the Park Service Report, a description of how and where the Park Service obtained the weather data on the report (ie: from their own measuring facilities or from another governmental or non-governmental entity), the accuracy of the weather information, an explanation of the weather chart provided (ie: explaining what each column stands for) and authentication of the weather chart as accurately reflecting the temperature in the Big Cypress Preserve on May 9, 2009.

c. The Department of Interior will produce Park Ranger Wynn Carney to testify concerning the following matters:

- The contents of discussions between each of the Rangers and the Defendants Crompton and Schmidt on May 9, 2009 in order to respond to Howard Crompton and Andrew Schmidt's claim that they did not make specific statements attributed to them in the Park Service Report and/or that information which they provided was taken down inaccurately.
- A description of the efforts by the Park Service to provide emergency services to Michael Adelman following Howard Crompton's 911 call in response to the claims made by Howard Crompton that the Park Service was negligent in its emergency response.

d. The Department of Interior will produce Park Ranger Garnett Tritt to testify concerning the following matters:

- The receipt, handling and storage of Crompton's GPS unit by the Park Service leading up to the time of the download and its subsequent return to Crompton and/or his attorneys, in order to establish the accuracy and validity of the data downloaded by the Park Service.
- An identification and description of the program used for the download and the download process.
- A description of the manner in which the Track Log Time Lines contained in the Park Service Report were prepared, the program utilized and the source of the data.

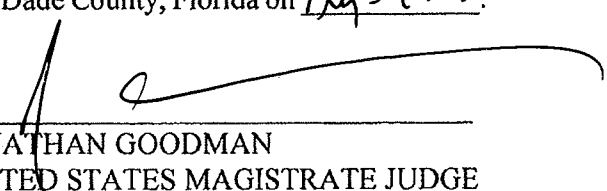
- An identification of the data downloaded from Crompton's GPS, the manner of its storage by the Park Service following the download and the accuracy of the disks subsequently provided to the parties containing the downloaded data in order to resolve any

e. The Park Service will provide an affidavit regarding the existence of the sign located at the beginning of the trail in the Big Cypress Preserve on May 9, 2009, a picture of which is attached to the Plaintiffs' revised *Touhy* request of April 28, 2011.

4. Each of the above witnesses shall be made available for deposition in the location of their present assignment by the Department of Interior, unless the parties agree to other arrangements.

5. This Order shall not impact upon any other parties requests for information documentation or testimony directed to the National Park Service and/or Department of Interior, including the request acknowledged in D.E. 253.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida on Aug 5 2011.



JONATHAN GOODMAN
UNITED STATES MAGISTRATE JUDGE

Copies to:
The Honorable Alan S. Gold
Counsel of Record