

66450-3/ea

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 10-CV-22236-ASG
Magistrate Judge: Magistrate Judge Chris M. McAiley

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

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' HOWARD K. CROMPTON and ANDREW L. SCHMIDT'S
NOTICE OF JOINDER IN DEFENDANTS', SOUTH FLORIDA COUNCIL, INC.,
BOY SCOUTS OF AMERICA AND BOY SCOUTS OF AMERICA, APPEAL OF
MAGISTRATE JUDGE'S ORDER FOLLOWING DISCOVERY CONFERENCE
IN PART**

The Defendants, HOWARD K. CROMPTON and ANDREW L. SCHMIDT hereby file this, their Notice of Joinder in Defendants' SOUTH FLORIDA COUNCIL, INC., BOY SCOUTS OF AMERICA AND BOY SCOUTS OF AMERICA, Appeal of Magistrate Judge's Order Following Discovery Conference In Part filed on January 11, 2011 for the reasons set forth therein.

In addition to the circumstances in the Appeal filed by the BOY SCOUTS OF AMERICA there are additional grounds for relief.

1. Undersigned counsel has still not been provided the documents requested on November 24, 2010 which are considerable. Included in those documents are evidence which may cause the need to depose individuals as witnesses. Without the documents, it is impossible for undersigned counsel to comply with the Magistrate's Order by January 14, 2011.

2. Undersigned counsel's firm is moving to a new business address on January 14, 2011. At the time the Magistrate ordered compliance it was not determined when the packing of files and the disabling of the computers were to occur. Moving day is January 14, 2011 and it is impossible to comply with the Magistrate's Order.

3. When the Magistrate asked Plaintiffs' counsel who he was expecting to depose, the response was limited to the parties and some general references. The Plaintiffs have the burden of proof in this case. The defense is being placed in a position of disclosing a list of witnesses before the Plaintiffs indicate which places the defense in a procedural posture of anticipating rather than responding. Moreover, it would be far more structured if the Plaintiffs disclosed the list of witnesses first so the defense could make a determination of whether to cross-examine the witnesses or conduct direct examination of the witnesses.

4. The Defendants while aligned may not have identical interests but are limited to the number of depositions available to take. If the Plaintiffs disclosed first, then the collective Defendants could make a decision as to who should set the depositions and which counsel should take the lead on conducting the depositions.

For these additional circumstances Defendants CROMPTON and SCHMIDT join in the appeal of the Order [DE 80] and other relief this Court determines appropriate.

I HEREBY CERTIFY that on January 13, 2011, 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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