

IN THE UNITED DISTRICT CIRCUIT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 10-CV-22236-ASG

HOWARD ADELMAN and JUDITH SCLAWY-
ADELMAN, AS CO-PERSONAL
REPRESENTATIVES OF THE ESTATE OF
MICHAEL SCLAWY-ADELMAN,

COPY

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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1835 N. Corporate Lakes Boulevard
Weston, Florida
Thursday, April 14, 2011
10:15 a.m.

D E P O S I T I O N
of
RONALD BULLARD, M.D.
taken on behalf of the Plaintiffs pursuant to a
Notice of Taking Deposition.

1 to see Michael grow up from literally being five days
2 old until reaching age 17?

3 A. Yes.

4 Q. During that time, have you had the
5 opportunity to get to know Michael from a medical
6 standpoint as a patient over those years?

7 A. Yes.

8 Q. Are you aware of any other doctors that
9 would be in a position to know Michael as well as you
10 and your partners from a medical standpoint?

11 MR. LEVIN: Objection, form.

12 MR. SCHEVIS: Form.

13 THE WITNESS: No, I am not aware of any.

14 BY MR. PELTZ:

15 Q. Doctor, when you have the opportunity to
16 see a patient over many years, in this case,
17 17 years, does that provide a context for you in
18 treating the patient?

19 MR. LEVIN: Objection to form.

20 THE WITNESS: Can you clarify what you
21 mean, a context for?

22 BY MR. PELTZ:

23 Q. Well, when you see a patient, when you saw
24 Michael, would your office have had a context of
25 having seen him many years before without any

1 particular visit?

2 A. Right, yes.

3 Q. And is having the ability to see a patient
4 in context, is that important to you as a
5 pediatrician when you see a patient on any particular
6 occasion?

7 A. Yes, very important.

8 Q. Is that important to you in determining
9 what the patient's health and wellbeing is on any
10 particular visit?

11 MR. LEVIN: Objection to form.

12 BY MR. PELTZ:

13 Q. Let me ask it again. Does having the
14 context of having seen a patient for many years, is
15 that important to you in determining the patient's
16 health and wellbeing on any particular visit?

17 MR. SCHEVIS: Objection to form.

18 THE WITNESS: It is important. There is
19 much being made in today's medical literature about
20 the importance of the medical home because it
21 emphasizes continuity of care, it emphasizes the
22 importance of the doctor/patient relationship, and
23 how that affects clinical judgment, and how that
24 affects good medical decision making on the part of
25 the physician as he knows the patient and as he or

1 a fairly muscular individual?

2 A. I honestly don't remember what I said to
3 his parents regarding his muscularity.

4 Q. Based on your examinations of Michael over
5 the years, particularly the last examination on
6 March 27, 2009, did you reach any conclusions as to
7 whether Michael was fit and in shape for someone his
8 age?

9 A. Michael, as I recall, reminded me of a
10 typical teenager who was moderately overweight, who
11 didn't strike me as somebody who was at risk for any
12 particular disease, or was in any way ill, who could
13 certainly be cleared for physical activities
14 outdoors, and he needed to work on his diet and his
15 exercise.

16 Q. Now, the last occasion you would have seen
17 Michael would have been on March 27th, 2009?

18 A. Yes.

19 Q. Let me show you some records which were
20 referred to previously, and ask you if these are true
21 and accurate copies of your records for that
22 particular visit?

23 A. Yes, they are true and accurate copies.

24 MR. PELTZ: We'll mark those as - how do
25 you guys want to do it, we went one through three the

1 MR. LEVIN: Form, asked and answered.

2 MR. SCHEVIS: Join.

3 MR. FRANZ: Join.

4 MR. LEVIN: And leading.

5 THE WITNESS: I don't really recall the
6 reason at this point.

7 BY MR. PELTZ:

8 Q. Based on your evaluation, did Michael have
9 tachycardia?

10 MR. LEVIN: Form.

11 THE WITNESS: No.

12 BY MR. PELTZ:

13 Q. Based on your evaluation, did you find any
14 evidence of arrhythmias or other abnormalities?

15 MR. LEVIN: Form.

16 THE WITNESS: No.

17 BY MR. PELTZ:

18 Q. Based upon your evaluation, did you find
19 any evidence of any heart disease or irregularity?

20 MR. LEVIN: Form.

21 THE WITNESS: No.

22 BY MR. PELTZ:

23 Q. Under the data filled in by the medical
24 assistant there is a blood pressure of 133/84?

25 A. Yes.

1 Q. First of all, is that, does that fall
2 within what is considered to be the normal range?

3 A. Yes.

4 Q. Do you know whether that blood pressure
5 could have been temporarily elevated for the same
6 reasons that the heart rate would have been reported
7 as being temporarily elevated when the medical
8 assistant did his or her initial electronic --

