

UNITED STATES DISTRICT COURT
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,**

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.

**PLAINTIFFS' UNOPPOSED MOTION FOR ENLARGEMENT OF TIME IN WHICH
TO RESPOND TO DEFENDANT SOUTH FLORIDA COUNCIL INC., BOY SCOUTS
OF AMERICA'S AMENDED MOTION TO DISMISS COUNTS VII AND VIII
OR FOR A MORE DEFINITE STATEMENT**

Plaintiffs, Howard Adelman and Judith Sclawy-Adelman, as Co-Personal Representatives of the Estate of Michael Sclawy-Adelman, pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure and Rule 7.1 of the Local Rules of the Southern District of Florida, respectfully move for an Order granting their request for an enlargement of time in which to respond to Defendant South Florida Council Inc., Boy Scouts of America's Amended Motion to Dismiss Counts VII and VIII or for a More Definite Statement, and state:

1. This is an action under Florida's wrongful death statute for the death of seventeen year-old Michael Sclawy-Adelman, a resident of Broward County, Florida.

2. On May 9, 2009, Michael Sclawy-Adelman, a Boy Scout, was led by two adult Scoutmasters on a 20 mile hike through the Big Cypress National Preserve in the Florida Everglades. Temperatures on the trail that day were 100 degrees. During the hike, Michael Sclawy-Adelman exhibited signs and symptoms of heat exhaustion and heat stroke. At mile 15 he died as a result of heat stroke.

3. On June 8, 2010, Plaintiffs filed a wrongful death action in the Miami-Dade County Circuit Court, Case No. 10-32346 CA 22, against Defendant Howard Crompton, a resident of Broward County, Defendant Andrew L. Schmidt, a resident of Broward County, Defendant South Florida Council Inc., Boy Scouts of America, a Miami-Dade County corporation, and Defendant Boy Scouts of America.

4. On July 8, 2010, the Defendants collectively removed the case to the United States District Court for the Southern District of Florida.

5. Plaintiffs intend to timely seek remand of this case to the State Court, consistent with the 30 day timeframe set forth in 28 U.S.C. § 1447. The deadline for Plaintiff's motion for remand is August 7, 2010.

6. On July 13, 2010, Defendant South Florida Council Inc., Boy Scouts of America, filed an Amended Motion to Dismiss Counts VII and VIII or for a More Definite Statement. By Local Rule, the Plaintiffs' memorandum in opposition to that motion is due on July 27, 2010, ten days before the remand motion is due.

7. Should the Court remand this action to the Circuit Court, no action will be required on the Defendant's motion to dismiss Counts VII and VIII. For that reason, and because the Plaintiffs do not wish to voluntarily submit to the jurisdiction of the Court by seeking affirmative relief through their response to the Defendants' motion to dismiss prior to a ruling on Plaintiffs' motion to remand, and further to conserve the Court's time and resources, the Plaintiffs request an enlargement of time in which to respond to the Defendant's Motion to Dismiss until after the Court has ruled upon the Plaintiffs' motion for remand.

8. Pursuant to Rule 7.1.A.3 of the Local Rules of the Southern District of Florida, undersigned counsel has conferred with counsel for the Defendants. Counsel for the Defendants have graciously stated that they have no objection to the requested extension.

9. This request for an extension of time is made in good faith and is not interposed for the purpose of delay. No party will be prejudiced by the granting of this extension of time.

10. A proposed order is attached as Exhibit 1 for this Court's consideration.

WHEREFORE, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion for Enlargement of Time in Which to Respond to Defendant South Florida Council Inc., Boy Scouts of America's Amended Motion to Dismiss Counts VII and VIII Or for a More Definite Statement up to and including 14 days from the date that the Court enters an Order on Plaintiffs' Motion to Remand.

CERTIFICATE OF GOOD FAITH CONFERENCE

I hereby certify that counsel for the movant has conferred with all parties or non-parties who may be affected by the relief sought in this motion in a good faith effort to resolve the issues raised

in the motion and states that the following issues have been resolved: The Defendants have no objection to the Plaintiffs' request for enlargement of time sought herein.

Respectfully submitted,

/s/ MARK A. SYLVESTER
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 16, 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/ MARK A. SYLVESTER
MARK A. SYLVESTER

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
MIAMI DIVISION**

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EXHIBIT 1

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 10-CV-22236-ASG

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Defendants.

ORDER ON PLAINTIFFS' MOTION FOR ENLARGEMENT OF TIME

THIS CAUSE came before the Court upon Plaintiffs' Motion for Enlargement of Time in Which to Respond to Defendant South Florida Council Inc., Boy Scouts of America's Amended Motion to Dismiss Counts VII and VIII or for a More Definite Statement. The Court having read and considered the motion, and good cause having been found to grant the motion, it is accordingly:

ORDERED AND ADJUDGED that Plaintiffs' Motion for Enlargement of Time in Which to Respond to Defendant South Florida Council Inc., Boy Scouts of America's Amended Motion to Dismiss Counts VII and VIII or for a More Definite Statement is **GRANTED**. Plaintiffs shall have up to and including 14 days following the Court's Order on Plaintiffs' Motion to Remand in which to serve their response to Defendant South Florida Council Inc., Boy Scouts of America's Amended Motion to Dismiss Counts VII and VIII or for a More Definite Statement.

DONE AND ORDERED in Chambers in Miami, Southern District of Florida this _____ day
of _____, 2010.

ALAN S. GOLD
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record