

66450-3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 10-CV-22236-ASG
Magistrate Judge: Magistrate Judge Jonathan Goodman

HOWARD ADELMAN and JUDITH SCLAWY-
ADELMAN, as Co-Personal Representative 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.

_____ /

NOTICE OF TAKING DEPOSITION DUCES TECUM
(Appearance and Live Testimony Required)

PLEASE TAKE NOTICE that the undersigned attorneys will take the depositions

of:

NAME: **Person With Most Knowledge - Verizon Wireless**
ATTN: Appearance Team/Legal Department
180 Washington Valley Road
Bedminster, NJ 07921
Fax: (908) 306-7496

DATE AND TIME: **Tuesday, September 26, 2011 at 11:00 a.m.**

PLACE: **Wicker, Smith, O'Hara, McCoy & Ford, P.A.**
2800 Ponce de Leon Boulevard, Suite 800
Coral Gables, FL 33134

upon oral examination before U.S. Legal Support, Notary Public, or any other Notary Public or other officer authorized by law to take depositions in the State of Florida. The

oral examination will continue from day to day until completed. The depositions are being taken for the purpose of discovery, for use at trial, or for such other purposes as are permitted under the Florida Rules of Civil procedure in such cases.

Description of the matters for examination:

All billing, subscriber and technical information for the following phone number: **(954) 401-3338**, for the time period of **May 8, 2009 through and until May 9, 2009, only**. All data shall be provided in standard "tab delimited" or Excel Format so data can be imported into data analysis systems.

A summary of the information to be produced includes, but is not limited to,
Subscriber Information:

1. All billing and contact information for the above number
2. All information regarding start of service and donor carrier if ported.
3. Services subscribed during time period requested.

Equipment Information:

1. Phone ESN or MSID
2. Mobile Equipment Type and Software Version

Network, Billing and Usage Information:

1. call detail records;
2. call activity including billable and non-billed activity such as 911 calls;
3. text messaging (from own system or third party provider);
4. MMS or equivalent messaging (from own system or third party provider);;
5. subscription add/change/cancel,

6. subscriber information;
7. billing information;
8. AMA billing data;
9. service orders related to the above phone;
10. cellular towers locations and configurations including orientation, radius of coverage for each face and tower ID in the service area during the stated dates;
11. trouble tickets (or equivalent) adds, moves, changes and removes for service area
12. The RF plan for the service area on the dates shown. The plan shall identify each tower on a map, show its sectorization and the coverage area enabled by each sector. If changes were made in the period noted include the shut down or addition or reconfiguration of tower coverage this should be noted. Please be careful to distinguish between iDen towers and Sprint towers.
13. A table shall be provided listing all towers, their gps locations, orientation and sectorization. The generic name of the tower, the FCC ID, the street address and technology employed for each tower will be listed in this table. The labels for the towers will correspond to the labels shown on the RF maps provided.

Terms defined:

- **Call Detail Records** – Billing records are not acceptable as a substitute for CDRs

which are original information produced by the billing system as described below.

- **Text or Picture Messaging** – All records of SMS, MMS or similar store and forward type data originated or received by the parties, address and numbers ordered. As the MMS Server or equivalent may be a separate functional entity of the network, or may be out-sourced to a third party provider, it is ordered for purposes of this subpoena that regardless of the physical status of this function, the information be provided. Any and all messages stored in the SMSC, MMS or equivalent shall be provided. Associated billing records will be provided. Text of messages and acknowledgment of messaging shall be provided in standard retrieval form. For each message sent, the original message with all identifying parameters and the text or content of the message shall be provided and the return acknowledgment of delivery or error status shall be provided.
- **Voicemail** – As per above, regardless of the physical status or business arrangement for the provision of voicemail service to the above phone numbers, address and subscribers.
- **Data Services** – Any data services provided to the phone numbers, addresses or subscribers listed above shall be provided along with an explanation of the type of service (CDPD, 1XRTT, etc.) and a detailed description of usage.
- **Non-Billed Services** – Any “non-billed” services such as 911 calls or calls under a minute should be provided as well. Please provide information as to the billing policy during the time requested. At what point does billing start? Some providers start billing when the “SEND” button is pushed, while others may allow

for 20 seconds of alerting (ringing) and then automatically began billing. Advise as to the companies policy during the time requested.

