

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

Case No. 10-CV-22236-ASG  
Division: Circuit Civil

HOWARD ADELMAN AND JUDITH SCLAWY-ADELMAN,  
as co-personal representatives 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, individually.

Defendants.

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DEPOSITION OF MANFRED C. BORGES, M.D.  
Volume I of I  
Pages 1 through 117  
4th day of April, 2011  
3:00 p.m. to 6:10 p.m.  
District Twenty Medical Examiner's Office  
Collier County  
3838 Domestic Avenue  
Naples, Florida

Stenographically Reported By:  
Betty G. Althoff, FPR, RPR  
Registered Professional Reporter

1 A. Yeah.

2 Q. What came of that?

3 A. I didn't make much of the smear, I didn't think  
4 it was, I wanted to see if there was maybe an abnormal  
5 sickle pattern or something like that. We sometimes find  
6 that, and it wasn't really remarkable to me.

7 I have to remind everyone at 5:00 the office  
8 shuts down, and all the doors are locked. So --

9 MR. HASTY: Why doesn't somebody else ask  
10 questions, while I am looking at the records.

11 CROSS-EXAMINATION

12 BY MR. PELTZ:

13 Q. Hello, doctor, how are you?

14 A. Hello, sir.

15 Q. Doctor, you had indicated that your opinion, as  
16 reflected on the death certificate, was that the probable  
17 cause of Michael's death was heat stroke.

18 A. Yes, I did.

19 Q. Do we have a copy of the death certificate here?

20 A. That is within that pile.

21 Q. I may have it. Let me show you a copy of one  
22 that I had received --

23 A. Yes.

24 Q. -- from the Office of Vital Statistics, and ask  
25 you if that is a true and accurate copy of the death

1 certificate that you had signed?

2 A. Yes, it is.

3 MR. PELTZ: Okay. We'll mark that as Plaintiff's  
4 Exhibit 1, if we can.

5 (Plaintiff's Exhibit No. 1,  
6 Death certificate, was marked for identification.)

7 BY MR. PELTZ:

8 Q. Doctor, I believe you indicated in reaching that  
9 conclusion, although you could not rule out all other  
10 causes, that that was your opinion within a reasonable  
11 medical probability?

12 MR. SUMMERS: Objection to form, leading.

13 A. Yes, sir.

14 Q. Since there was an objection, I will ask the  
15 question this way: Was your opinion that Michael's death  
16 was the probable result of heat stroke rendered within a  
17 reasonable medical probability?

18 A. Yes, it was.

19 Q. And if you had to quantify how certain you were  
20 on a scale of one to one hundred, how would you be able  
21 to?

22 A. It would be more certain than not. It would be  
23 this side of 75 percent, if I had to. It is not, it is  
24 certainly not without an autopsy, I wouldn't render my  
25 opinion to a hundred degree certainty.

1           For instance, let's say I did an autopsy and I do  
2           an autopsy on a person and then I find that they have a  
3           massive heart infraction, I can render to a hundred degree  
4           (sic) of certainty. In this situation, I would say it  
5           would be closer to 75, somewhere in that.

6           Q.    Okay. So is it your opinion that Michael had  
7           died of heat stroke within 75 percent probability?

8           A.    Something in that range, yes.

9           Q.    Okay.

10          A.    If I have to quantitate it.

11          Q.    Attorneys ask those questions. Doctor, you and I  
12          met --

13          A.    Yes.

14          Q.    -- about a week and a half ago or so?

15          A.    Yes, sir.

16          Q.    Okay. And is it unusual for attorneys that are  
17          involved in litigation, whether it is criminal or civil,  
18          to want to meet with you?

19          A.    Absolutely not, our doors are open to both the  
20          plaintiffs, defense, anybody that wants to meet, we are  
21          open to them.

22          Q.    And so if the attorneys for any of the defendants  
23          in this case had wanted to meet with you, would you have  
24          met with them?

25          A.    Absolutely.

1 MR. SUMMERS: Objection to form.

2 A. Yes.

3 Q. Was the objection that Michael's parents had to  
4 performing an autopsy based upon their religious beliefs?

5 MR. SUMMERS: Objection to form.

6 A. That is what we were advised. We were advised  
7 that they were Orthodox Jewish, and they had religious  
8 objections to the autopsy.

