

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO.: 10-CV-22236-ASG
Magistrate Judge: Magistrate Judge Chris M. McAliley

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

Plaintiffs,

COPY

-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.

_____/

VIDEOTAPED DEPOSITION OF HOWARD ADELMAN

Tuesday, February 8, 2011
2:05 p.m. - 5:03 p.m.
2350 South Dixie Highway
Miami, Florida 33133

{Stenographically} Reported By:
DONNA GUNION, FPR
FLORIDA PROFESSIONAL REPORTER

1 find anything in New York. I had already taken the
2 Florida boards and had a Florida license and having
3 friends here tell me that there were jobs, decided to pick
4 up roots and move.

5 Q. Okay. And then you applied for and were hired at
6 Memorial?

7 A. No. I worked at North Broward Medical Center for
8 nearly 15 years full-time starting in '82. May of '82,
9 excuse me. And then took a job per diem at Memorial
10 Regional in '84.

11 Q. Okay. Did you resign from your position at North
12 Broward?

13 A. No. I didn't resign from there. I had a
14 disagreement with management and was asked to leave.

15 Q. All right. Where were you born and raised?

16 A. I was born in Brooklyn, New York, and lived there
17 until I was 29 or so.

18 Q. And what year did you get married?

19 A. '84.

20 Q. And where did you get married?

21 A. Ft. Lauderdale.

22 Q. When you grew up were you involved in scouting?

23 A. I was a Boy Scout for some time.

24 Q. When you say for some time, what age were you
25 when you last were active as a scout?

1 A. I have -- I don't remember. It was a long time
2 ago.

3 Q. Okay.

4 A. I can't tell you. I don't even remember what
5 year I started.

6 Q. All right. Let me ask you this question: Were
7 you in middle school or high school the last time you were
8 active as a scout?

9 A. Might have been middle school. Certainly wasn't
10 high school.

11 Q. And the reason you left scouting in middle school
12 was you just lost interest?

13 A. No, the scout troop just kind of dwindled down to
14 nothing. Kind of died off.

15 Q. Okay. Where were you meeting? Where was your
16 troop located?

17 A. At that time it was located in Public School 103.

18 Q. Did it ever change or it just stayed there at the
19 school?

20 A. No. It's where it was.

21 Q. Okay. Did you and your dad do scouting
22 activities together?

23 A. My father was either a scoutmaster, assistant
24 scoutmaster. I think he was a scoutmaster for whatever
25 time I was there.

1 Q. For Boy Scouts?

2 A. Correct.

3 Q. Was he also involved in Cub Scouts?

4 A. Not that I recall, no.

5 Q. Whose decision was it to get your son Michael
6 involved with scouting as a Cub Scout?

7 A. That would have been my wife and myself.

8 Q. And approximately what age was Michael when he
9 started?

10 A. It was early on in the Cub Scouts. I don't know
11 what age he was.

12 Q. And when Michael was a Cub Scout were you
13 involved as a volunteer dad in his Cub Scouting
14 activities?

15 A. Not in the day-to-day activities, no.

16 Q. Okay. Any special projects you did with Michael
17 when he was a Cub Scout?

18 A. I used to work on the little race cars with him
19 for the pinewood derby and --

20 Q. Okay.

21 A. -- went on one or two camping trips.

22 Q. All right. And did you encourage Michael to
23 continue in scouting from Cub Scouts to Boy Scouting?

24 A. Yes.

25 Q. When Michael became a Boy Scout what kinds of

1 things did you do in the early time he was a Boy Scout as
2 a volunteer dad?

3 A. I wasn't very involved. I was working two, maybe
4 three jobs.

5 Q. Okay. Was there a time when you did get involved
6 or more involved, I should say?

7 A. Well, whenever I could. Excuse me. Whenever I
8 could, I would go on a camping trip. I went to summer
9 camp several times.

10 Q. As part of your interest in scouting, did you
11 read any of the scouting publications, manuals, guide
12 books, merit badge books, any of the things that scouts
13 have available to them?

14 A. There was an on-line program that I did which was
15 about I guess, you know, the requirement to have at least
16 two adults, you know, available.

17 Q. For?

18 A. Any time there was any contact with the scouts
19 and it discussed, you know -- you know, basically I guess
20 safe practices, you know, interactions between the
21 children and the adults.

22 Q. So if you were going to be around the scouts, you
23 were required to do this program?

24 A. Right.

25 Q. So all the volunteers had to do this program on-

1 line?

