

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ROY BANKS,

Plaintiff,

v.

**OFFICE OF THE SENATE SERGEANT-
AT-ARMS and DOORKEEPER,**

Defendant.

Civil Action No. 03-56 (HHK/JMF)

Civil Action No. 03-686 (HHK/JMF)

Civil Action No. 03-2080(HHK/JMF)

MEMORANDUM OPINION

These consolidated cases were referred to me by Judge Kennedy for full case management. Currently pending before me is the issue of whether defendant, the Office of the Senate Sergeant-at-Arms and Doorkeeper (the "SSA"), must produce certain documents claimed to be privileged and submitted for *in camera* review pursuant to my November 1, 2005 order. See Banks v. Office of the Senate Sergeant-at-Arms, No. 03-56 (D.D.C. Nov. 1, 2005) (order). For the reasons stated herein, I find that most, but not all, of the documents are shielded from discovery by either the work product doctrine or the attorney-client privilege or both.

Also pending before me is Plaintiff's Unopposed Motion to Expedite Decision for Production of Non-Privileged Documents and to Set Schedule for Summary Judgment Briefing and Memorandum in Support ("Motion to Expedite and Set Schedule"). For the reasons stated herein, plaintiff's motion will be denied.

BACKGROUND

Plaintiff brought these now consolidated lawsuits alleging that his employer, the SSA, engaged in several unlawful employment actions. See Banks v. Office of the Senate Sergeant-at-

Arms, 222 F.R.D. 7, 9 (D.D.C. 2004). The parties have engaged in substantial litigation regarding discovery. In this memorandum, I resolve the issue of whether certain documents, submitted by the SSA for *in camera* review, can be withheld from discovery because they are covered by the work-product doctrine, the attorney-client privilege, or both.

DISCUSSION

I. *IN CAMERA* REVIEW

A. The Work-Product Doctrine

As the Supreme Court has stated, “it is essential [to our adversarial system] that a lawyer work with a certain degree of privacy, free from unnecessary intrusion by opposing parties and their counsel.” Hickman v. Taylor, 329 U.S. 495, 510-11 (1947). If a lawyer’s work product were “open to opposing counsel on mere demand, much of what is now put down in writing would remain unwritten. An attorney’s thoughts, heretofore inviolate, would not be his own.” Id. at 511.

In light of these important interests, Rule 26(b)(3) of the Federal Rules of Civil Procedure provides that materials prepared in anticipation of litigation or for trial by an attorney or a party are protected from disclosure and they may be subject to discovery only upon a showing of substantial need and the inability to obtain the substantial equivalent without undue hardship. Fed. R. Civ. P. 26(b)(3). The court must take particular care to protect the “mental impressions, conclusions, opinions, or legal theories of an attorney.” Id. See also Tax Analysts v. Internal Revenue Serv., 117 F.3d 607, 619 (D.C. Cir. 1997). Attorney mental impressions, conclusions, opinions, and legal theories may be reflected in interviews, statements, memoranda, correspondence and in countless other tangible and intangible ways. Hickman, 329 U.S. at 511.

These materials, known as opinion work product, “are entitled to special protection and require a stronger showing of necessity to justify release . . . although the precise contours of this showing have not been resolved.” Byers v. Burleson, 100 F.R.D. 436, 439 (D.D.C. 1983) (citing Fed. R. Civ. P. 26(b)(3) and Upjohn Co. v. United States, 449 U.S. 383, 400-01 (1981)). See also In re Sealed Case, 856 F.2d 268, 273 (D.C. Cir. 1988).

In reviewing documents claimed to be protected by the work product doctrine, the court must determine “whether, in light of the nature of the document or the factual situation in a particular case, the document can fairly be said to have been prepared or obtained *because of* the prospect of litigation.” Equal Employment Opportunity Comm’n v. Lutheran Soc. Servs., 186 F.3d 959, 968 (D.C. Cir. 1999) (emphasis added). See also Willingham v. Ashcroft, No. 02-1972, 2005 WL 873223, at *2 (D.D.C. Apr. 15, 2005). If the same or essentially similar documents would have been created whether or not litigation was foreseen, “it [cannot] fairly be said that they were created ‘because of’ actual or impending litigation.” Willingham, 2005 WL 873223, at *2 (quoting United States v. Adlman, 134 F.3d 1194, 1202-03 (2d Cir. 1998)).

B. The Attorney-Client Privilege

In this circuit, “the attorney-client privilege is narrowly circumscribed to shield from disclosure only those communications from a client to an attorney made in confidence and for the purpose of securing legal advice.” Evans v. Atwood, 177 F.R.D. 1, 3 (D.D.C. 1997) (citing Tax Analysts, 117 F.3d at 617); In re Sealed Case, 737 F.2d 94, 98 (D.C. Cir. 1984).

Communications from the attorney to the client are protected only insofar as the attorney’s communication discloses an attorney-client privileged communication *from* the client. Evans, 177 F.R.D. at 3 (citing Briton v. U.S. Dep’t of State, 636 F.2d 600, 603-04 (D.C. Cir. 1980)).

