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.
_____/

PLAINTIFFS' REPLY TO SECOND RESPONSE OF DEFENDANT SCHMIDT'S OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF EMAILS PURSUANT TO ORDER DATED JULY 14, 2011

COME NOW, the Plaintiffs, by and through their undersigned attorneys and file their Reply to the Second Response of the Defendant Schmidt to the Plaintiffs' Motion to Compel and would respectfully show the Court as follows:

Since the Plaintiffs have already filed a Motion to Compel Production from the Defendant Schmidt [D.E. 234] and a Reply [D.E. 244], they will try to avoid repeating matters which have been previously discussed and instead focus on the legal authority and argument raised for the first time by the Defendant in its Second Reply to the Plaintiffs' Motion to Compel.

Initially, the Plaintiffs find it somewhat curious that the Defendant has raised the argument for the first time in its Second Response that the Plaintiffs' Motion was untimely. Since this issue was not previously raised by the Defendant in its initial Response, at the hearing which was held by

the Court on July 14, 2011 or when the Defendant submitted the emails to the Court for its in camera inspection, it seemed that if anyone was guilty of "waiver," it is the Defendant.[1]

Nevertheless, contrary to the contention contained in the Defendant's Second Response, the Plaintiffs did demonstrate reasonable grounds for the filing of their Motion on June 24, 2011. [D.E. 234]. As reflected therein, counsel for the Plaintiffs initially made the mistake of accepting the Defendant's Privilege Log on its face as being prepared in good faith. Following the deposition of Doug Beals on May 26, 2011, however, counsel for the Defendant Schmidt indicated that the email attached as Exhibit "B" to the Plaintiffs' original motion had been listed on its Privilege Log [as email "2"]. A discussion subsequently ensued during which time Plaintiffs' counsel expressed his feeling that any attempt to claim that such document was privileged was made in bad faith.

As previously noted, this particular email had been sent to the entire Troop on the day after Michael's death to explain what had occurred to the adult and Scout members. In the email, Schmidt wrote:

> While on a Troop hike, Saturday on the Florida Trail in the Big Cypress Preserve for completion of the 20-mile requirement, one of our older Scouts, Michael Sclawy-Adelman developed symptoms of heat exhaustion/stroke and, while first aid measures were immediately begun, later died before reaching a medical facility . . . Scout Master Crompton stayed with Michael while I went for assistance and took the other two Scouts . . . the whole time line was painfully time consulting but what wilderness conditions dictate.

See [D.E. 234-2]. Since the significance of this email, particularly as it relates to directly impeaching and contradicting the testimony of the Defendants Schmidt and Crompton, has already been discussed in the Plaintiffs' initial Motion, it will not be repeated here. Nevertheless, the discovery by the Plaintiff on May 26, 2011 that this email apparently corresponded to item number

---

[1] As reflected by all of the activity in this matter between the filing of the so-called privilege log and the Plaintiffs' motion, it is obvious that the Plaintiffs have not been sitting on their hands during the intervening time. *See LaFarge North America, Inc. v. Matraco-Colorado, Inc.*, 2008 WL 2474638 (S.D. Fla. 2008) at n. 2.

2 on the Defendants' Privilege Log, provided notice to Plaintiffs' counsel for the first time that there was something wrong with the Privilege Log.[2]

Immediately following Doug Beals deposition on May 26, 2011, counsel for the Plaintiff engaged in a series of phone conversations and email communications with Mr. Hasty and Mr. Levin in an effort to voluntarily obtain the emails identified in the Privilege Log. The series of emails attached by the Defendant to its Second Response pursuant to the Court's direction [D.E. 259-2], reflect numerous phone conversations and at least 4 written requests seeking to prompt production of these materials over a several week time period starting after Mr. Beals deposition through the date that the original motion was filed. Therefore, even if the Defendant had not waived its right to raise the local rule at this particular late date, judges in this district have repeatedly construed it to be satisfied where the party seeking discovery has spent time attempting to obtain the discovery voluntarily from opposing counsel or were delayed in being able to determine inconsistencies of discovery responses until the occurrence of later discovery. *See e.g. Kabula v. Southern Homes of Homestead VIII, Inc.*, 2008 WL 4691983 (S.D. Fla. 2008)(rule is permissive and court granted motion filed in excess of 30 days after discovery where delay did not result in prejudice and motion was filed 3 months before discovery cut off); *Socas v. Northwestern Mut. Life Ins. Co.*, 2008 WL 619322 (S.D. Fla. 2008)(date party examined documents and discovered inconsistencies with producing party's prior discovery responses is the date that gave rise to the motion and even if it had been later attempts to negotiate resolution constituted reasonable cause under local rules).

---

[2] As previously reflected in the Plaintiffs' original Motion and Reply, it is difficult to match up the emails which have been obtained through discovery with those on the Defendants Privilege Log, because of the brief descriptions contained on the Privilege Log and the fact that the "times" listed often vary. As further discussed in the Plaintiffs' Reply to Schmidt's First Response, Plaintiffs' counsel had therefore erroneously assumed that certain emails which it had received were the same ones as reflected in the Defendants' Privilege Log. See D.E. 234, footnotes 1 and 2.

I. Sufficiency to Schdmit's Objections

The Defendant's new assertion in its Second Response is the claim that its Privilege Log was proper, since it was not untimely.[3] The issue is not whether the Privilege Log was timely, but whether it was accurate and sufficient.

As discussed in more detail in the Plaintiffs' original Motion and Reply, the Defendant filed the same boilerplate objection to each of the 32 documents on its Privilege Log, to wit:

> Objection is made on the grounds of relevance, materiality, confidentiality, privacy. Privilege is asserted on the grounds of confidentiality and privacy.

See Schmidt Privilege Log, D.E. 161.

Initially, it is clear that these objections are not sufficient under the procedures established by both the Eleventh Circuit and the judges of this District. In *Panola v. Land Buyers Assoc. v. Shuman*, 762 F.2d 1550, 1559 (11th Cir. 1985), the Eleventh Circuit held that objections to discovery must be "plain enough and specific enough so that the court can understand in what way the [discovery is] alleged to be objectionable. The Court then cited to the Third Circuit's holding in

---

[3] Although the Defendant's statement that its counsel for the Plaintiffs arrived at defense counsel's office 1 ½ hours before the start of Schmidt's deposition is accurate, the remainder of the statement that counsel for the Plaintiffs was provided with copies of the documents to be produced during the course of the deposition and the Privilege Log during this time period, is not true.