9 Q. Based on -- strike that. Is it a policy of this  
10 office to respect the religious beliefs of those  
11 individuals, unless there is some compelling state  
12 interest in which not to do so?

13 A. We definitely, most definitely respect the  
14 objections. There are autopsies that are mandated,  
15 homicides and suicides are mandated. There are others  
16 that are recommended. This would fall under that  
17 category, and obviously, we would respect their  
18 objections.

19 We have done autopsies on people who are Orthodox  
20 Jewish. We have the Rabbi present, and we try to remove  
21 as little blood and as little tissue as possible and  
22 return it to the body with the Rabbi present. It has been  
23 done and that could have been done in this case, but it  
24 wasn't.

25 Q. Where there is not -- strike that. Where the

1 heart shuts down, our brain shuts down, our liver shuts  
2 down, that is the definition of death. But in him, you  
3 can see that his lungs were filling up with blood. He is  
4 in congestive heart failure. And this is something that  
5 was happening when he was still alive, this foam --

6 Q. In your opinion --

7 A. -- but that is consistent with heat stroke.

8 Q. Now, you were asked a question about Claritin.  
9 You were aware that he had had Claritin back at the time  
10 you did your death certificate?

11 A. Yes, I believe I was, but as I said, I defer any  
12 questions as to toxicology to Doctor Hern.

13 Q. No, the only reason I asked was, they made it  
14 sound like you found it out afterwards.

15 MR. SUMMERS: Objection to form.

16 MR. SCHEVIS: Object to the form.

17 BY MR. PELTZ:

18 Q. Now, with regard to, if someone is going to do an  
19 autopsy, as you were describing the process, would you  
20 have removed Michael's heart?

21 A. Yes.

22 Q. Would you have removed Michael's brain from his  
23 body?

24 A. Yes.

25 Q. Would you have taken out all of his organs?

1 A. Yes.

2 Q. What else would you have done in an autopsy?

3 A. Well, in an autopsy, I would have taken out all  
4 the organs. This is how we do an autopsy. I would have  
5 examined the organs. I would have dissected the organs  
6 thoroughly. The brain would have been examined.

7 We don't do partial autopsies here. Generally  
8 speaking, we take, we keep a representative section from  
9 each organ for the future. We keep it at least a year.

10 We may waive that if the person is an Orthodox  
11 Jew, because everything has to go back with the body, but  
12 we prefer to do that. We will take histologic sections.  
13 In this case I would have preferred to have the heart  
14 examined by a cardiac pathologist. But given the fact he  
15 was Orthodox Jewish, we may have had to waive that.

16 The brain, I would have preferred to have a  
17 neuropathologist look at. But again, we may have waived  
18 that. But if I was able to do a full autopsy, with no  
19 restrictions, that is what I would have done.

20 Q. And you understand, don't you, doctor, that the  
21 objections of individuals to, who are Jewish, to having  
22 autopsies performed, has to do with their view of the body  
23 being desecrated, as opposed to just simply having a Rabbi  
24 present?

25 MR. SUMMERS: Objection to the form.

1           A.    On that, and also by looking at him, and looking  
2           at his physical habitus, his body habitus, and his review  
3           of records as well, by looking at those --

4           MR. SUMMERS:  Let him finish.

5           A.    -- heart rate and so forth.

6           Q.    And as far as, unlike Doctor Bullard, who had the  
7           opportunity to actually examine his heart rate and listen  
8           for himself, you did not have that option?

9           A.    Absolutely, I did not have that option.

10          Q.    You were asked some questions by Mr. Summers  
11          about why one person involved in an incident may die and  
12          other people may not.  Have you been involved in cases, as  
13          a Medical Examiner, where there is an auto accident, and  
14          there would be multiple people in the car and only one  
15          person will die in the car?

16          MR. SUMMERS:  Object to form.

17          A.    Oh, absolutely or cases where a boat crashes and  
18          people in the boat, only one drowns, and they are the same  
19          exact -- let's put it this way -- they are in the same  
20          boat.

21          Q.    Literally and figuratively?

22          A.    Literally and figuratively.

23          Q.    And would it be reasonable to assume that an  
24          individual, who is on a 20-mile hike on a day where  
25          temperatures reach 100 degrees, that that individual,