

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CIRCUIT CIVIL DIVISION
CASE NO. 10-CV-22236-ASG

COPY

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

Plaintiffs,

v.

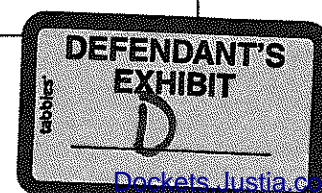
BOY SCOUTS OF AMERICA, THE SOUTH
FLORIDA COUNCIL, INC.; BOY SCOUTS
OF AMERICA; PLANTATION UNITED
METHODIST CHURCH; HOWARD K. CROMPTON,
individually; and ANDREW L. SCHMIDT,
individually,

Defendants.

DEPOSITION OF
RONALD D. BULLARD, M.D.

March 17, 2011
10:16 a.m.
1835 N. Corporate Lakes Boulevard
Weston, Florida

Stenographically Reported By:
Lynda Royer, R.P.R.
Registered Professional Reporter



1 Q. What is the practice of the practice with
2 respect to taking vital signs, temperature, blood
3 pressure, heart rate, respiratory rate, is there a
4 standard practice here?

5 A. Uh-huh. Yes, there is.

6 Q. What is it?

7 A. Every child gets a temperature for every visit.
8 Every child should get a weight for every visit. Every
9 child gets those two things for sure. Typically, their
10 blood pressure and heart rate are checked on every well
11 visit and then on selected visits that have to do with
12 issues to do with their cardiorespiratory system. Okay?
13 Then they would get their blood pressure and heart rate
14 checked. Asthmatics always get a respiratory rate.
15 Many times those things are checked by the physician if
16 it's warranted, you know, if the MA did not have the
17 appropriate -- you know, she didn't do it for whatever
18 reason.

19 Q. In this graph that we're looking at --

20 A. Back to the graph.

21 Q. You might want to keep it handy. What is the
22 last recorded weight on here?

23 A. 221 pounds.

24 Q. And what visit does that correspond to?

25 A. His last visit.

1 Q. 3/27/09?

2 A. Right.

3 Q. Why don't we just kind of cover the two at the
4 same time. Was that a well visit?

5 A. Yes.

6 Q. Or was that an annual physical?

7 A. The same thing, yes.

8 Q. Was there a specific thing being done in that
9 annual physical, in other words, were you filling out a
10 form for college applications, for any activity, for a
11 high school activity, sometimes seniors in high school
12 have to send in health forms and I was asking if that
13 was the occasion for that visit?

14 A. I don't remember if he had brought his form
15 with him that day or not.

16 Q. If he did bring a form --

17 A. I would have filled it out if he had brought
18 it.

19 Q. Let me finish the question, Doctor.

20 A. I'm sorry.

21 Q. If he did bring a form in and you filled it
22 out, would you put a copy of your filled out form in
23 your chart or just hand it to the patient and let him
24 take it?

25 A. Yeah. We don't necessarily keep copies of the

1 Q. Under "interval HX," it says two lines down
2 "medications, current slash past," and it says "NEG." I
3 assume that means negative?

4 A. Right.

5 Q. Does that mean he's not taking any medications
6 as of this visit on 3/27/09?

7 A. That means I asked him if he's taking any
8 medicine or he's taking any recently and he said no.

9 Q. And then --

10 A. Because this is the subjective part of the
11 visit. I write down what he tells me.

12 Q. Then we have under that "allergies," and we've
13 got "Pediazole"?

14 A. Correct.

15 Q. Down below that we have "dietary intake," and
16 across the line I can't read your handwriting where it
17 says "eating habits slash concerns."

18 A. Yeah. That's pretty bad. It says "working on
19 diet and exercise."

20 Q. What does that mean, "working" on it?

21 A. That means that we had a discussion with both
22 Michael and his parents about the fact that he needs to
23 work on eating more healthy foods and eating less
24 amounts, working on his portions, in other words, and
25 that he needs to be having an exercise program so that

1 he maintains a better weight for himself.