9 A. I mean, it certainly could have been.

10 MR. LEVIN: Form.

11 MR. SCHEVIS: Join.

12 MR. FRANZ: Join.

13 MR. LEVIN: Lack of foundation, move to
14 strike.

15 THE WITNESS: There is no way to know that,
16 but it could have been.

17 MR. LEVIN: Just a second, I'm going to
18 object after his answer, and we're talking over each
19 other a lot, so as long as I have a chance to get it
20 in before the next question is what I will do.

21 MR. PELTZ: What ever.

22 BY MR. PELTZ:

23 Q. You had mentioned in your cardiac
24 evaluation that you found Michael's heart rate had a
25 regular rhythm, there were no murmurs, and that the

1 S1, S2 were within normal limits, what does that mean
2 in lay terminology?

3 A. It means that the first and second heart
4 sounds sounded normal. There is what we call a
5 lubdub, no unusual sound, and it was regular. It
6 didn't have any - one didn't come at a time that you
7 wouldn't expect it to come, you know, just boom,
8 boom, boom, boom, just like that.

9 Q. During the course of this evaluation or any
10 other one that you had done of Michael, did you ever
11 observe any clinical signs or symptoms that would be
12 consistent with hypertension?

13 MR. LEVIN: Form.

14 THE WITNESS: No.

15 BY MR. LEVIN:

16 Q. Now, on the same page that we have been
17 referring to, near the bottom it says, assessment?

18 A. Yes.

19 Q. And what was your No. 1 assessment?

20 A. Healthy.

21 Q. Would you have advised Michael and his
22 parents that your assessment was that he was healthy?

23 A. Yes.

24 Q. And based on your evaluation on March 27th,
25 2009, as well as your familiarity with Michael over

1 the years, did you feel that there was any further
2 testing of any nature that was necessary for him at
3 that time?

4 MR. LEVIN: Form.

5 THE WITNESS: Not at that time.

6 BY MR. PELTZ:

7 Q. On the part of the form where it says
8 laboratory, there is a number of potential tests that
9 can be performed?

10 A. Correct.

11 Q. And if you are going to recommend one of
12 those tests you would mark off which test it is?

13 A. Correct.

14 Q. At that point in time, did you feel there
15 was any need to do any further cholesterol testing?

16 MR. LEVIN: Form.

17 THE WITNESS: Not on that visit.

18 BY MR. PELTZ:

19 Q. Did you advise Michael just to continue to
20 be active?

21 A. Yes.

22 Q. On the other page for Exhibit No. 3, there
23 is a section that says sports/camp physical
24 questions?

25 A. Yes, okay.

1 Q. Are these questions that you ask the
2 patient?

3 A. Sometimes I ask the patient and sometimes I
4 have them fill it out before I walk into the room.

5 Q. Okay.

6 A. Honestly, I don't remember who made those
7 checkmarks. I may have that day, I don't remember.

8 Q. Are these questions that are designed to
9 elicit information that would be significant to you
10 as a pediatrician to determine whether the individual
11 can engage in sports and camping and physical
12 activities?

13 MR. LEVIN: Form, leading, compound.

14 THE WITNESS: That's correct.

15 BY MR. PELTZ:

16 Q. And in this case were all of the responses
17 negative?

18 A. Yes.

19 Q. Now, underneath that on the form where it
20 says, chief complaint, does that mean that there is
21 an actual complaint or is that referred to why the
22 patient is there?

23 A. That is an area that is reserved for
24 patients to - if the patient, on a physical
25 examination if the patient actually, in addition to

1 the physical exam, has concerns about their illness,
2 I will write that there.

3 I also typically will just make a general
4 comment about the patient.

5 Q. So you indicate that Michael was there for
6 a history and physical, his entire family?

7 A. That's correct.

8 Q. And was apparently--

9 A. On his way to college. He voices no
10 complaints about his health, he is happy.

11 Q. When you use, it looks like a PO
12 complaints?

13 A. It actually says no complaints.

14 Q. Okay. So you say, voices no complaints
15 about health, and is happy, that would have been
16 information that Michael gave you?

17 A. Yes.

18 Q. And his parents?

19 A. Yes.

20 Q. Now, just below that where it says,
21 patient's social family history?

22 A. Yes.

23 Q. Now, there is a row and in that row it
24 says, heart/chol, which I assume means cholesterol
25 risk?

1 A. You're asking about his psycho
2 developmental history, his neuro developmental
3 history, is he normal, behaviorally and cognitively.