2 A. I don't know if everybody, but I think ones that
3 were going on camping trips for sure because there was
4 going to be contact.

5 Q. Okay. And what year was it that you took the on-
6 line program?

7 A. I don't recall.

8 Q. Do you remember about how old Michael was at the
9 time, use that as a point of reference? Ten, 11,
10 somewhere in there?

11 A. Probably goes back to at least the first time
12 when I went on a summer camp which was five I think.

13 Q. Now we heard from your wife that I think he went
14 to three summer camps?

15 A. Right.

16 Q. Is that right?

17 A. Yeah.

18 Q. North Carolina, Alabama and there was a third
19 one?

20 A. North Carolina, Alabama.

21 MR. SUMMERS: Tennessee.

22 THE WITNESS: Tennessee.

23 BY MR. HASTY:

24 Q. And when you as a dad went on those summer camps,
25 what did you as a dad do? Did they have special things

1 for the dads in addition to what the boys did? I don't
2 know what a summer camp is, that's why I'm asking.

3 A. Well, in the summer camp the boys would be going
4 to various merit badge classes and the parents would
5 basically kind of like line up and make sure the kids were
6 going where they were supposed to be going.

7 Q. Okay.

8 A. Make sure they showed up. Keep them away from
9 the camp stores so they weren't drinking slushies every
10 five minutes.

11 Q. Okay.

12 A. And there were activities open to the adults, you
13 know, things that we could do.

14 Q. Did you help drive other scouts up to these
15 summer camps in Alabama, Tennessee and North Carolina?

16 A. We went with vans on two trips. One trip we took
17 a bus. Two trips we went with vans, but because my work
18 schedule is really -- too tired to drive on the way up
19 there, so the person I was with did most of the driving
20 and then on the way back, probably did very little driving
21 too, for that matter.

22 Q. Okay. Who was the person that did the driving?

23 A. I generally was with Doug Beals.

24 Q. And his son's name is?

25 A. [REDACTED]

1 Q. Now, we heard from your wife that -- skipping a
2 little forward here -- that Doug and his son were at least
3 thinking about, if not planning on going on the 20-mile
4 hike in May of 2009. Did you ever have a conversation
5 with Doug about what happened and why they didn't show
6 that day?

7 A. He told me that [REDACTED] had a bad feeling of some
8 sort or another. He didn't say, well, you know, whether
9 he thought it was well-founded or not, but that [REDACTED] just
10 didn't want to go and he said if [REDACTED] wasn't going, it
11 was kind of pointless for him to go. So he didn't go.

12 Q. Did you ever look on Michael's phone to see if he
13 was texting anybody the day before this accident took
14 place?

15 A. No, I didn't touch his phone. His phone is his
16 property. My wife and I respected their privacy to the
17 extent that we could. I mean, we put their computers in a
18 family room where we could keep an eye on it, but
19 everything was kept personal, private. It was theirs.

20 Q. Okay. After the accident did you ever turn
21 Michael's cell phone on when you got it back from the
22 sheriff's department --

23 A. No.

24 Q. -- to see what was on there?

25 A. Sorry. We received the telephone back in an

1 evidence bag with tape on it and we brought it back home
2 and I put it on his desk.

3 Q. Okay. Did you ever charge it and turn it back on
4 to see what was on it?

5 A. It was never removed from the bag. It was never
6 touched. We never tried to even manipulate it, you know,
7 through the bag or anything. It was just brought back and
8 put it on his desk and never touched.

9 Q. Since then have you, to your knowledge -- strike
10 that.

11 Since you brought it home, have you seen it
12 turned on to see what's on it?

13 A. Nobody's touched it.

14 Q. Did your daughter have a phone at the time this
15 happened on May 9, 2009?

16 A. Did she have a phone?

17 Q. Yes.

18 A. Yes.

19 Q. Did she have texting capability?

20 A. Yes.

21 Q. Do you know if she and Michael texted each other
22 on that Friday or that Thursday before Michael went on the
23 hike on Saturday?

24 A. No, I don't know. I doubt it in the morning
25 because she would have been asleep.

1 **Q. Okay. Do you know if Michael spoke to any other**
2 **scouts in the troop about the 20-mile hike on either**
3 **Thursday or Friday before the hike took place?**

4 A. No, I don't know.

5 **Q. You don't know one way or the other?**

6 A. No, I have no idea.

7 **Q. When did you find out the 20-mile hike was**
8 **scheduled for Saturday, May 9?**

9 A. An e-mail came in saying that the hike was going
10 to be at Big Cypress and bring three or four quarts of
11 water and that was it, whatever the date was on that.