2 Q. What is BMI?

3 A. That is his -- basically we have a curve, so
4 it's a Body Mass Index and --

5 Q. Did you do one on him?

6 A. I don't think we calculated his Body Mass Index
7 that day.

8 Q. Did you ever do a Body Mass Index on Michael
9 Adelman?

10 A. I don't recall, but his certainly would have
11 been high.

12 Q. What is "high"?

13 A. It would have been above normal.

14 Q. What is "normal"?

15 A. I mean, I could go get my BMI pyramid and show
16 you, but his --

17 Q. Well, if we use the chart, which is Exhibit 1,
18 and we look at Michael's height?

19 A. 66 and a half inches.

20 Q. Then we look at his weight, which is 221,
21 correct?

22 A. Uh-huh. Uh-huh.

23 Q. Yes?

24 A. Yes.

25 Q. All right. Is he literally off the chart?

1 MR. PELTZ: Object to the form.

2 THE WITNESS: Pardon me?

3 MR. PELTZ: That means you can go ahead.

4 A. Yes. He's off the chart for weight.

5 BY MR. HASTY:

6 Q. Was he above the chart or off the chart before
7 March 27, 2009?

8 A. Yes.

9 Q. If we go back on the weight curve, which is
10 Exhibit 1, --

11 A. Uh-huh. Yes.

12 Q. -- and we take a look at the first reading
13 which is above the curve, off the chart, --

14 A. Right.

15 Q. -- what age is he at this age?

16 A. Eleven and a half.

17 Q. The next weight charted on the curve is what
18 age?

19 A. 12.

20 Q. Is he off the chart on that curve?

21 A. He's above the 95th percentile, yes.

22 MR. PELTZ: Just for the record, I object to
23 the form of all these questions about "off the
24 chart."

25 MR. HASTY: Well, he's not in the white

1 area.

2 A. We certainly don't use that terminology to talk
3 to our kids that way.

4 BY MR. HASTY:

5 Q. I didn't suggest that you did. I'm asking you
6 a medical question, not how you talk to a parent or a
7 patient.

8 A. Well, I'm just saying that we don't use that
9 terminology.

10 Q. Okay. I understand. The next time it was
11 charted was what age here?

12 A. 13.

13 Q. And he is outside the range or off -- what I
14 call -- he is on the chart, but he's not in the white
15 area?

16 A. Correct.

17 Q. And the next time he is how old?

18 A. 14.

19 Q. And someone put a dot there at the very
20 junction of the gray and the white area, correct?

21 A. Yes. He's at the 95th percentile.

22 Q. And the next time it was charted after 14 was
23 when?

24 A. 16.

25 Q. Is there a reason why it wasn't charted at 15?

1 A. I don't know. I never had to look at the day
2 sheet and see if he came in for a 15-year physical.

3 Q. At 16 what was his weight?

4 A. It looks like he was around 200 pounds or at
5 200 pounds or just under.

6 Q. And his height at 16 was?

7 A. About what it was at 17, about five-feet six
8 and a half. It was the same.

9 Q. And then the next time it was charted, he was
10 how old?

11 A. 17 and a half or whatever he was when he came
12 in for his last visit just short of 18. Right? 5/23/91
13 is his date of birth, so yes, 17 and three-quarters.

14 Q. Someone wrote the number there, they didn't put
15 a dot, correct?

16 A. Yes, that's right, because he was -- I mean,
17 they could have if they wanted to. It would be about --
18 let me see. Well, it's a little awkward there because
19 he's at the very end of 18, so she could have
20 approximated with a dot just like they did all the
21 others but she just chose not to.

22 Q. Well, the highest number on this graph in the
23 column is 210, correct?

24 A. Correct, so there wasn't a number corresponding
25 at that point.

1 I mean, I have some kids that are -- you know,
2 their BMIs may not be all that bad but they really just
3 don't do anything. They're terribly sedentary and they
4 have a tremendous amount of body fat, so you really have
5 to look at both the BMI and the kid and their habits.

6 Q. You said that you could get a BMI. Do you have
7 to get another chart to do the BMI?

8 A. I just use a wheel which is over there in my --

9 Q. Would you get it for me?

10 A. Sure.

11 (A recess was taken, after which the following
12 proceedings were had:)

13 BY MR. HASTY:

14 Q. You got your wheel for your BMI?

15 A. I do.

16 Q. If we look at Michael's last charting, 17 years
17 and three-quarters and his weight was 221 and his height
18 was five-foot six-and-a-half inches tall, what is his
19 BMI?

20 A. 36.

21 Q. On a BMI scale are there parameters that the
22 American Academy of Pediatrics recognizes as having
23 significance or classifications or --

24 A. Yes.

25 Q. What are they? I don't know what the

1 terminology is.

2 A. I mean, he would be considered obese,
3 significantly overweight.

4 Q. Would he be considered morbidly obese, in your
5 opinion?

6 A. No.

7 Q. What is the definition you would use of
8 morbidly obese?

9 A. I mean, I don't use the term "overly obese"
10 with a specific BMI, but I mean I think that you --
11 again, as I communicated to you previously, you look at
12 the percentage -- you look at the patient and you look
13 at their body fat and you consider that terminology when
14 you have somebody with a BMI over 30, but you also look
15 at their amount of muscle and you look at how, you know,
16 fit they are.