Instead, what transpired was that when counsel for the other parties arrived, they were advised that Mr. Hasty was not yet in, even though the deposition was scheduled to start at his office at 9:00 a.m. Counsel for the other parties sat around and waited and eventually, the deposition started 1 ½ hours after it was scheduled.

Counsel for the Plaintiffs would not have bothered the Court with this explanation, except for the fact that the Second Response of the Defendant Schmidt has made it necessary by making the misrepresentation that Plaintiffs' counsel appeared at his office 1 ½ hours before the start of the deposition for the purpose of reviewing documents in advance of the deposition. As further reflected by the transcript of Schmidt's deposition itself, the documents which were produced were not in fact provided until the middle of the deposition. See deposition of Andrew Schmidt, pages 98-100, attached as Exhibit "1" hereto.

Joseph v. Harris Corp., 677 F.2d 985, 992 (3d Cir. 1982), in which it held:

> . . . the mere statement by a party that the interrogatory was "overly broad, burdensome, oppressive and irrelevant," is not adequate to voice a successful objection to an interrogatory. On the contrary, the party resisting discovery "must show specifically how . . . each interrogatory is not relevant or how each question is overly broad, burdensome or oppressive."

As a result, the judges in this District have repeatedly held that such boilerplate objections are not legally adequate. For example, in *Travelers Indemnity Co. Connecticut v. Phillips Medical Systems*, 2008 WL 4534259 (S.D. Fla.) at p. *1:

> Defendants objections are not meritorious. Unless the discovery request is irrelevant on its face, the party resisting discovery bears the burden of specifically demonstrating how the discovery is irrelevant or otherwise not subject to discovery. [Citation omitted]. This means that parties are not permitted to interpose conclusory, boilerplate plate objections that fail to explain the precise grounds that make the request objectionable. [citation omitted]. Defendant's discovery objection in this case are a model of the conclusory boilerplate objections disfavored by the Federal Rules and this Court.

In *Abdin v. American Security Ins. Co.*, 210 WL 1257702 (S.D. Fla.) at p. *1, Judge Ryskamp concluded that:

> Local Rule 26.1.G.3(a) requires that all grounds for objections to discovery be stated with specificity. Local Rule 26.1.G.3(a) also provides that [a]ny grounds not stated in an objection [to a discovery request] within the time provided by the Federal Rules of Civil Procedure, or any extensions thereof, shall be waived.

Judge Ryskamp went on to hold that the same type of boilerplate objections raised by the Defendants in this case were waived and inappropriate. *See also Benfatto v. Wachovia Bank N.A.*, 2008 WL 493848 (S.D. Fla.); *Guzman v. Irmadan, Inc.*, 249 F.R.D. 399 (S.D. Fla. 2008) (concluding that boilerplate objections, such as those made in this case, are "meaningless"); *Milinazza v. State Farm Ins. Co.*, 247 F.R.D. 691 (S.D. Fla. 2007)(boilerplate objections are "meaningless").

It is therefore clear that the Defendant has waived any objections by the assertion of its boilerplate form objections to each of the 32 items.

III. Relevancy

The Defendant Schmidt persists in making the same disingenuous argument that the emails in this case "have nothing to do with the allegations of negligence made against the Defendants," and are therefore irrelevant. See Second Response, page 17; First Response [D.E. 243, pages 3-4]; Transcript, p. 10. Under the Defendant's theory of relevancy, even email number 2 (Exhibit B to Plaintiff's Motion to Compel) is irrelevant. In the hearing on Plaintiffs' Motion, the following discussion took place between the Court and Mr. Hasty:

> The Court: . . . so my first position is how in the world can Exhibit no. 2 be irrelevant? Would you explain that to me?
> Mr. Hasty: I don't think it is relevant to the allegations of what happened in the Everglades leading up to the hike or their allegations of what they allege Andy Schmidt did that proximately alleged Michael Adelman's death . . .

Transcript, page 10.

For Schmidt's counsel to take the position that an email from his client stating that Michael "developed symptoms of heat exhaustion/stroke and, while first aid measures were immediately begun, later died before reaching a medical facility," is irrelevant, is not only nonsense, but in the upmost bad faith. This is particularly true since the remainder of the email goes on to further contradict Mr. Schmidt's deposition testimony regarding the issue of whether he left to get help with the other Scouts. If this is the definition of relevancy, which the Defendant is using, there is not really much more that need to be said in response.

Nevertheless, it is also important to note that the issue of "relevancy" in this case relates to more than just the "allegations of what [the Plaintiffs] allege Andy Schmidt did that proximately caused Michael Adelman's death." This case also involves issues of causation, damages and liability of other Defendants, both vicarious and direct. In addition, the motivation, bias, ability to observe and credibility of a witness are all proper factors to present evidence upon in trial. Therefore, to

the extent that these emails reflect on any of these issues, they are also clearly relevant and discoverable.

As discussed in more detail in the Plaintiffs Reply to Schmidt's Initial Response, Schmidt attempts to justify the withholding of emails no. 21-30 on the grounds that they relate to the issue of denying Michael the posthumous award of his Eagle following his death. Although the Defendants have spent considerable time questioning Judith Sclawy, Howard Adelman and Patricia Geyer regarding this issue as reflected in footnote no. 3 of the Plaintiffs' Reply to Schmidt's original Response, Schdmit's disingenuously argues here that this subject is irrelevant. Since the filing of Schmidt's Second Response, he has also more recently questioned Michael's sister, Elizabeth on these issues as well in her deposition.

There are only two reasons to explain why the Defendants have spent so much time and effort questioning Michael's father, mother, sister and other adult leaders regarding this issue. Either they believe that it is potentially relevant to some issue in this case or the Defendants are doing so out of pure spite and harassment. Plaintiffs' counsel would hope that the former motivation is the reason behind such extensive inquiry, since the later would require dire sanctions be meted out for the harassment of a family that lost their only son.

IV. Work Product

a. Applicability

The Defendants Schmidt and South Florida Council assert that emails numbered 1, 7, 8 and 9 are protected under the work product privilege. Not only did the Defendants waive this objection by failing to make it at the time that the Privilege Log was filed, see So. Dist. Local Rule 26.1(g)(3), but their claim of privilege is legally unsupportable[4]. *See also Guzman v. Irmadan*, 249 F.R.D. 399

[4] Although the discussion in South Florida Council's Joinder on this point is somewhat nebulous, it is clear from its previously filed Privilege Log that none of the emails, which form the subject matter of this motion, were contained within it. See Exhibit E to South Florida Council's Joinder [D.E. 256].