12 **Q. That was an e-mail from the troop itself?**

13 A. I believe it came from Andy Schmidt.

14 **Q. Okay. But he was acting as scoutmaster for the**
15 **troop to alert everybody about the hike?**

16 A. Well, I don't know if he was acting as
17 scoutmaster, but he sent -- I believe he sent the message
18 out.

19 **Q. Okay. Now, we showed your wife a document which**
20 **had I think a list of hikes for 2008-2009.**

21 **Did you ever see a document that had the hiking**
22 **schedule for 2008-2009?**

23 A. No.

24 **Q. That's this document (indicating)?**

25 A. Yeah, I've never seen this until it was shown to

1 us.

2 Q. Okay.

3 A. It's the first time I've seen it.

4 Q. All right. Fair enough.

5 There was another document we had yesterday that
6 was marked at your wife's deposition which was a -- what I
7 call a block calendar for 2008-2009, that had activities
8 per month for 2008-2009 published by the scout troop. Did
9 you see that document?

10 A. I don't recall seeing it.

11 Q. Okay. So if communications from Troop 111 or
12 Andy Schmidt or Howard Crompton were being sent to
13 Michael, it was going to your computer, is that right?

14 A. That's what was being sent directly to Mike. If
15 it was something that was going out to parents, it would
16 have come to me.

17 Q. Okay. Well, while we're talking about his
18 computer, let's ask this question: As you sit here today,
19 have you ever gone back to look on what was on his
20 computer in going back to May 9, 2009?

21 A. Have I -- I'm sorry? Can you ---

22 Q. Yeah. Have you ever gone back to Michael's
23 computer and looked through or scrolled through any
24 messages, e-mails, or things he had on his computer going
25 up to May 9, 2009 or since May 9, 2009, to see what was on

1 it?

2 A. On his computer, no.

3 Q. How about your computer? Did you do a search on
4 yours about Boy Scouts, Boy Scouts activities, Troop 111,
5 things like that?

6 A. I looked at -- the only e-mail that I could
7 access on his computer was one that he had since he was
8 pretty young and he didn't use that with the Boy Scouts.

9 Q. Okay.

10 A. But there was no Boy Scout e-mail. He didn't use
11 it with them.

12 Q. So any publications from the leaders or the troop
13 would have gone to whose computer in your household?

14 A. Well, I mean, in theory it could have gone to
15 anybody's because we could all access, you know, AOL, but
16 he had a private Gmail account which we had no access to
17 and he had another AOL account that we had no access to.

18 Q. What was the AOL account, do you know?

19 A. It was JD -- JUDG0@aol dot com.

20 Q. JUDDG?

21 A. Yeah, judge without the E on the end. Zero
22 instead of an E. JUDG, I think it is.

23 Q. Not DD, just one D?

24 A. Yeah. Yeah.

25 Q. And then a zero?

1 with them.

2 Q. Okay. Did they give you a copy of this report?

3 A. No.

4 Q. Did they read something to you or did they just
5 tell you what they had?

6 A. They showed me what they had.

7 Q. And what did they show you?

8 A. They had aerial photographs marked off with
9 various GPS locations, I guess, you know, showed the
10 times. They had some statements that had been taken, I
11 think that night of the occurrence.

12 Q. Anything else?

13 A. Not that I recall. I mean, I remember looking at
14 those things, those are the things that, you know, I
15 recall.

16 Q. That stands out in your mind?

17 A. Yes. Exactly.

18 Q. Okay. And did you see a statement by Howard
19 Crompton there?

20 A. Yes, there was. Yes.

21 Q. Okay. Did you talk about Howard's statement with
22 the park rangers?

23 A. I don't think we really discussed it. They
24 showed it to me, I looked at it. I might have commented
25 on it.

1 Q. You commented on it?

2 A. Possibly yes, because I believe in his statement
3 he said something about looking overheated when they
4 stopped for lunch break.

5 Q. That's your recollection what it says? You have
6 to answer out loud.

7 A. Oh, okay. Yes.

8 Q. Okay. Did they tell you anything about the
9 temperatures that were in the park that day?

10 A. I think they had -- they may have had a
11 temperature chart now that you mention it. I don't recall
12 the temperatures. I think they mentioned something about
13 100 degrees. I don't know if that was the temperature
14 with the heat index or the actual temperature Fahrenheit
15 degrees.

