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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 10-CV-22236-ASG

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

            Plaintiffs,

-vs-

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

            Defendants.
_____/

            DEPOSITION OF CARTER CONRAD, JR.
                        VOLUME 1
                    (PAGES 1 - 161)

                    August 4, 2011
                1:00 p.m. - 7:30 p.m.

                444 West Railroad Avenue
            West Palm Beach, Florida 33401

Reported By:
Barbara J. Shandell, RPR
Notary Public, State of Florida

1   When we took a break, you were describing

2   the CSV files that were exported and how those were

3   incorporated into your report.

4   Were those files modified at all as far as

5   the substance of what was in them?

6   A.   No.

7   Q.   Then the next thing you said was that you

8   had gone through the -- the data was captured on the

9   hard drive and to find the data that was responsive to

10 the court order?

11   A.   Yes, sir.

12   Q.   Tell me how you did that.

13   A.   For those outputs that had a date

14 associated with them, it was very easy to cull down

15 the data to the responsive dates.

16   The challenge came from the text messages

17 and the contacts.   There was no -- there was no way

18 for me to identify from the date that -- from the

19 output of what was within the scope and what was out

20 of scope relative to the court order.

21   Q.   Why was it that you could not find any

22 dates associated with the text messages?

23   A.   You would really need to depose the people

24 from Paraben that could give you an underlying

25 understanding of why the tool worked like it did.

1   Q.   So is your answer that it was the tool

2   that didn't pull the dates off the phone, but the

3   dates existed on the phone?

4   MR. PELTZ: Object to the form,

5   predicate.

6   THE WITNESS: I would say that for

7   whatever reason the expectation that the

8   date would be there exists, that there

9   should be an associated date with it.

10   Why in this particular case it

11   failed to pull that data across, I don't

12   have an explanation why it would for some

13   of -- some of the information it would and

14   some it wouldn't.

15   BY MR. LEVIN:

16   Q.   Is it your testimony that there should be

17   a date and time associated with each of the text

18   messages?

19   MR. PELTZ: Object to the form and

20   predicate.

21   THE WITNESS: My expectation is

22   that there would be a date and time

23   associated with them.

24   BY MR. LEVIN:

25   Q.   What is that expectation based on?

1   A.   Experience.

2   Q.   **With this type of phone?**

3   A.   Well, I've already testified this is the

4   first time this particular phone was acquired.

5   Q.   **Right.**

6   A.   So I don't have any experience with that,

7   but just in general metadata associated with

8   electronic devices tends to populate that information.

9   Q.   **Did you do anything upon realizing that**

10   **there had been no date and time information pulled**

11   **across by the Paraben software to retest or try**

12   **something else?**

13   A.   I believe I did attempt to perform a

14   second acquisition, but the results were the same.

15   Q.   **Have you done anything else that would**

16   **either confirm or disprove, in your opinion, your**

17   **expectation that the date and time data for those text**

18   **messages exists on the phone data?**

19   MR. PELTZ: Object to the form,

20   predicate.

21   THE WITNESS: I'm not sure I

22   understand that it exists, but it was not

23   published in the report, maybe just a

24   little clarification about that.

25   BY MR. LEVIN:

1   Q.   Yeah. What I'm trying to get at is you

2 testified that you expected that the date and time

3 data existed and that it would have been pulled across

4 during the acquisition by Paraben, but that did not

5 happen; is that accurate?

6   A.   Yes, sir.

7   MR. PELTZ: Object to the form,

8 predicate.

9 BY MR. LEVIN:

10   Q.   So after -- and you've testified that you

11 tried again to acquire the data to see if the date and

12 time information could be captured and again your --

13 the result was unsuccessful; is that true?

14   A.   Correct.

15   Q.   So after that, did you do anything else

16 that either confirmed or disproved your -- well, this

17 is a bad question. Let me strike it.

18   Did you do anything else to try to

19 determine if -- strike that.

20   Did you do anything to determine why it

21 was that the date and time data was not captured for

22 the text messages?

23   MR. PELTZ: Object to the form,

24 predicate.

25   THE WITNESS: I don't have any

1   recollection of additional activity, no,

2   sir.

3   BY MR. LEVIN:

4   Q.   You didn't call Paraben or a friend or

5   consult any materials or do any research or anything

6   else regarding that matter of not obtaining any date

7   and time information for the 188 text messages?

8   A.   Of all of those options, the only

9   potential one would have been to reach out to Paraben

10 tech support. And I don't -- I don't have a

11 recollection that I attempted to do that.

12   Q.   And then to answer the question before,

13 you didn't do any of those other things as well?

14   A.   That's correct.

15   Q.   And I understand that your position may be

16 that it wouldn't have been helpful or futile or

17 whatever, but I'm just trying to get an answer that

18 there was no other course of action taken with regard

19 to that?

20   A.   And at the time in order to protect the

21 content of the data that was produced in harmony with

22 the court order, I was being cautious to some degree

23 about having other people involved. So that would --

24 that was my thinking relative to not getting other

25 people involved other than --

1   Q.   Right.

2   A.   -- the tech support folks.

3   Q.   Okay. That's fine.

4   But to clarify for the record, the tech

5   support -- the tech support for Paraben did not get

6   involved; is that accurate?

7   A.   That's my statement. I don't believe that

8   I reached out to them.

9   Q.   That's fine.

10   Let me show you Exhibit 13 -- well, let's

11   go back to what we were talking about. We were

12   talking about how you went through the data that you

13   were able to capture --

14   A.   Yes, sir.

15   Q.   -- and how you went through it in order to

16   determine what you were going to produce under the

17   court order and what would not be produced.

18   Tell me how you did that.

19   A.   Again, the data that had associated dates

20   with it, it was very easy to cull out the appropriate

21   dates. The data that did not have associated metadata

22   with it, I listed as part of my report that there

23   were, as you've mentioned, 188 text messages that were

24   produced, but I was unable to determine if they were

25   responsive or not. In addition to that, there were --

1   I'm sorry. That's not relevant to the discussion, but

2   particularly the text messages.

3   So in an attempt to satisfy what I thought

4   was the directive of the court's order, but also in a

5   way not to disclose the content if something was not

6   within that time range, I modified the content of the

7   text message files in order to reflect that -- that

8   they had come across and there were certain numbers

9   that were within the context of a text message being

10   sent or received, but the actual content of the text

11   message I redacted in order to produce to parties.

12   Q.   The format of the table that contains the

13   number to and the number from and then where you would

14   see the content of the message, how is that created,

15   by the software or did you create that?

16   A.   No, it's created as an output file from

17   the software.

18   Q.   And is that -- was that a CSV file as

19   well?

20   A.   That's correct. Yes.

21   Q.   And that data is on Exhibit Number 2,

22   correct, but we haven't printed that out?

23   A.   That's correct.

24   Q.   Because you have it as a file on Exhibit

25   Number 2 that contains all of the messages, right?