(S.D. Fla. 2008).

Documents which are prepared in the ordinary course of business, rather than in response to anticipated litigation, are not exempted from production under the work product doctrine. *See e.g. Chaney v. Slack*, 99 F.R.D. 531 (S.D. Ga. 1983)(and cases cited therein). The burden of demonstrating the applicability of the work product doctrine to exempt discovery rests upon the party asserting it. *Mitsui Sumotomo Ins. Co. v. Carbel, LLC.*, 2011 WL 2682958 (S.D. Fla. 2001) (mere conclusory assertions that a document is exempt from disclosure on the grounds that it constitutes work product are insufficient to sustain this burden); *Milinazzo v. State Farm Ins. Co.*, 247 F.R.D. 691 (S.D. Fla. 2007).

The Defendants have cited several cases which stand for the proposition that a formal incident report prepared on a form established by a corporation's legal counsel and/or risk management department filled out in accordance with the corporation's specific policy guidelines for use in assisting counsel in defense of an anticipated lawsuit is exempted from production under the work product doctrine. *See e.g. Alexander v. Carnival Corp.*, 238 F.R.D. 318 (S.D. Fla. 2006); *Fojtasek v. NCL (Bahamas) Ltd.*, 262 F.R.D. 650 (S.D. Fla. 2009). The underlying problem with the Defendants' argument is that the Plaintiffs are not seeking the production of an incident form prepared on a form created by the Defendant Boy Scouts of America for the defense of anticipated litigation, but merely several emails between the Defendant Schmidt and other parents of Scouts or individuals who were not in the BSA risk management hierarchy.

As reflected on Schmidt's Privilege Log, email 1 is between Schmidt and Annette Hungler, who his attorney incorrectly identified as the "secretary of the South Florida Council" during the oral argument before this Court. Instead, as reflected on the email attached Exhibit "11" to the Plaintiffs' Reply, Ms. Hungler was the Pine Island District Executive.

Email no. 7 was from Schmidt to Ms. Hungler as well as Dean Kubler and Cliff Friewald.

Email no. 8 was from Schmidt to Mr. Friewald, while Email no. 9 was a response from Mr. Friewald to Mr. Schmidt. Dean Kubler has been identified in the record in this case as the parent of a former Scout and a former Assistant Scout Master for Troop 111. He is a lay witness, who is scheduled for deposition later this month as well as designated as an expert by Mr. Schmidt. This is no indication in the record anywhere that he has an official position with either the South Florida Council or the Boy Scouts of America, much less a role in their risk management or claim hierarchy.

The Defendants have provided no information whatsoever concerning Mr. Friewald. During the oral argument, Mr. Hasty turned to Mr. Franz, attorney for the South Florida Council, and asked him to identify Mr. Friewald. Mr. Franz responded "I am not sure. I have no knowledge of whether he is simply an adult leader or whether he is on the South Florida Council. I don't know." See transcript, page 36.

Neither Schmidt nor the South Florida Council subsequently provided any further identifying information concerning Mr. Friewald in their two subsequent Responses permitted by this Court, much less established that he is part of the claim or risk management hierarchy of either the Boy Scouts of America or South Florida Council. Therefore, they have completely failed in their burden of establishing that the emails fall within the work product privilege.[5] *See e.g. Auto Owners Ins. Co. v. Totaltape, Inc.*, 135 F.R.D. 199 (N.D. Fla. 1990)(failure to attach affidavits or offer other proof to establish that the documents were prepared in anticipation of litigation required denial of work product claim). Moreover, even if a work product privilege had existed, the disclosure to such third parties would have constituted a voluntary waiver of it. *See Stearn v. O'Quinn*, 253 F.R.D. 663 (S.D. Fla. 2008)(work product privilege waived by voluntary disclosure to third parties).

In *Mitsui Sumitomo Ins. Co. v. Carbel, LLC.*, 2011 WL 2682958 (S.D. Fla. 2011) at *2 this

---

[5] Upon information and belief, it is the understanding of the Plaintiffs that Mr. Friewald is simply a former volunteer Scout Master, who may have been involved in the volunteer training of some local troop adults.

Court pointed out:

> Work product protection operates to "remove counsel's fears that his thoughts and information will be invaded by his adversary. [citation omitted]. The proponent of the privilege has the burden of proving its applicability. [citation omitted].

As further noted by this Court, the work product privilege is intended to "immunize the work product of the attorney *or his agents* from discovery, so that they can analyze and prepare their client's case for litigation." (emphasis by the Court).

Initially, it appears to be rather incongruous for the Defendant South Florida Council to argue that the Defendant Schmidt is its agent or representative. Not only did the Defendant deny such agency relationship in its Amended Answer to Plaintiff's complaint [D.E. 3, ¶32 and 124], but it further moved to dismiss Plaintiffs' complaint on the grounds that

> "the South Florida Council has no responsibility for hiring, retaining, supervising or controlling local scout masters . . . As a matter of law neither the Boy Scouts of America nor the South Florida Council has the right or the opportunity to control a Scout Master's day to day conduct."

[D.E. 5]. Therefore, the Boy Scouts of America and the South Florida Council cannot have it both ways, either the Defendant Schmidt and the other individuals are their agents or representatives or they are not.

Nevertheless, even if Schmidt was an agent or representative of the Boy Scouts of America, the subject emails clearly do not constitute incident reports, much less underlying privileged communications. Both of the cruise line cases cited by the Defendants involved almost identical facts. As noted by the Court in the more recent *Fojtasek* opinion,

> Thus, almost identical to the report created in *Alexander*, here the report was created pursuant to a policy of the legal department in anticipation of litigation and thus it is protected by the work product doctrine and not discoverable.

Fojtasek v. NCL (Bahamas) Ltd., 262 F.R.D. 650, 656 (S.D. Fla.2009) (emphasis added). The court went on to further note that although the incident report in the case before it was prepared by an

employee of a co-Defendant, the "incident report was prepared at the request of NCL and/or its legal counsel for NCL to use in anticipated litigation . . ." *Id.*

The Boy Scouts of America have developed a similar formal incident report. In the deposition of Frank Reigelman, who was produced by the Boy Scouts of America as their corporate representative for the purposes of a 30(b)(6) deposition, the following inquiry occurred:

Q: If you go to page 67 of the *Guide to Safe Scouting* it's captioned, reporting deaths of serious injuries?
A: Yes.