- **Stored Signaling Messages** – Registration Notifications or CSS Inactive for phones should be provided.
- **RF Plan** for the time period noted. This should include the location of all cell towers in the service area of Prince Georges County or further if phones were registered in those areas in the time frame stated. The plan should note towers and their intended coverage area.
- **Orientation and Location of Base Stations** – A table of basestations, with the standard information not limited to street address, GPS coordinates, company identifier, FCC identifier and orientation shall be provided for all basestations in the service area. If all towers are oriented in a similar manner, a single sheet showing the how the basestations Ids identify which direction each sector is pointing is sufficient. If a standard radius is also used, this can be indicated. Exceptions such as omnidirectional towers, shaped areas or other non-standard configuration should be noted and information should be provided. Please assure that such drawing indicate if the directions are based on true north, magnetic north or other reference.
- **Outages** – A table of listing of basestations outages, either routine, repair, add or remove shall be provided as well with the times and dates relevant. Temporary reconfiguration during the outage should not which basestation Ids were used to fill in.

- **Service Order Processing** – Customer account information established and updated in the billing systems via service order activity. Service orders reflecting resale and UNE-P port products, services and activities first update the ACIS database. For each bill cycle, ACIS, files of resale billing information (including the account telephone number (“ATN”) and associated working telephone numbers (“WTNs”); Universal Service Ordering Codes (“USOCs”) for resold products and services; and the retail recurring and non-recurring charges). Files provided by ACIS to RBS for bill preparation. After first posting to ACIS, UNE-P port service orders sent for posting to CABS in the regular update cycle. Service order activity for other UNE products, and for local transport and interconnection, posts to CABS without processing by ACIS.
- **Usage Processing** – Call detail recorded at central office switches in Automated Message Accounting (“AMA”) format. Call detail records processed by the Common Message Processing System (or equivalent) and sent to the appropriate billing system for bill processing.
- **Rate tables** – Used to rate usage for retail, resale and operator services.
- **CABS rates** – Usage for UNEs and interconnection services.
- **Bill Preparation** – Including monthly recurring charges, non-recurring charges, and usage-sensitive charges as appropriate. As a general matter, include from the bill preparation process: (1) new service order activity and usage incurred over the previous month is accumulated, together with recurring charges for existing service; (2) recurring, non-recurring and usage charges are applied/summarized as

appropriate; (3) billing information is edited to verify both format and content of the data; and (4) bill prepared as delivered to the subscriber.


- **Daily Usage File (“DUF”)** – Including end user, access and interconnection records as appropriate formatted using the Exchange Message Interface (“EMI”) industry standard.
- **Billing Rate Tables** – Rates for products and services maintained in billing rate tables within the ACIS system for retail services (based on applicable tariffs) and the CABS system for UNE and interconnection billing (based on tariff and interconnection agreements).
- **CABS UNE Bills** – Including a circuit-by-circuit listing of monthly recurring and non-recurring charges, and includes (among other things) circuit ID and TN number (where appropriate); serving central office codes; service order and purchase order numbers; effective charge dates; descriptions of activity type; and Uniform Service Order Codes (“USOCs”) for the products and services reflected on the bill. The detail provided on CABS usage bills should include items as total minutes, messages and usage charges billed at the access service group (“ASG”) level; the usage rate category (local, blended, direct or tandem routed) and whether the usage is originating or terminating.
- **Push-to-Talk Data Records (if phone is so enabled)** – For all requested phones, if they are Push-to-Talk capable (all Nextel and some Sprint), the call detail records for the push-to-Talk sessions shall be provided.

Deponent is to bring with him/her the following:

See attached Schedule "A".

WE HEREBY CERTIFY that a true copy of the foregoing was mailed this 7th
day of September, 2011 to all parties on the attached service list.

WICKER, SMITH, O'HARA, MCCOY &
FORD, P.A.
Attorney for Howard K. Crompton and
Andrew L. Schmidt
2800 Ponce de Leon Boulevard, Suite 800
Coral Gables, FL 33134
Phone: (305) 448-3939
Fax: (305) 441-1745

By: 
Frederick E. Hasty III #48419
Florida Bar No. 260606

Service List

Ira H. Leesfield, Esquire
Leesfield & Partners, P.A.
2350 South Dixie Highway
Miami, FL 33133

Robert D. Peltz, Esquire
Leesfield & Partners, P.A.
2350 South Dixie Highway
Miami, FL 33133

William S. Reese, Esquire
Lane, Reese, Summers, Ennis & Perdomo
Douglas Centre, Suite 304
2600 Douglas Road
Coral Gables, FL 33134