17 Generally I consider that -- I reserve that
18 term with people for BMIs in the 35-plus range, 40. He
19 could have been morbidly obese if he didn't have muscle
20 on him or was very out of shape. I felt like he was --
21 I wouldn't consider him morbidly obese, no. He did
22 plenty of outdoor activities. He had broad shoulders
23 and he had muscle.

24 Q. What outdoor activities did he do?

25 A. As far as I knew, he did his hiking and he did

1 to indicate otherwise if the patient is, you know,
2 obtunded or, you know, not responsive. You know, as we
3 come into the room as physicians, we're expected to make
4 an objective assessment of the general appearance of the
5 patient, you know, the patient's mood, the patient's
6 ability to communicate, the developmental side of the
7 patient, etcetera, etcetera, so if we find something
8 that's amiss more or less, then we need to indicate that
9 up here, and if there's nothing indicated, then it's
10 understood that the patient is basically fine.

11 Q. And on that appearance line there's nothing
12 circled, not alert, not active, not strong, not happy,
13 nothing is circled?

14 A. This is underlined.

15 Q. There are times when those words are actually
16 circled when you're charting, correct?

17 A. Yeah, so underlined or circled or either one is
18 considered okay.

19 Q. And then next to the "weight," if we go over,
20 we've got the "height." Then we've got the heart rate
21 at 114, correct?

22 A. Uh-huh.

23 Q. Is that what the tech got or is that what you
24 did?

25 A. That's what the MA got.

1 Q. And what was done about it in 2004?

2 A. I would think --

3 Q. Was that your visit or Dr. Fliegenspan?

4 A. Dr. Paredes, Gil Paredes. P-A-R-E-D-E-S.

5 Q. So in 2004 it was 233, and reference range high
6 end of normal would have been 190?

7 A. Yes.

8 Q. So from 2004 it was 233 until the time it was
9 checked or rechecked in 2005?

10 A. Every patient with a high cholesterol is given
11 a handout for high cholesterol which emphasizes working
12 on diet and they're given a list of foods that they
13 should not be eating that are high in cholesterol and
14 they're told to increase their activity levels and
15 discusses the benefits of exercise and reducing their
16 cholesterol as well, and it indicates on -- and that was
17 also about the time that Dr. Fliegenspan sent him to
18 Weight Watchers as well.

19 Q. He sent him in to Weight Watchers in '05, not
20 '04?

21 A. Well, I said "about the time." That was '04.
22 And then between that visit and the next visit when his
23 cholesterol was 211 he sent him to Weight Watchers.

24 Q. Was his cholesterol repeated after the 211
25 value from 2005 through the last visit of March 2009?

1 doctors in this practice actually operate with the
2 parents?

3 A. Yes.

4 Q. And is it also your practice and the practice
5 of this office to communicate with the parents when
6 there are significant findings and health problems?

7 A. Yes.

8 Q. Were you told about a visit that Michael had
9 with an orthopedist where he was having pain on walking?

10 A. No.

11 MR. PELTZ: Object to the form.

12 BY MR. SUMMERS:

13 Q. At any time were you told either by the parents
14 or by the attorney when he met with you?

15 MR. PELTZ: Same objection.

16 A. Not that I recall.

17 BY MR. SUMMERS:

18 Q. We talked a good bit about BMI, Body Mass
19 Index. A Body Mass Index higher than 25 is considered
20 overweight; was that a correct statement?

21 A. Yes.

22 Q. A Body Mass Index greater than 30 is considered
23 obese?

24 A. Correct.

25 Q. I'd like to go through and just track the Body

1 A. March 9, 2006. He had a sick visit, but he did
2 not have a height so we can't give you his Body Mass
3 Index. Do you want me to give you the next visit where
4 he actually had a height?

5 Q. Yes, sir, please.

6 A. August 13, 2004.

7 Q. We're going the wrong direction there, I think.
8 September 28, 2007. We've been here a while. I don't
9 want to go backwards.

10 A. In the chart we're going in the wrong
11 direction.

12 Q. So I show the next visit after March of '06, I
13 show the next visit of September 28, '07. I could be
14 wrong, but that's what I show.

15 A. You're probably right. My charting is so crazy
16 in here. Just give me a minute. It would be nice if it
17 was organized. I'm sorry. Say that date one more time.