16 Q. Okay. Did you know the other two scouts that
17 were on the scout hike with your son? Did you know [REDACTED]
18 and [REDACTED]?

19 A. I knew [REDACTED] from having gone to camp when he
20 was, you know, on that trip.

21 [REDACTED], I don't recall being around him very much.

22 Q. Okay. Did you ever contact [REDACTED] to ask [REDACTED]
23 what happened out there on the trail?

24 A. [REDACTED]?

25 Q. Yes.

1 A. No.

2 Q. Did anybody ever tell you that they had spoken to
3 [REDACTED] and [REDACTED] gave information to them about what had
4 happened at the hike?

5 A. No.

6 Q. And I assume you never spoke to [REDACTED] or anybody
7 had talked to [REDACTED] about what had happened on the trail?

8 A. No.

9 Q. Had Michael hiked in warm temperatures before?

10 A. I don't know what the temperatures were.
11 Definitely there was one hike that I went on with them
12 where it was pretty hot. Collier Seminole.

13 Q. Do you remember what month of the year it was?

14 A. No.

15 Q. Was it the summertime?

16 A. It's hot all the time except for dead of the
17 winter. I don't recall. I really don't.

18 Q. Were there people having trouble with heat on the
19 Collier Seminole hike that you observed or heard about?

20 A. I don't think anybody really had a problem with
21 heat that I noted.

22 Q. When you talked with the rangers -- strike that
23 question. Let's start differently.

24 There was some photographs taken of this hike
25 that were produced to your attorneys. Have you seen the

photographs of the hike, not anything about what you discussed, if you did at all, have you just seen the photographs of your son on the hike, this 20-mile hike?

A. Photographs of my son on the hike?

Q. Yes.

A. No.

MR. PELTZ: Object to form and predicate.

Go ahead.

THE WITNESS: I'm sorry. I have not seen any photographs of my son while he was on this hike.

BY MR. HASTY:

Q. Okay. I assume you never talked to Andy Schmidt about what happened on the hike?

A. No.

Q. Is that correct?

A. That's correct.

Q. Okay. So you didn't talk to [REDACTED], you didn't talk to [REDACTED], you didn't talk to Andy. Did you ever talk to Howard about what happened on the hike?

A. No. The only conversation I had with Howard was when he called up Sunday.

Q. And he was very upset?

A. Yeah. He -- yeah. I mean, he was not able to really express anything to me.

Q. Okay. What did you take from that conversation?

1 **What did you go away with?**

2 MR. PELTZ: Object to the form. Calls for
3 speculation.

4 MR. HASTY: No. It calls for his state of mind
5 which I'm entitled to find out.

6 MR. PELTZ: Whose state of mind?

7 MR. HASTY: His (indicating).

8 MR. PELTZ: I'm not going to argue with you, but
9 go ahead.

10 THE WITNESS: I didn't take anything away from
11 that conversation. I mean, there was no conversation
12 other than the fact that he called up and he was
13 upset. I don't know why he was -- I mean, he could
14 have been upset for any number of reasons.

15 BY MR. HASTY:

16 Q. Did he tell you that he was sorry that your son
17 died --

18 A. I don't recall.

19 Q. -- one way or the other?

20 A. No. No.

21 Q. Okay. As you sit here today, why do you think he
22 called you?

23 MR. PELTZ: Object to form. Calls for
24 speculation.

25 THE WITNESS: I don't know why he called.

1 They had to give him CPR. They had to stop because they
2 couldn't carry him too far without giving him CPR. That's
3 why they had to stop several times, at least once or twice
4 on the way to the helicopter.

5 Q. Okay. And what was Howard doing during this time
6 if you know?

7 A. I don't know. I only know that he was giving --
8 they said that he was giving CPR when they arrived.

9 Q. Did they say that his efforts were or were not
10 effective or were improper or ---

11 A. They didn't give any opinion as to technique or,
12 you know, effectiveness or anything to that effect.

13 Q. Did they -- did Clark or Shreffler indicate to
14 you that Howard Crompton continued to provide assistance
15 to your son from the moment that the paramedics got to
16 him, with Michael, until they put Michael in the
17 helicopter and transported him away?