Greg M. Gaebe, Esquire
Gaebe, Mullen, Antonelli, Esco & DiMatteo
420 South Dixie Highway, 3rd Floor
Coral Gables, FL 33146

William L. Summers, Esquire
Lane, Reese, Summers, Ennis & Perdomo
2600 Douglas Road, Suite 304
Coral Gables, FL 33134

Ubaldo J. Perez, Jr., Esquire
Law Office of Ubaldo J. Perez, Jr., P.A.
8181 N.W. 154 Street, Suite 210
Miami Lakes, FL 33016

Horace Clark, Esquire
U.S. Department of the Interior
Office of the Regional Solicitor
Southeast Region
75 Spring Street, S.W., Suite 304
Atlanta, GA 30303

Schedule "A"

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Issued by the
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

66450-3

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

SUBPOENA IN A CIVIL CASE

CASE NO. 10-CV-22236-ASG


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.

TO: Person With Most Knowledge
Verizon Wireless
ATTN: Appearance Team/Legal Department
180 Washington Valley Road
Bedminster, NJ 07921
Fax: (908) 306-7496

 YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

Wicker, Smith, O'Hara, McCoy & Ford, P.A.
2800 Ponce de Leon Boulevard, Suite 800
Coral Gables, FL 33134

DATE AND TIME

September 26, 2011 at 11:00 a.m.

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects).

Description of the matters for examination:

All billing, subscriber and technical information for the following phone number: **(954) 401-3338**, for the time period of **May 8, 2009 through May 9, 2009, only**. All data shall be provided in standard "tab delimited" or Excel Format so data can be imported into data analysis systems.

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Deponent is to bring with him/her the following:

See attached Schedule "A".

PLACE Same as above.	DATE AND TIME Same date and time.
<input type="checkbox"/> YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.	
PREMISES	DATE AND TIME
Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure. 30(b)(6).	
ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) Attorney for Defendant 	DATE September 7, 2011
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Frederick E. Hasty III, Esquire 260606 (305) 448-3939	Wicker, Smith, et al. 2800 Ponce de Leon Boulevard Suite 800 Coral Gables, FL 33134

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45. Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified or compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person

resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

Schedule "A"

All billing, subscriber and technical information for the following phone number: **(954) 401-3338**, for the time period of **May 8, 2009 through May 9, 2009, only**. All data shall be provided in standard "tab delimited" or Excel Format so data can be imported into data analysis systems.

A summary of the information to be produced includes, but is not limited to,
Subscriber Information:

1. All billing and contact information for the above number
2. All information regarding start of service and donor carrier if ported.
3. Services subscribed during time period requested.

Equipment Information:

1. Phone ESN or MSID
2. Mobile Equipment Type and Software Version

Network, Billing and Usage Information:

1. call detail records;
2. call activity including billable and non-billed activity such as 911 calls;
3. text messaging (from own system or third party provider);
4. MMS or equivalent messaging (from own system or third party provider);;
5. subscription add/change/cancel,
6. subscriber information;
7. billing information;

8. AMA billing data;
9. service orders related to the above phone;
10. cellular towers locations and configurations including orientation, radius of coverage for each face and tower ID in the service area during the stated dates;
11. trouble tickets (or equivalent) adds, moves, changes and removes for service area
12. The RF plan for the service area on the dates shown. The plan shall identify each tower on a map, show its sectorization and the coverage area enabled by each sector. If changes were made in the period noted include the shut down or addition or reconfiguration of tower coverage this should be noted. Please be careful to distinguish between iDen towers and Sprint towers.
13. A table shall be provided listing all towers, their gps locations, orientation and sectorization. The generic name of the tower, the FCC ID, the street address and technology employed for each tower will be listed in this table. The labels for the towers will correspond to the labels shown on the RF maps provided.

Terms defined:

- **Call Detail Records** – Billing records are not acceptable as a substitute for CDRs which are original information produced by the billing system as described below.
- **Text or Picture Messaging** – All records of SMS, MMS or similar store and

forward type data originated or received by the parties, address and numbers ordered. As the MMS Server or equivalent may be a separate functional entity of the network, or may be out-sourced to a third party provider, it is ordered for purposes of this subpoena that regardless of the physical status of this function, the information be provided. Any and all messages stored in the SMSC, MMS or equivalent shall be provided. Associated billing records will be provided. Text of messages and acknowledgment of messaging shall be provided in standard retrieval form. For each message sent, the original message with all identifying parameters and the text or content of the message shall be provided and the return acknowledgment of delivery or error status shall be provided.