18 Q. I show a visit of September 28, '07 which is
19 probably --

20 A. I'm sure you're right, but that's the next
21 logical date in here. It's just not -- that was a sick
22 visit so there's no -- and the day after that do you
23 have May 13, 2008?

24 Q. Yes, I do.

25 A. That one there's a height. He didn't attend

1 very regularly for his well visits apparently during
2 that time. Maybe he was getting physicals somewhere
3 else. I'm not sure. 56 and three-quarters, 200 -- Body
4 Mass Index of 31 and a half.

5 Q. That's in May of '08?

6 A. Yes, sir.

7 Q. Now, that's gone from overweight to obese at
8 that point?

9 A. Yes.

10 MR. PELTZ: Object to the form.

11 A. If that's your definition for the word.

12 BY MR. SUMMERS:

13 Q. Well, that's what we use, right, definitions?

14 MR. PELTZ: Object to the form.

15 A. Yeah. Well, we've previously talked about
16 that.

17 BY MR. SUMMERS:

18 Q. Well, according to the standard usage of the
19 term "Body Mass Index," at 31 and a half, what's the
20 category?

21 A. Obesity.

22 Q. And the next visit is the March 27, '09?

23 A. Uh-huh. Yes.

24 Q. And what's the Body Mass Index at that point?

25 A. I think we said 35 earlier. I'll double-check.

1 35.

2 Q. And then the Medical Examiner's showed a weight
3 of 225. What would be the Body Mass Index with a weight
4 of 225?

5 MR. PELTZ: Object to the form and predicate.

6 BY MR. SUMMERS:

7 Q. Assume the same height.

8 MR. PELTZ: Object to the form and predicate.

9 A. The Medical Examiner, when did he do this
10 weight?

11 BY MR. SUMMERS:

12 Q. That would be 5/9/2009?

13 A. And the date of death was?

14 Q. 5/9/2009.

15 MR. PELTZ: Object to the form and predicate.

16 A. About or almost 36, between 35 and 36.

17 BY MR. SUMMERS:

18 Q. A little under 36 then?

19 A. Yeah.

20 Q. And is there a category above obese in the way
21 people talk about the Body Mass Index?

22 A. I don't use one.

23 Q. Does anyone use one?

24 A. Not that I know of.

25 Q. You used the word "tachycardia." What is that?

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PERSONAL HEALTH AND MEDICAL RECORD FORM - Class 3

I. IDENTIFICATION Age 16 Sex M
 Name Schuy-Adelman, Michael Date of Birth 05/20/91
 Address 1262 Crossbill Ct City & State WESTON, FL Zip 33327
 Health/Accident Insurance MEMORIAL HEALTH CARE SYSTEM Policy no. 991043079
IN AN EMERGENCY NOTIFY:
 Name JUDITH SCLAWY Relationship MOTHER
 Address 1262 CROSSBILL CT Home phone 954 289 5327
 City & State WESTON, FL 33327 Business phone 954 554 4281
 Personal Physician DR. FLEGENSEN Phone 954 577 7900

BOY SCOUTS OF AMERICA
 All Class 3 activities require a health examination within the past 12 months by a licensed health-care practitioner. This includes youth and adult members participating in high-adventure activities, athletic competition, and world jamborees. Amazingly, this form is to be used by adults 40 years of age or older for all activities requiring a physical examination and applies to all Wood Badge participants regardless of age.

PLEASE TYPE OR PRINT.
 NAME MICHAEL SELMAY-ADELMAN UNIT 7800 #11
 NOTE: Keep original form for your personal record. Make reproductions for agency use. Be sure information and signatures are legible on reproduced copies. This upper section may be reproduced and carried with you for emergency identification and care.

III. PARENTAL STATEMENT
 Has it ever been necessary to restrict applicant's activities for medical reasons? No Yes, Does applicant take medicine regularly or have special care? No Yes. If yes, explain.
 To the best of my knowledge, the information in sections I, II, III, IV, and VI is accurate and complete. I request a licensed health-care practitioner to examine applicant, to give needed immunization, and to furnish requested information to other agencies as needed. I give my permission for all participation in BSA programs, subject to limitations noted herein. In the event of illness or accident in the course of such activity, I request that measures be instituted without delay as judgment of medical personnel dictates.
 Parent or guardian J. Schuy
 Applicant's signature _____ Date signed 5/17/08
 Updated 5/17/08 Signed J. Schuy Parent or guardian
 Updated _____ Signed _____ Parent or guardian

IV. IMMUNIZATIONS
 If disease, put "D" and year. Last year given
 Tetanus _____
 Diphtheria _____
 Pertussis _____
 Measles _____
 Mumps _____
 Rubella _____
 Polio _____
 Chicken Pox _____
 Religious preference _____