4 Q. There is a question about whether the
5 patient snores on a frequent basis, and what was
6 indicated by Michael?

7 A. That he does not.

8 Q. A little further down it talks about
9 nutritional assessment and it says, dietary intake,
10 and what does it say after that?

11 A. Negative, meaning there is no problems.

12 Q. Okay.

13 A. No concerns specifically.

14 In other words, basically, what we are
15 looking for there is, is there a problem with his
16 dietary intake, does he have problems in terms of
17 food selection, that kind of stuff.

18 Q. And did you feel that he had any problems
19 in that field at that time?

20 A. Well, no. As I put on the, after eating
21 habits and concerns, that he is working on his diet
22 and his exercise, so we talked about quantity and
23 food selection.

24 Q. Was there anything that you saw during the
25 course of your examinations and interactions with

1 Michael over the years that would lead you to believe
2 that he was anything other than a typical teenager?

3 MR. LEVIN: Form.

4 MR. SCHEVIS: Join.

5 MR. FRANZ: Join.

6 THE WITNESS: I don't recall anything that
7 made me think differently than that.

8 BY MR. PELTZ:

9 Q. If you had been concerned that there was
10 some type of ongoing problem with his cholesterol,
11 would you have put something other than negative for
12 dietary intake?

13 MR. LEVIN: Form, leading.

14 THE WITNESS: Yes.

15 BY MR. PELTZ:

16 Q. Going back to the top of the form where it
17 says active, strong and happy, did you underline
18 those descriptions?

19 A. I'm sorry?

20 Q. At the top.

21 A. I'm sorry.

22 Q. Active, strong and happy, the other form?

23 A. Yes.

24 Q. Does that mean that that is how Michael
25 appeared to you on that day?

1 BY MR. PELTZ:

2 Q. Would that include a normal heart rate?

3 MR. LEVIN: Same objection.

4 MR. SCHEVIS: Join.

5 MR. FRANZ: Join.

6 THE WITNESS: Yes.

7 BY MR. PELTZ:

8 Q. At the bottom where it says assessment, on
9 that same page, what are those letters and what do
10 they mean?

11 A. WC means well child.

12 Q. Is that the same thing, within normal
13 limits?

14 A. Yes, it means the same thing.

15 MR. SCHEVIS: Objection to form.

16 BY MR. PELTZ:

17 Q. So what was Dr. Fliegenspan's assessment of
18 Michael's overall condition including his heart?

19 A. That he had a normal physical exam.

20 MR. LEVIN: Form

21 BY MR. PELTZ:

22 Q. If Dr. Fliegenspan had felt that there was
23 any problem with Michael's heart rate or blood
24 pressure, under your group practices, policies and
25 procedures, would he have indicated something

1 Q. I would like to go over this real quickly.
2 When a patient first comes into your office, the
3 medical assistant uses the automatic machine, which
4 you have described?

5 A. Correct.

6 Q. And they put the vital signs that this
7 machine shows from its attachment to the person?

8 A. Right.

9 Q. Then that is done before you examine the
10 patient?

11 A. Yes.

12 Q. So you would have whatever the medical
13 assistant found would there be on the chart for you
14 to look at during the course of your examination?

15 A. Yes.

16 Q. As part of your examination, if there is
17 anything that might raise any question or issue with
18 you, do you then use, do you then look specifically
19 as part of your detailed medical examination to see
20 if there is any problem or substance to that
21 particular issue?

22 MR. LEVIN: Form, leading,
23 mischaracterization, asked and answered.

MR. SCHEVIS: Join.

25 MR. FRANZ: Join.

1 THE WITNESS: Yes.

2 BY MR. PELTZ:

3 Q. So in this case when you saw Michael on
4 March 27th, 2009, you would have had the readings
5 that the medical assistant had received from this
6 automatic machine test?

7 A. Correct.

8 Q. And as part of your cardiac evaluation,
9 would you have looked to see if there was anything
10 that you could find in a detailed medical cardiac
11 evaluation that would confirm those particular
12 findings?

13 MR. LEVIN: Form, leading.

14 THE WITNESS: Yes.

15 MR. LEVIN: Asked and answered.

16 BY MR. PELTZ:

17 Q. And did you find anything?

18 A. No.

19 MR. LEVIN: Same objection, predicate,
20 foundation.

21 BY MR. PELTZ:

22 Q. And you were asked by Mr. Franz whether the
23 reading for the heart rate was 114, just so we're
24 clear on it, that was not your finding, that was what
25 this automatic machine, what your medical assistant