

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 10-CV-22236-ASG

HOWARD ADELMAN AND JUDITH SCLAWY
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.

STATUS REPORT TO MAGISTRATE PURSUANT TO
ORDER ON MOTION FOR PROTECTIVE ORDER (DE # 64)

Pursuant to this Court's order dated December 2, 2010, (DE #64), counsel for all of the parties have conferred in an effort to resolve discovery disputes which were the basis of the Plaintiff's Motion for Protective Order on Defendant Howard Crompton and Andrew Schmidt's Notices for Deposition Duces Tecum of Plaintiffs Howard Adelman and Judith Sclawy (DE # 61). The Parties have agreed to a feasible discovery schedule for counsel and the Court. The parties report to the Court, as follows:

1. On December 10, 2010, the Parties held a one hour conference call for the purpose of resolving pending discovery issues.

2. With specific regard to the Plaintiff's Motion for Protective Order directed to the schedule of documents requested in the subpoena duces tecum filed by Defendants Crompton and Schmidt, the following has been agreed upon:

- A. Section I asks the Plaintiffs to provide documents/materials that support the allegations of specific paragraphs of the Complaint. Plaintiffs maintain that producing documents/materials under Section I, as phrased, would require the clients to reveal the mental impressions and legal analysis of Plaintiffs' counsel as to which specific documents/materials support specific allegations of the complaint and thus, would impermissibly run afoul of the attorney work product doctrine. *Sporck v. Peil*, 759 F.2d 312, 315 (3d Cir. 1985); *United States v. Pepper's Steel & Alloys, Inc.*, 132 F.R.D. 695, 699 (S.D. Fla. 1990); *Hargroves v. R.J. Reynolds Tobacco Co.*, 993 So.2d 978, 979 (Fla. 2d DCA 2007). Plaintiffs have already identified the documents/materials in their Rule 26 initial disclosures "that may be used to support the claims;" have made them available for the Defendants' all day inspection and review at the offices of Plaintiffs' counsel on November 24, 2010; and will have them copied for Defendants prior to the depositions of the Plaintiffs. The parties agree that the requests in Section I will be directed, if at all, to Plaintiffs' counsel rather than clients individually, and will be responded to by Counsel at the appropriate time prior to trial and as applicable.
- B. Items requested in Section II have either been withdrawn, modified or produced, but Plaintiffs will make further inquiry to see if any additional information exists.

- C. Specifically, with respect to Section II, item L “Troop 111 “Spaghetti Dinner Fundraiser.” Defendants will clarify.
- D. Paragraph II, item K “Ira Abram’s Eagle Court of Honor.” Same as #C.
- E. Paragraphs II, items E, F, G, H and J have already been produced to the Defendants at the day-long inspection of documents and items held at the offices of Plaintiffs’ counsel on November 24, 2010. The documents/materials reviewed and tagged by all defense counsel are being copied at defendants’ expense and will be made available to them at least one week prior to Plaintiffs’ depositions.
- F. Section II, item A “GPS Data.” Defendants already have all GPS data to which the Plaintiffs are privy. Counsel for Defendants Crompton and Schmidt is in physical possession of the actual GPS device which is the subject of stipulations filed with the Court on December 3, 2010 (DE # 65). Further, the parties agree that the GPS system and all information to be obtained and/or derived from the device(s) will not be opened, downloaded or inspected unless all the parties are available with their experts to conduct said inspection simultaneously.
- G. Section II, item B is not in dispute.
- H. Section II, items C and D are documents generated by the Defendants and thus, within their custody or control. Plaintiffs submit that this information is not in their possession, but will make a further inquiry at the request of Defendants.
- I. With regard to Sections III through VI, inclusive, Plaintiffs have already produced all responsive documents/materials, which are not subject to prior objection. These

documents/material was produced at the inspection on November 24, 2010, and will be copied as described in # E.

3. All counsel discussed the need for a workable discovery schedule and agreed to provide deposition dates for the individual parties and for the representatives and employees of the organizational/corporate parties so that dates could be cleared and the depositions could begin forthwith.

4. All counsel agreed to maintain the phone and computer records and other electronic records of their respective clients **related to this incident**, and to provide cell phone provider information.

Dated: December 13, 2010
Miami, Florida

Respectfully submitted,

/s/ Ira H. Leesfield
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 13, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ IRA H. LEESFIELD
IRA H. LEESFIELD, ESQ.

SERVICE LIST

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VS.
BOY SCOUTS OF AMERICA, et al
CASE NO.: 10-CV-22236-ASG**

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA

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