II. EMERGENCY MEDICAL INFORMATION
 Has or is subject to (check and give details):
 Allergy to a medicine, food, plant, animal, or insect toxin PEDIAZOLE
 Any condition that may require special care, medication, or diet
 ADHD (Attention Deficit Hyperactive Disorder)
 Asthma Convulsions Heart trouble Contact lenses
 Diabetes Fainting spells Bleeding disorders Deafness
 EXPLAIN _____

V. LICENSED HEALTH-CARE PRACTITIONER'S EVALUATION AND ADVICE
 Approved for participation in:
 Riding and camping Water activities
 Competitive sports All activities
 Specify exceptions _____
 Recommendations (explain any restrictions OR limitations): _____
 Signed _____ Date 5/17/08
 Licensed health-care practitioner
 Examinations conducted by licensed health-care practitioners will be recognized for purposes of this form. PAEDIATRIC ASSOCIATES
 1835 N. CORPORATE LAKES BLVD
 WESTON, FL 33326

VI. MEDICAL HISTORY
 Parent for applicant 18 or older: Fill in sections I, II, III, IV, and VI before seeing a licensed health-care practitioner. Check immunizations to be given at this time. Be sure to include any emergency information and restrictions or special care that should be observed. Especially be sure to record any injuries, illnesses, surgery, or significant changes in condition of health of applicant since last complete examination.
 • Date of most recent complete physical examination (month and year) 5/17 08
 • Are you aware of any current health problems? No Yes
 • Now under medical care or taking medicines? No Yes
 • Has there been any surgery, injury, illness, allergy, or change in health status since last complete physical examination? No Yes
 Give dates and full details below for any "yes" answers.

IS THERE DISEASE OF (OR PAST OR PRESENT) HISTORY OF:

	No	Yes	Year	Details/Medicines
Serious illness	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Serious injury	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Deformity	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Surgery	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Skin, glands	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Ears, eyes	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Nose, sinuses	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Teeth, tonsils	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Deafness	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bridge	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Chest, lungs	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Heart	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Malaria	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Pneumatic fever	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Stomach, bowels	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Appendicitis	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Kidneys or urine	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Albumin	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Sugar	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Infection	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Bleed-tingling	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Menstrual problems	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Hernia (rupture)	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Back, limbs, joints	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Sleepwalking	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Nervous condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Other (explain)	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

Please list ALL medications taken in the 90 days prior to arrival at the Scouting activity where this form is to be used.
CLARITIN-D

VII. HEALTH EXAMINATION
 Licensed Health-Care Practitioner:
 The applicant will be participating in a strenuous activity that will include one or more of the following conditions: athletic competition, adventure challenge or wilderness expedition (foot or snow) that may include high altitude, extreme weather conditions, cold water, exposure, fatigue, and/or remote conditions where readily available medical care cannot be assured.
 • Please insist applicant furnish complete medical history (VI) before exam.
 • Review immunizations; for youth (18 or younger) tetanus and diphtheria toxoids, measles, mumps, and rubella vaccines, and inactivated polio vaccine are required; youths and adults must have had tetanus booster within 10 years. A measles booster is recommended at age 12.
 • After completing section VII, summarize any restrictions and/or recommendations in sections II and V, above, and sign.
 Date 5/13/08 VISION: Normal Abnormal
 Ht. 165 Wt. 200 HEARING: Normal Abnormal
 R.P. 120/80 Pulse 114 Glasses Contacts Abnormal
 Check box if normal, circle if abnormal and give details below:
 Growth, development Teeth, tonsils Genitourinary
 Skin, glands, hair Lungs, respiratory Skeletal/muscular
 Head, neck, throat Cardiovascular Neuropsychiatric
 Eyes, ears, nose Abdomen, hernia, rings Other (specify) _____
 COMMENTS _____

FOR THOSE ATTENDING PHILMONT OR NATIONAL HIGH-ADVENTURE BASES:
 • The minimum age for all participants is 13 by January 1 of the year of participation, or have completed the seventh grade. No exceptions.
 • Tent food is by necessity a high-carbohydrate, high-calorie diet. It is high in wheat, milk products, sugar, corn syrup, and artificial coloring/flavoring. Dinner meals contain meat. If these food products cause a problem in your diet, you need to bring appropriate substitutions with you and so advise base personnel.
 Note: Licensed health-care practitioners representing high-adventure bases reserve the right to deny access to the trails or other program activity on the basis of a medical evaluation performed at the base after arrival.

Jul 05/09