Q: Under the *Guide to Safe Scouting*, is an activity leader required to report either a death or serious injuries as set forth in the manner as set forth in the *Guide*?
A: Yes.

Q: And do they do this through the use of the forms that are included with the Guide?
A: [No Answer:]

Q: Is there a reporting form in here [*Guide to Safe Scouting*]?
A: There is not.

Q: Is there an official Boy Scout incident reporting form?
A: Yes.

Q: Is there a form that the Boy Scouts of America have developed for reporting serious injuries and death that occurred during Boy Scout of America activities?
A: Yes.

Q: And this would apply during- to incidents occurring activities at the Troop level?
A: Yes.

Q: What information is requested in the form?

Q: Can you tell me generally what type of information is solicited by the form?
A: Date, time, place, description. Beyond that - I am not sure.

Q: Are these forms, then sent to - well where are these forms sent?
A: They're - they are completed by the local council and then properly transmitted to Health and Safety.

Q: So the reporting form would be completed by the local council rather than the activity leader?
A: Yes. The - the local council is going to take the information from the troop leaders and complete that form.

Q: I'm sorry, we finished?
A: Yes.

Q: The – under the Boy Scout of America policies and procedures, what does the local council do with the form once it is completed?
A: Submit it to Health and Safety.

Q: That would be the Health and Safety group of Boy Scouts of America here in Texas.
A: Yes.

Q: Now, is the local council required to, under the Boy Scouts of America policies and procedures, required to prepare one of these forms **any time there is a serious injury or fatality**?
A: Yes.

Q: So the preparation of this form is not dependent upon whether or not it is like - it is an event that is likely to lead to litigation; it's required to be done in the ordinary course of business every time there is an incident.
A: Yes.

Deposition of Frank Reigelman, pages 175-178, attached as Exhibit "2" hereto.

Mr. Reigelman, who was selected by the Defendant Boy Scouts of America to act as its corporate representative and to speak on behalf of the organization, has testified under oath that there is an official Boy Scout of American incident form, which is required to be filled out by the local council, "in the ordinary course of business every time that there is an incident" and not simply where there is an event likely to lead to litigation.[6] The document which the Plaintiff believes to constitute the formal BSA Incident Report is attached as Exhibit "3" hereto. As reflected by the separate Privilege Log filed by the South Florida Council [Exhibit E to its Joinder D.E. 256], it

[6] Mr. Reigelman is also an experienced witness, who has not only testified as a corporate representative for the Boy Scouts of America in at least three other cases, but has also acted as a periodic spokesperson for the organization to the media. *See* Reigelman deposition, pages 16-18, attached as part of Exhibit "2."

prepared a formal incident report which is not the subject matter of this motion. Likewise, none of the other communications contained on its Privilege Log are the subject of this motion.

Even if one was to argue that despite Mr. Reigelman's testimony to the contrary that the formal BSA incident report was somehow privileged, it is still apparent that such privilege would not apply to the emails in question, since:

(1) The BSA has developed a specific formal incident report form and does not rely upon informal emails,
(2) The official incident report is prepared by the South Florida Council and not the local troop leader or the district executive.

As reflected by Mr. Reigelman's above quoted testimony, the Defendants' reliance upon page 67 of the *Guide to Safe Scouting* [D.E. 256-4] to argue that the subject emails are work product is without factual or legal support. Moreover, even a cursory reading of this page shows that it is not limited to reporting incidents for the purposes of defending potential claims or anticipated litigation. The second paragraph of the document deals with providing first aid and calling for emergency medical assistance. The third and fourth paragraphs simply require that adult leaders to advise their local counsel scout executive of "a death or serious injury **or illness** as soon as possible." After defining a serious injury or illness in terms of its medical aspects (and not its legal ones), the fourth paragraph merely requires the provision of some basic generic information.

The fifth paragraph deals with reporting to the news media and the local counsel's crisis media response. The next paragraph relates to the gathering of factual information such as statements, photographs and diagrams. Once again, we are not dealing with statements of independent witnesses, photographs or other typical investigatory materials.

Although litigation may not necessarily be imminent, it is the rule in this Circuit that in order to be exempt from discovery as work product

> "the *primary* motivating purpose behind the creation of the document was to aid in possible future litigation."

United States v. Davis, 636 F.2d 1028, 1040 (5th Cir. 1981). The party must also anticipate such litigation "at the time the documents were drafted for these protections to apply." *Milinazzo v. State Farm Ins. Co.*, 247 F.R.D. 691, 698 (S.D. Fla. 2007)(emphasis in the original).

In *Hickman v. Taylor*, 329 U.S. 495 (1947), the Supreme Court concluded that the underlying purpose for the work product exemption from discovery was the need to protect the mental impressions, personal beliefs and strategy of the attorney in representing his or her client. Accordingly, in *Alexander, Fojtasek* and the other similar Southern District cases dealing with incident reports, the courts have emphasized the existence of a policy and guidelines created by the Defendant for use in the investigation and defense of potential claims, which forms the framework for completing the formal incident report form. Even though the incident reports in those cases were not the result of direct instruction by an attorney in reference to the specific case, they were nevertheless the result of the specific guidelines developed by the attorney (and/or risk management department) designed to obtain specific information for use in the development of the Defendant's legal strategy. Therefore, while the incident reports may not have been the result of an attorney's mental impressions and strategies developed solely for the specific case, they still were nevertheless, the result of the attorneys strategy and mental impressions for the defense of cases in general.

The Defendants also confuse the concept of notice of an incident with work product investigation and evaluation of it. Numerous cases, especially in the insurance context, have recognized the difference between documents merely providing notice of an incident from a subsequent work produce investigation of it. For example, as pointed out by the court in *Palmer v. Westfield Ins. Co.*, 2006 WL 2612168 (N.D. Fla. 2006) at *3:

> documents that arise out of routine claim investigation are not subject to the work product privilege. However, documents that are generated by a fire insurer after a fire has become suspicious and the matter has been referred to a special investigation unit are prepared in anticipation of litigation and, thus, are subject to the work product privilege.