- **Voicemail** – As per above, regardless of the physical status or business arrangement for the provision of voicemail service to the above phone numbers, address and subscribers.
- **Data Services** – Any data services provided to the phone numbers, addresses or subscribers listed above shall be provided along with an explanation of the type of service (CDPD, 1XRTT, etc.) and a detailed description of usage.
- **Non-Billed Services** – Any “non-billed” services such as 911 calls or calls under a minute should be provided as well. Please provide information as to the billing policy during the time requested. At what point does billing start? Some providers start billing when the “SEND” button is pushed, while others may allow for 20 seconds of alerting (ringing) and then automatically began billing. Advise as to the companies policy during the time requested.

- **Stored Signaling Messages** – Registration Notifications or CSS Inactive for phones should be provided.
- **RF Plan** for the time period noted. This should include the location of all cell towers in the service area of Prince Georges County or further if phones were registered in those areas in the time frame stated. The plan should note towers and their intended coverage area.
- **Orientation and Location of Base Stations** – A table of basestations, with the standard information not limited to street address, GPS coordinates, company identifier, FCC identifier and orientation shall be provided for all basestations in the service area. If all towers are oriented in a similar manner, a single sheet showing the how the basestations Ids identify which direction each sector is pointing is sufficient. If a standard radius is also used, this can be indicated. Exceptions such as omnidirectional towers, shaped areas or other non-standard configuration should be noted and information should be provided. Please assure that such drawing indicate if the directions are based on true north, magnetic north or other reference.
- **Outages** – A table of listing of basestations outages, either routine, repair, add or remove shall be provided as well with the times and dates relevant. Temporary reconfiguration during the outage should not which basestation Ids were used to fill in.
- **Service Order Processing** – Customer account information established and updated in the billing systems via service order activity. Service orders reflecting

resale and UNE-P port products, services and activities first update the ACIS database. For each bill cycle, ACIS, files of resale billing information (including the account telephone number (“ATN”) and associated working telephone numbers (“WTNs”); Universal Service Ordering Codes (“USOCs”) for resold products and services; and the retail recurring and non-recurring charges). Files provided by ACIS to RBS for bill preparation. After first posting to ACIS, UNE-P port service orders sent for posting to CABS in the regular update cycle. Service order activity for other UNE products, and for local transport and interconnection, posts to CABS without processing by ACIS.

- **Usage Processing** – Call detail recorded at central office switches in Automated Message Accounting (“AMA”) format. Call detail records processed by the Common Message Processing System (or equivalent) and sent to the appropriate billing system for bill processing.
- **Rate tables** – Used to rate usage for retail, resale and operator services.
- **CABS rates** – Usage for UNEs and interconnection services.
- **Bill Preparation** – Including monthly recurring charges, non-recurring charges, and usage-sensitive charges as appropriate. As a general matter, include from the bill preparation process: (1) new service order activity and usage incurred over the previous month is accumulated, together with recurring charges for existing service; (2) recurring, non-recurring and usage charges are applied/summarized as appropriate; (3) billing information is edited to verify both format and content of the data; and (4) bill prepared as delivered to the subscriber.

- **Daily Usage File (“DUF”)** – Including end user, access and interconnection records as appropriate formatted using the Exchange Message Interface (“EMI”) industry standard.
- **Billing Rate Tables** – Rates for products and services maintained in billing rate tables within the ACIS system for retail services (based on applicable tariffs) and the CABS system for UNE and interconnection billing (based on tariff and interconnection agreements).
- **CABS UNE Bills** – Including a circuit-by-circuit listing of monthly recurring and non-recurring charges, and includes (among other things) circuit ID and TN number (where appropriate); serving central office codes; service order and purchase order numbers; effective charge dates; descriptions of activity type; and Uniform Service Order Codes (“USOCs”) for the products and services reflected on the bill. The detail provided on CABS usage bills should include items as total minutes, messages and usage charges billed at the access service group (“ASG”) level; the usage rate category (local, blended, direct or tandem routed) and whether the usage is originating or terminating.
- **Push-to-Talk Data Records (if phone is so enabled)** – For all requested phones, if they are Push-to-Talk capable (all Nextel and some Sprint), the call detail records for the push-to-Talk sessions shall be provided.