18 A. They didn't say one way or the other that I can
19 recall.

20 Q. Okay. Was it your impression from talking to the
21 park rangers, when the paramedics took over -- they
22 arrived, they took it over doing all the CPR?

23 A. That was the impression I got.

24 Q. Okay. Did the paramedics have oxygen with them?

25 A. I don't know what they had with them.

1 **Q. Have you ever read the paramedic reports from**
2 **these events?**

3 A. I read whatever pieces, you know, some pieces of
4 them in the ranger's report. It's very difficult for me
5 to sit there and --

6 **Q. -- read the reports? Okay.**

7 All right. Let's go back to the conversation, if
8 we could.

9 When they were talking to you and Judith, one of
10 them at some point said that Michael's death was
11 preventable, correct?

12 A. I think that was really something that we said
13 and asked them. I believe, you know, one of us said, "You
14 mean" -- I'm pretty sure it was me, said, "You mean to
15 tell me this could have been prevented?"

16 **Q. His death could have been prevented?**

17 A. Yes.

18 **Q. And who was it that said yes?**

19 A. One of them.

20 **Q. You don't remember which one?**

21 A. No. No. Because I asked them both, you know,
22 kind of just threw it out there, and I was, you know,
23 referring to had they requested help either at the
24 ten-mile point or anywhere up to the point where he
25 totally collapsed where, you know, where he was showing

1 signs of distress and I suppose, you know, you could go to
2 the very beginning and say whether or not they even should
3 have gone in the first place.

4 Q. Did they give any thoughts about whether they
5 should have gone in the first place?

6 A. Ranger Clark mentioned that he had spoken to
7 somebody from the Florida Trails Association.

8 Q. A-ha.

9 A. And that they had indicated that given the trail
10 and the weather, that only an experienced hiker should
11 have been out there, if at all.

12 Q. What's the definition of an experienced hiker?

13 A. You'd have to ask the person from the Florida
14 Trails Association.

15 Q. Your son had already done at least one 5-mile and
16 two 10-mile hikes, correct?

17 A. Yes.

18 Q. You had gone on hikes as a scout and then as a
19 dad of a scout with your son, correct?

20 A. Right.

21 Q. Would you categorize or classify Michael as an
22 experienced hiker given the fact he'd been on these hikes
23 and been scouting for a number of years and was two weeks
24 away from his 18 birthday?

25 MR. PELTZ: Objection to form and predicate.

1 THE WITNESS: I don't think so.

2 BY MR. HASTY:

3 Q. You don't think so?

4 A. No. Because this wasn't something that he did
5 regularly. He didn't lead hikes. He didn't regularly go
6 on hikes.

7 Q. Did either Ranger Clark or Ranger Shreffler tell
8 you that they had to issue a permit for them, for the
9 scouts to even go on the trail that day?

10 MR. PELTZ: Object to form and predicate.

11 THE WITNESS: I think what they mentioned -- I
12 don't think they mentioned a permit. I think what
13 they said was they hadn't seen them in the morning
14 because they had gotten there before they had and were
15 already on the trail when they arrived.

16 BY MR. HASTY:

17 Q. Do you know as a matter of fact that when they
18 arrived in the park that morning, they were not permitted
19 to go on the Florida Trail without obtaining a permit from
20 the United States Parks Service?

21 A. I don't know how that works.

22 Q. Do you know that, yes or no?

23 MR. PELTZ: Objection to form and predicate.

24 THE WITNESS: I don't know that they have to have
25 a permit or not have a permit.

BY MR. HASTY:

Q. Okay. Well, if they did or they didn't on May 9, 2009, when the park rangers came to see you and had this conversation with you in June, they never mentioned to you that the scout leaders applied for and were given a permit that Saturday morning, is that correct?

MR. PELTZ: Object to the form and predicate.

THE WITNESS: I don't recall any conversation regarding a permit.

BY MR. HASTY:

Q. Did you ask either one of these gentlemen from the parks service if other scout troops had been on the Florida Trail to their knowledge prior to May 9, 2009?

A. No, I had not.

Q. When is the last time you had any conversations with Ranger Clark?

A. I don't recall the date. It's been months since I've spoken to him.

Q. Was it this time he came to your house? Was that the last time?

A. No, I've spoken to him on the phone.

Q. Okay. Did you call him or did he call you?

A. I called him.

Q. Okay. And when was it you called Ranger Clark?

A. I don't recall. I don't have a date. I don't