Also see Oil Marco Point One Condominium Assoc., Inc., v. QBE Ins. Corp., 2010 WL 5161111 (M.D. Fla. 2010)(corporation's litigation manual was not exempt from discovery under the work product privilege since "the manuals themselves contain no mental impressions, conclusions or legal theories regarding this case").

To the extent that the Defendant Schmidt attempts to utilize Dean Kubler as an expert, this would also act to waive any work product privilege in reference to the particular emails. Likewise, to the extent that Mr. Kubler is a fact witnesses, these emails would also be subject to discovery, since they would not only be relevant to the issue of his knowledge, but also to his motivation, bias and relationship with Schmidt.[7]

The same rationale applies to the emails involving Linda Vedsted, Chris Zimmerman and Brad Schmidt, who have all been identified as potential witnesses by Schmidt, who are "believed to have knowledge of the incident alleged in Plaintiffs' Amended Complaint." See Rule 26 Disclosures (nos. 64, 65 and 68) [D.E. 43]. Perhaps even more importantly, however, the mere "expectation" of Mr. Schmidt that his correspondence with these others individuals, many of which are identified as witnesses in this case, is not sufficient to give rise to any privacy privilege.

Federal Rule of Evidence 501 provides that privileges are limited to those recognized by the United States Constitution, an act of Congress or rules prescribed by the Supreme Court. In those civil actions where an element of the claim or defense is based upon state law, the existence of the privilege is determined in accordance with such state law. The Defendant Schmidt has cited no federal, statutory or Supreme Court rule in support of his claim of privilege. Assuming for the sake of argument that Florida law governs this issue, Florida Rule of Evidence 90.501 provides that the only privileges recognized under state law are those set forth in either the Rules of Evidence, a

---

[7] Schdmit has identified Dean Kubler as a witness "believed to have knowledge of the incident alleged in Plaintiffs' Amended Complaint" in his Rule 26 Disclosures (no. 66) [D.E. 43].

Florida statute or by virtue of the Constitution of the United States or State of Florida. None of the privileges recognized by the Florida Evidence Code are even arguably applicable here.[8] Since it is clear that Schmidt's expectation of privacy is not sufficient to give rise to any privilege under the Florida Constitution as discussed in the next sub-section, there is no basis to support his claim that the emails are not subject to production.

Finally, as discussed in more detail in the Plaintiff's initial Motion to Compel and Reply, a number of these emails have express evidentiary value, both as substantive evidence and to impeach the testimony of the Defendants Crompton and Schmidt. See discussions in D.E. 234 and D.E. 244. As further noted above, even to the extent that these emails may not directionally bear upon the events surrounding the hike, they are clearly relevant to the issues of motivation, bias, opportunity for observation, knowledge and relationship between these potential witnesses and the Defendant Schmidt. Accordingly, it is well established that a party cannot take documents and other materials which have evidentiary value and attempt to convert them into work product. *See e.g. Shulte v. NCL (Bahamas) Ltd.*, 2011 WL 256542 (S.D. Fla. 2011)(security video which may have captured the subject incident was not converted into work product because of the defendants decision to preserve the video).

V. Constitutional Privacy Objections

Assuming purely for the sake of argument that the Defendant has not waived its right to assert a constitutional right of privacy to justify its refusal to disclose the objected to emails by failing to previously assert it, it is nevertheless clear that the Defendant's claims that such a privilege exists as to the subject emails is patently frivolous. Not only is this claim unsupported by the cases

---

[8] The Florida Evidence Code recognizes the following privileges: journalist (§90.5015), lawyer/client (§90.502), psychotherapist/patient (§90.503), sexual assault counselor/victim (§90.5035), domestic violence advocate/victim (§90.5036), husband/wife (§90.504), clergy (§90.505), accountant/client (§90.5055) and trade secrets (§90.506).

cited, but it is completely inconsistent with the positions repeatedly and continuously taken by the Defendant Schdmit throughout this case.

Although the Defendant Schmidt waxes on and on over the expectation of privacy of the parents and scouts in Troop 111 for their emails, he has repeatedly taken a different position throughout this case. For example, in the Defendant Schmidt's "Motion to Preserve Material Evidence as to Michael Adelman and his Family Computers" [D.E. 86], a copy of which is attached hereto as Exhibit "4," Schmidt's counsel stated:

> 2. Michael Adelman's Troop (Troop 111) and Scout leaders communicated via email to the Scouts and their families, including Michael Adelman and Plaintiffs in this lawsuit, his parents.
>
> 3. Plaintiff's Howard Adelman (Michael's father) [and] Judith Sclawy-Adelman (Michael's mother) were actively involved in attending Troop meetings and Troop activities. Howard Adelman participated in camp outs, and Judith Sclawy-Adelman attended Troop meetings.
>
> **4. In order to stay apprized of these activities and their coordination, Plaintiffs received electronic mail (email) directed to Michael's Troop (Troop 111) regarding various scouting activities- including emails about the subject hike- throughout Michael's involvement with the Boy Scouts.**
>
> 5. The Defendant's request that all computers and email accounts that were utilized by Plaintiff's and/or Michael, to access emails received from Troop 111, to forward emails received from Troop 111, to reply to emails received from Troop 111, to reply to emails from Troop 111, to send emails to members of Troop 111, and to access information regarding Troop 111 activities, including, but not limited to the subject hike, be preserved as material evidence in original and unmodified condition.
>
> 6. **These computers, electronic information, and email accounts are material evidence in this case** due to the nature of Plaintiffs' allegations that these Defendants organized, planned and led the subject hike. [D.E. 20 ¶4].
>
> 7. Plaintiff's themselves participated in Boy Scout events, by, inter alia, receiving emails about Troop 111 happenings. **Those specific emails must be disclosed and preserved.** In addition, all information regarding access to, sending and receiving those emails and all information regarding those [sic] computers (including existence and custody) on which such information was transmitted, must be disclosed, preserved and ultimately produced.

