

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Miami Division

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

CASE NO. 1:10-cv-22236-ASG

HONORABLE ALAN S. GOLD

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.

**DEFENDANTS, PLANTATION UNITED METHODIST CHURCH, HOWARD K.
CROMPTON AND ANDREW L. SCHMIDT'S, AMENDED ANSWER,
AFFIRMATIVE DEFENSES AND DEMAND FOR JURY TRIAL**

Defendants, PLANTATION UNITED METHODIST CHURCH, HOWARD K.
CROMPTON, and ANDREW L. SCHMIDT, by and through the undersigned counsel,
and in accordance with the applicable Fla. R. Civ. P., hereby file this Amended Answer,
Affirmative Defenses and Demand for Jury Trial as follows:

1. Admitted.
2. Admitted.
3. Admitted that Michael Sclawy-Adelman participated in a hike in the Florida Trail in the Big Cypress National Park.
4. Admitted.

5. Admitted.
6. Denied.
7. Defendants are without knowledge to admit or deny so therefore denied.
8. Defendants are without knowledge to admit or deny so therefore denied.
9. Defendants are without knowledge to admit or deny so therefore denied.
10. Defendants are without knowledge to admit or deny so therefore denied.
11. Defendants are without knowledge to admit or deny so therefore denied.
12. Defendants are without knowledge to admit or deny so therefore denied.
13. Defendants are without knowledge to admit or deny so therefore denied.
14. Defendants are without knowledge to admit or deny so therefore denied.
15. Defendants are without knowledge to admit or deny so therefore denied.
16. Defendants are without knowledge to admit or deny so therefore denied.
17. Defendants are without knowledge to admit or deny so therefore denied.
18. Defendants are without knowledge to admit or deny so therefore denied.
19. Defendants are without knowledge to admit or deny so therefore denied.
20. Defendants are without knowledge to admit or deny so therefore denied.
21. Defendants are without knowledge to admit or deny so therefore denied.
22. Defendants are without knowledge to admit or deny so therefore denied.
23. Admitted
24. Admitted that Defendant, Plantation United Methodist received a charter

from the Boy Scouts of America. Otherwise, denied.

25. Admitted that Defendant, Plantation United Methodist Church received a charter from the Defendant, Boy Scouts of America that allowed Defendant, Plantation United Methodist Church to establish a Boy Scouts troop. Otherwise, denied.

26. Defendants are without knowledge to admit or deny so therefore denied.

27. Admitted.

28. Admitted.

29. Defendants are without knowledge to admit or deny so therefore denied.

30. Admitted.

31. Defendants are without knowledge to admit or deny so therefore denied.

32. Defendants are without knowledge to admit or deny so therefore denied.

33. Admitted this is an action for damages in excess of \$15,000.00 for jurisdictional purposes only. Otherwise, denied.

Paragraphs 34 through 39 (Count I) are denied and strict proof thereof is demanded.

Paragraphs 40 through 45 (Count II) are denied and strict proof thereof is demanded.

Paragraphs 46 through 51 (Count III) are denied and strict proof thereof is demanded.

Paragraphs 52 through 57 (Count IV) are denied and strict proof thereof is demanded.

Paragraphs 58 through 63 (Count V) are not directed to these Defendants and therefore are denied.

Paragraphs 64 through 69 (Count VI) are not directed to these Defendants and therefore are denied.

Paragraphs 70 through 75 (Count VII) are not directed to these Defendants and therefore are denied.

Paragraphs 76 through 81 (Count VIII) are not directed to these Defendants and therefore are denied.

Paragraphs 82 through 87 (Count IX) are denied and strict proof thereof is demanded.

Paragraphs 88 through 93 (Count X) are denied and strict proof thereof is demanded.

Paragraphs 94 through 99 (Count XI) are denied and strict proof thereof is demanded.

Paragraphs 100 through 108 (Count XII) are denied and strict proof thereof is demanded.

Paragraphs 109 through 117 (Count XIII) are denied and strict proof thereof is demanded.

Any allegations not expressly admitted herein are hereby denied and strict proof is demanded thereof.

DEMAND FOR JURY TRIAL

These Defendants demand trial by jury.

FIRST AFFIRMATIVE DEFENSE

The Decedent was negligent which contributed to and was the proximate cause of the incident and injuries complained of by Plaintiff in this action. By reason of said negligence, any recovery by the Plaintiffs in this case should be correspondently reduced in accordance with that negligence of the Plaintiff which contributed to the causing of the incident, in accordance with the principles of comparative negligence as adopted by the Florida Supreme Court.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's damages herein were partially or totally caused by non-parties or persons over whom these Defendants had no dominion or control and, therefore, Defendants seek entitlement to the defenses and privileges set forth in Section 768.81(3) Florida Statutes, with respect to apportionment of fault principles. However, at this time, such non-parties or persons are unknown to these Defendants. Pursuant to Nash v. Wells Fargo Guard Service, Inc., 678 So.2d 1262(Fla. 1996), these Defendants will seek amendment to identify such non-parties or persons as they become known and with due notice to Plaintiff.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs expressly and/or impliedly consented to all, or part of actions which Plaintiffs alleges were the cause of any and/or all of their alleged damages.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims against PLANTATION UNITED METHODIST CHURCH, HOWARD K. CROMPTON, and ANDREW L. SCHMIDT, are barred, in whole or in

part, by the doctrine of waiver, pursuant to the terms and conditions of the "PARENT PERMISSION FORM" executed by Michael Sclawy-Adelman's parent/guardian on August 20, 2008.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims against PLANTATION UNITED METHODIST CHURCH, HOWARD K. CROMPTON, and ANDREW L. SCHMIDT, are barred, in whole or in part, by the doctrine of release, pursuant to the terms and conditions of the "PARENT PERMISSION FORM" executed by Michael Sclawy-Adelman's parent/guardian on August 20, 2008.

I HEREBY CERTIFY that on July 15, 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 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.

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By: /s/ Frederick E. Hasty, III
Frederick E. Hasty III
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Service List

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