

**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' RESPONSE TO
DEFENDANTS' MOTIONS FOR LEAVE TO AMEND AFFIRMATIVE DEFENSES**

The Plaintiffs, while not opposing the defendants' motions for leave to amend affirmative defenses (DE ## 66 and 79), wish to point out to the Court that there has been no discovery of any kind, no depositions taken, and no evidence whatsoever at this stage of these proceedings which would remotely indicate that the U.S. Department of Interior National Park Service was negligent or contributorily negligent in the death of Michael Sclawy-Adelman.

Rule 11 of the Federal Rules of Civil Procedure mandates that by signing a pleading, the attorney certifies to the Court that, to the best of the attorney's knowledge, information and belief, formed after an inquiry reasonable under the circumstances that:

1. The pleading is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
2. That the claims, defenses and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law;
3. That the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery.

The Plaintiffs contend that the defendants who have filed motions for leave to amend their affirmative defenses to add the National Park Service as a *Fabre* defendant do not have a legal or factual basis on which to base such affirmative defenses which will be subject to appropriate rulings by the Court.

Dated: December 30, 2010

Respectfully submitted,

/s/ Ira H. Leesfield
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Trial Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 30, 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

SERVICE LIST

**HOWARD ADELMAN AND JUDITH SCLAWY-ADELMAN
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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