The utter inconsistency between the Defendant Schmidt's positions in this case, depending upon when he is seeking discovery and when he is attempting to avoid it, permeates this case.[9] Just two days after the Defendant Schmidt filed its Second Response to the Plaintiffs' Motion to Compel contending that the emails between Schmidt and the other Troop parents were immaterial and irrelevant to any issue in this case, even though they related to Michael, his death, the subject hike or the sequelae thereof, he filed a Request for Production. In this Request for Production, filed on August 1, 2011, Defendant Schmidt seeks:

> 3. Any and all emails, materials, things, writings, notes, photograph and/or video of any kind or description, received by Michael Adelman and/or by Plaintiffs, from Troop 111, scout masters, Plantation United Methodist Church, Boy Scouts of America, and/or South Florida Council, regarding the incident described in Plaintiffs' Amended Complaint.
>
> 4. Any and all emails, materials, things, writings, notes, photograph and/or video of any kind or description, sent by Michael Adelman and/or by Plaintiffs, from Troop 111, scout masters, Plantation United Methodist Church, Boy Scouts of America, and/or South Florida Council, regarding the incident described in Plaintiffs' Amended Complaint.

---

[9] Although Schmidt attempts to draw a comparison between the Plaintiffs' objection to the unfettered production of Michael's text messages for 2 ½ year period prior to the subject hike to its own actions, there is a substantial difference between the legal and factual issues raised by these two situations. Here, the Plaintiffs' seek the production of a limited number of specifically identified emails that all directly relate to either the subject hike, Michael's death, the sequelae of Michael's death, the Adelmans' damages and the motivation, bias and knowledge of individuals who have been identified by the Defendants as potential witnesses in this case. Moreover, these emails cover a relatively limited time period of one week.

The Defendants on the other hand, saw unfettered access to all of the text messages on Michael's cell phone, which he owned for approximately 2 ½ years prior to the subject hike, regardless of their subject matter, proximity to the events in questions or their relationship to any issue in this case. Nevertheless, the Court took the time to personally review all of the texts and concluded that none had any relationship whatsoever to any issue in this case. This conclusion was further strengthened by a review of those texts which were subsequently produced.

Therefore, to suggest that a request for an unfettered access to text messages covering a 2 ½ year period regardless of their subject matter is the equivalent to seeking the production of emails for a one week period that relate specifically to the subject hike, Michael, his death, the sequelae of his death or the bias and relationship of the recipients is disingenuous at best.

> 5. Any and all documents, materials, things, writings, recordings, transcriptions, notes, photographs and/or video, of any kind or description, of emails to Michael Adelman or to the Plaintiffs regarding Michael Adelman's passing.
>
> 6. Any and all documents, materials, things, writings, recordings, transcripts, notes, photographs and/or video, of any kind or description, of sympathy cards for adult and/or youth members and/or leaders of BSA, South Florida Council, and/or Plantation United Methodist Church.[10]
>
> 7. Any and all documents, materials, things, writings, recordings, transcriptions, notes, photographs and/or video, of any kind or description of sympathy cards for adult and/or youth members and/or leaders of BSA, South Florida Council, and/or Plantation United Methodist Church. . .
>
> 8. Any and all documents, materials, things, writings, recordings, transcriptions, notes, photographs and/or videos of any kind or description, of letters, notes, gifts and/or sentimental objects sent to or received from Michael Adelman's significant other (s) at any time.

See Exhibit "6" attached hereto. The request, which contains 56 items, proceeds to seek emails and communications between the Adelmans and numerous other parents and scouts, including Sherrill

---

[10] Apparently, Schmidt is of the opinion that expressions of sentiment and comfort to him because of his (Schmidt) suffering for participating in the events surrounding Michael's death are not discoverable, but emails and other communications of sympathy to Michael's parents because of their suffering due to their only son's death while entrusted to Schmidt's care are subject to discovery.

In addition to the recently filed Request for Production, Schmidt also previously served a subpoena on Menorah Gardens requesting the following:

> Complete file for Michael Sclawy-Adelman (DOB: 5/23/1991) including but not limited to, notes, memorandum, documents, scraps, phone notes, autopsy-related communications, bills, death certificates, correspondence to and from any member of the family of Michael Sclawy-Adelman, e-mails, letters, electronically stored data, and all other documents related to , confirming, reflecting, and/or embodying services performed, rendered, planned, undertaken, by Menorah Gardens and Funeral Chapel for Michael Sclawy-Adelman, and his relatives, family, and/or friends, whether electronic, handwritten, typewritten or otherwise.

See Exhibit "5" hereto.

Lowery, Doug Beals, Patrick Roberts, Linda Vedsted, Rosemary Novak, Carol Henderson, Brad Schmidt, Phillip King, Sam Kent and Ira Abrahams, some of whom were recipients of the same emails that Schmidt objects to producing. Therefore, the Defendant Schmidt apparently believes that there is an expectation of privacy when he communicates with a parent or Scout, but not when anyone else does.

The Defendants Second Response asserts that Florida recognizes a broad and expansive privilege from discovery for anything of a personal nature. Not only is this argument unsupported by the cases cited, but to accept its premise would in essence destroy the concept of discovery in both the federal and state courts. In fact, this Court recognized as much, when if noted during the hearing held on July 14, 2011:

> The Court: Mr. Hasty, let me ask you this Sir. Under that theory, in any lawsuit anytime anyone propounds discovery to someone else, if that person was in possession of letters, emails or other correspondence and low and behold a third party who was not the litigant was an addressee or recipient, then under your view that document can be withheld because, my gosh, we need to protect the privacy rights of these other people. Isn't that the logical extension of your argument?

See Transcript, pages 12-13.

In his Second Response, the Defendant fails to analyze or discuss the essence of the cases which it has cited and their application (none) to this case. For example, while the Defendant discusses the fact in *Rasumussen v. South Florida Blood Service, Inc.*, 500 2d 533 (Fla. 1987) that the Florida Supreme Court upheld the exemption from disclosure of the names of blood donors in a suit by an AIDS victim seeking information concerning the cause of his disease, there is no discussion of the Court's rationale, the scope of the privilege recognized or how the holding relates to the subject emails in this case.

In *Rasmussen*, the Florida Supreme Court concluded that while the Florida Constitution had adopted a privacy provision, that it had to be viewed in context with Florida's discovery rules, which

contain provisions to protect parties from "annoyance, embarrassment, oppression, or undue burden of expense." *Id.* at 535. The Florida Supreme Court went on to note that

> This framework allows for broad discovery in order to advance the state's important interest in the fair and efficient resolution of disputes while at the same time providing protective measures to minimize the impact of discovery on competing privacy interests.

Id. at 535 (emphasis added). Accordingly, the adoption of this Constitutional provision over three decades ago did not change the basic framework or rules for deciding the discoverability of documents and information.

The Supreme Court went to great lengths in *Rasmussen* to point out its reliance upon the devastating nature that the disclosure of the donor's identities would have under the facts in that case:

> The threat posed by the disclosure of the donor's identities goes far beyond the immediate discomfort occasioned by third party providing into sensitive areas of the donors' lives. Disclosure of donor identities in any context involving AIDS could be extremely disruptive and even devastating to the individual donor. If the requested information is released, and petitioner queries the donor's friends and fellow employees, it will be functionally impossible to prevent occasional references to AIDS. As the district court recognized,
>
> AIDS is the modern equivalent of leprosy. AIDS, or a suspicion of AIDS, can lead to discrimination in employment, education, housing and even medical treatment.
>
> . . . By the very nature of this case, disclosure of donor identities is "disclosure in a damaging context."

Id. at 537. The Court also placed a significant emphasis upon the additional factor that such disclosure might negatively impact upon the blood donor organization, which society has "a vital interest in maintaining . . ." *Id.* Of course, none of these reasons have anything to do with the emails in our case.

The Defendant's reliance upon *Alterra Healthcare Corp. v. Estate of Shelley*, 827 So.2d 936 (Fla. 2002) is equally unavailing. Initially, it is important to note that in this case, the Florida

Supreme Court held "even when a constitutional right to privacy is implicated, that right is a personal one, inuring solely to individuals." *Id.* at 941. As a result, the Court concluded that an employer did not have standing to assert the privacy rights of its employees in response to the production of their personnel files. Carrying forth this holding, it is clear that Schmidt would have even less standing to assert the rights of privacy of other adults and scouts from the Troop.

As the Court further noted in *Shelley*, the right of privacy recognized by Florida's Constitution relates to an individuals' ability to determine "when, how and to what extent information about them is communicated to others." *Id.* at 941, quoting from *Shaktman v. State*, 553 So.2d 148, 150 (Fla. 1989). In *Shelley*, the Plaintiff sought discovery of the employee's personnel files, which contained all manner of personal information regarding themselves. Nevertheless, even in this context, the Court denied the discovery objection, although holding that the trial court could require the redaction or exclusion of "specific personal information" if it was not relevant to the pending litigation.

It is important to note that here, we are not even dealing with personnel files or other documents containing private personal or confidential information regarding the sender. Instead, we are merely dealing with emails that all relate in some manner to the subject hike, Mike's death during the hike or the resulting sequelae.

The mere fact that the sender of an email may impart some aspect of his or her personal views on the subject does not give rise to the same level as"personal information" for which the individual maintains a recognizable expectation of confidentiality. The fact that the individuals are communicating by emails to multiple other individuals in the absence of some special relationship (ie: attorney/client, doctor/patient, accountant - client) also belies any such expectation.

The Plaintiff is extremely surprised that the Defendant chose to cite and rely upon the decision in *Menke v. Broward County School Board*, 916 So.2d 8 (Fla. 4th DCA 2005). Not only is

this case totally inapplicable, but it is contrary to the position which the Defendant Schmidt has taken throughout the case.

In *Menke*, a high school teacher who had been suspended for "misconduct in office" appealed an administrative action taken by the school board ordering an inspection "of all the computers in his household, which consists of Menke, his wife and his children." The School Board wanted its computer expert to inspect all such computers for messages between Menke and any students. Menke had objected to the inspection on a variety of different grounds, including his constitutional right against self incrimination, husband/wife privilege, attorney/client privilege, accountant/client privilege, clergy/parishioner privilege and patient/physician privilege, including claimed several right of privacy. The Fourth District Court of Appeal quashed the administrative judge's ruling on the grounds that it provided "unfettered access to the petitioner's computer in the first instance." *Id.* at 12. The Court went on to further hold, however, that the "request be conformed to discovery methods and matters provided within the Rules of Civil Procedure." *Id.*

Therefore, not only does this case fail to support the Defendant's claimed privilege here, but it is also inconsistent with motions and discovery filed by the Defendant Schdmit throughout this case. For example, as noted earlier, the Defendant Schmidt filed a "Motion to Preserve Materials Evidence as to Michael Adelman's and his Family Computers" [D.E. 86], claiming that all of the computers in the Adelman household were "material evidence" and requested that any email "about Troop 111 happenings" on any of the family computers be produced. See Exhibit "4" hereto.

None of the other cases cited by the Defendant support their position. For example, *Favalora v. Sidaway*, 996 So.2d 895 (Fla. 4th DCA 2009) involved an order by the trial court to the Archbishop of the Catholic Diocese of Miami to identify by name prior alleged victims of sexual abuse and of their claimed perpetrators. The appellate court concluded that the portion of the order which required the identification of alleged victims who had filed suit under a pseudonym would be

quashed, since the publication of their names violated their right "to keep the alleged sexual abuse private." Similarly, the publication of the alleged perpetrators names would damage their reputations.

Likewise, *Publix Supermarkets, Inc. v. Johnson*, 959 So.2d 1274 (4th Cir. 2007) involved the identification of alleged shoplifters. As with sexual abuse victims or an individual suffering from AIDS, this is the type of information which could seriously damage an individuals reputation in the community and lead "to discrimination in employment, education, housing and even medical treatment." *Rassumusen,* 500 So.2d at 537. The Plaintiff has no reason to suspect that any of the emails sought to be withheld from discovery by Schmidt relate to incurable diseases, sexual abuse, criminal activity or such other similar topics.

VI. Attorneys Fees and Sanctions

Under the provisions of Rule 37, sanctions are generally required to be awarded to a party successfully obtaining the production of discovery in response to a motion to compel unless the conduct of the party opposing the discovery is found to have been substantially justified. *E.g. Devaney v. Continental Ins. Co.*, 989 F.2d 1154 (11th Cir. 1993). The burden of establishing such substantial justification is upon the party subject to the sanctions. *E.g. Lawson v. Plantation General Hosp., LP.*, 2009 WL 3367369 (S.D. Fla. 2009).

In *Devaney v. Continental American Ins. Co.*, 989 F.2d 1154 (11th Cir. 1993), the Eleventh Circuit held that Federal Rule of Civil Procedure 37 (a)(5) [previously (4)] "authorizes a trial court to award expenses, including reasonable attorneys fees, to the prevailing party when a motion is made for an order compelling discovery." *Id.* at 1159 (emphasis added). The Court went on to uphold the award of sanctions against an attorney, even though a motion for sanctions had not been filed against him. Accordingly, the Eleventh Circuit has made it clear that it is not necessary for a prevailing party to specifically ask for sanctions in a motion to compel discovery in order to for the Court to award them.

It is also well settled that sanctions in the form of attorneys fees and costs are appropriate even where a party voluntarily produces discovery after making the other side expand the time and expense of filing a motion to compel to require the recalcitrant litigant to comply with its obligations. *See e.g. Lawson v. Plantation General Hosp., L.P.*, 2009 WL 3367369 (S.D. Fla. 2009)("although Plaintiff did ultimately provide a signed release, her actions necessitated the filing of Defendant's Motion [and] accordingly, the Court finds that the Defendant is entitled to an award of reasonable fees.").

As in the *Lawson* case, the Plaintiffs herein also "made multiple good faith attempts to resolve the dispute prior to the filing of its motion with the Court." As discussed in more detail above, Plaintiffs' counsel spent several weeks attempting to obtain the subject emails prior to filing their motion. The documents attached to the Defendant's response (pursuant to the Court's order) evidence that Plaintiffs' counsel initiated multiple phone conversations, followed up by at least four written communications over a several week period in an unsuccessful effort to obtain these documents. Even after the Plaintiff filed its motion, the Defendant thereafter waited another two weeks before producing a few of the objected to emails "voluntarily."[11]

The Defendant's suggestion that it has "exercised good faith" in this case by subsequently turning over a handful of the emails (which he had originally objected to) is nonsensical. As reflected by the emails which have been obtained to date, and discussed in more detail in the Plaintiffs' original Motion and Reply, the Defendant essentially got caught making bad faith objections to emails, which were not only discoverable, but in some cases evidentiary in nature. Therefore, there is clearly no basis under the law for the Defendant to claim that it should be rewarded for subsequently producing a handful of the originally objected to emails only after the

---

[11] The Defendant contention that his good faith is evidenced by the fact that he complied with the Court's order by delivering the emails to it for an in-camera inspection creates a whole new definition for what constitutes "good faith." See Defendants Second Response, page 4.

Plaintiff discovered their non-privileged nature and then had to go through the lengths of filing a Motion to Compel.

The total and blatant lack of good faith in the Defendant's objections to producing the emails, which have been obtained to date, has been previously discussed in the Plaintiffs' original Motion to Compel and Reply and accordingly, will not be repeated herein. The Plaintiffs would further point out, however, that the dilatory and unjustified conduct of the Defendant has continued even after the filing of the Plaintiffs' motion.

After several weeks of unsuccessfully attempting to obtain the Defendant's cooperation in producing the subject emails as outlined above, the Plaintiffs filed its Motion to Compel on June 24, 2011. Thereafter, the Court entered not one, but two orders directing the Defendant Schmidt to file a Response that

> "shall cite case law and other authority supporting its view, asserted in its objection to and privilege log regarding notice of taking the deposition duces tecum, that certain documents would not be produced because of a purported "privilege" for "confidentiality" and "privacy." (emphasis added)

[D.E. 235].

This was followed up by a second order again requiring that the Defendant

> "shall also cite the authority which supports Defendant's position, asserted repeatedly in its objections and privilege log, that 32 emails, including more than two dozen sent within a week after Michael Adelman's death, – many of which were sent within the first three weeks of his death and wish to discuss the circumstances surrounding his death – are not even discoverable because they are supposedly not relevant or material."

[D.E. 37]. (emphasis added)

Despite the Court's clear and unambiguous direction, the Defendant filed a Response which failed to contain one citation of legal authority of any nature, whether it be case law, rule or statute. [D.E. 243]. At the subsequent hearing on the Plaintiffs' Motion, the Defendant requested the opportunity to file another memorandum in compliance with the Court's earlier orders. As a result,

the resolution of this matter has now been delayed additional weeks and the Plaintiffs have been required to respond to yet another memorandum, this one 25 pages long.

Dated: August 11, 2011.

Respectfully submitted,

/s/ Robert D. Peltz
ROBERT D. PELTZ (Fla. Bar No. 220418)
E-mail: peltz@leesfield.com
LEESFIELD & PARTNERS, P.A.
2350 S. Dixie Highway
Miami, Florida 33133
Telephone: (305) 854-4900
Facsimile: (305) 854-8266
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 11, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Robert D. Peltz
ROBERT D. PELTZ

SERVICE LIST

IRA H. LEESFIELD
ROBERT D. PELTZ
E-mail: leesfield@leesfield.com
peltz@leesfield.com
LEESFIELD & PARTNERS, P.A.
2350 S. Dixie Highway
Miami, Florida 33133
Telephone: 305-854-4900
Facsimile: 305-854-8266
Attorneys for the Plaintiffs

FREDERICK E. HASTY, III
Email: fhasty@wickersmith.com
WICKER, SMITH, O'HARA, MCCOY, GRAHAM & FORD, P.A.
2800 Ponce de Leon Blvd.
Suite 800
Coral Gables, Florida 33134
Telephone: 305-448-3939
Facsimile: 305-441-1745

Attorneys for Howard K. Crompton and Andrew L. Schmidt

UBALDO J. PEREZ, JR., ESQ.
Email: uperez@uperezlaw.com
Law Office of Ubaldo J. Perez, Jr., P.A.
8181 NW 154th Street, Suite 210
Miami Lakes, FL 33016
Telephone: (305) 722-8954
Facsimile: (305) 722-8956
Co-Counsel for Howard K. Crompton

WILLIAM S. REESE
WILLIAM SUMMERS
KEVIN D. FRANZ
Email: wreese@lanereese.com
kfranz@lanereese.com
wsummers@lanereese.com
LANE, REESE, SUMMERS, ENNIS & PERDOMO, P.A.
2600 Douglas Road
Douglas Centre, Suite 304
Coral Gables, Florida 33134
Telephone: 305-444-4418
Facsimile: 305-444-5504
Attorneys for Boys Scouts of America and The South Florida Council, Inc.; Boy Scouts of America

GREG M. GAEBE
Email: ggaebe@gaebemullen.com
GAEBE, MULLEN, ANTONELLI & DIMATTEO
420 South Dixie Highway, 3rd Floor
Coral Gables, FL 33146
305-667-0223
305-284-9844 – Fax
Attorneys for Plantation United Methodist Church