The purpose of the privilege “is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of the law and administration of justice.” Upjohn, 449 U.S. at 389. Moreover, the privilege “rests on the need for the advocate to know all that relates to the client’s reasons for seeking representation if the professional mission is to be carried out.” Id.

C. Specific Issues Regarding the Application of the Privileges to the SSA Documents

The documents submitted for *in camera* review generally fall into six categories.

First, there are e-mails and attorney memoranda reflecting communications from the SSA to counsel in which the SSA expressly sought legal advice. A review of these documents indicates that the SSA intended the communications to be confidential. Although some of the e-mails are *from* counsel *to* the SSA, those e-mails tend to reveal the substance of the underlying confidential communication *from* SSA. Therefore, this first group of documents is clearly protected under the attorney-client privilege.

Second, many of the documents consist of counsel’s notes and memoranda of interviews and conversations with SSA employees. These interviews and conversations were conducted as part of the SSA’s defense of plaintiff’s lawsuits. Accordingly, these notes and memoranda were clearly prepared because of litigation or the prospect thereof. Moreover, these notes reveal counsel’s mental impressions and litigation strategy because they reveal who counsel thought important to interview, what questions counsel thought important to ask, and what information counsel thought important to memorialize. See Hickman, 329 U.S. at 512-13. Therefore, this first group of documents is clearly protected under the work product doctrine and the SSA will

not have to produce them.

The documents in this second category are also attorney-client privileged. Counsel's notes and memorandum of the employee interviews and conversations clearly reveal what the employees told counsel. These interviews and conversations were an integral part of the process of providing information to counsel so that counsel could provide the sought after legal representation (*i.e.*, representing the SSA in this litigation) and appear to have been intended to be confidential. As the Supreme Court has explained: "the privilege exists to protect not only the giving of professional advice to those who can act on it but also the giving of information to the lawyer to enable him to give sound and informed advice." Upjohn, 449 U.S. at 390. In the context of a corporation or a government entity, this information is necessarily provided by the client's employees. Id. at 391. Therefore, when SSA employees met or spoke with counsel to provide information to enable counsel to represent the SSA in this litigation, those communications are privileged. As I have previously explained in this lawsuit:

An attorney-client relationship may exist between an institution or organization and its counsel. A corporation may claim an attorney-client privilege for confidential communications made by its employees to corporate counsel in order to permit counsel to render legal services or legal advice to the corporation. There is no doubt that government agencies have the same privilege.

Banks v. Office of the Senate Sergeant-at-Arms, 222 F.R.D. 1, 3 (D.D.C. 2004) (citing Evans, 177 F.R.D. at 3). Therefore, the first group of documents is also protected under the attorney-client privilege and the SSA will not have to produce them.

Third, there is correspondence between counsel and SSA employees that, although not explicitly seeking legal advice, implicitly were made in order to enable counsel to provide legal

advice and services. In these documents, the SSA provides information and updates so that its counsel will have the information that they need to provide the sought after legal services and advice. If I were to deny the attorney-client privilege as to these documents, the nature of the guidance the SSA sought from its counsel would be revealed and, in effect, nullify the privilege that I sustained as to the documents in which legal advice was expressly sought. As just discussed, it is clear that these communications were intended to be confidential and were part of the process by which the SSA secured legal services from its counsel. See Upjohn, 449 U.S. at 390.

Fourth, there are e-mails containing the SSA's counsel's instructions and questions regarding litigation matters, such as responding to plaintiff's interrogatories and gathering relevant information and documents. These e-mails were clearly prepared because of litigation. Moreover, they reveal counsel's mental impressions and litigation strategy. Accordingly, the documents that reflect the process by which defense counsel prepared this case constitute highly protected opinion work product and defendant need not produce these documents.

Fifth, there are exchanges of drafts between the SSA and its counsel. Depending on the individual document, these drafts may be protected by the attorney-client privilege, the work product doctrine, or both. For example, many of the documents contain requests from the SSA for attorney review of a draft letter or employment related document. Based on my *in camera* review, it appears that these requests for attorney review were intended to be confidential and, therefore, are protected by the attorney-client privilege. There are also drafts containing counsel's edits and comments. Where counsel was involved in drafting and editing these documents, the drafts are clearly work product because the edits and commentary tend to reveal

counsel's opinions and mental impressions. See Nesse v. Pittman, 202 F.R.D. 344, 351 (D.D.C. 2001) ("If [counsel] modifies the draft, comparing the draft with the modified final discloses her mental processes if the changes are more than typographical. If [counsel] files the draft and never sends it, the draft discloses her mental processes in the most obvious way.") Therefore, such drafts are protected by the work product doctrine.

Finally, there are several documents that consist of letters, facsimiles, or e-mails forwarding documents from SSA employees to counsel. While the fact of the transmittal might be attorney-client privileged, such transmittal does not shield from discovery the forwarded documents. The forwarded documents are only privileged if they would have been privileged in the hands of the SSA. As the Supreme Court has explained:

The [attorney-client] privilege protects only those disclosures necessary to obtain legal advice which might not have been made absent the privilege. This Court and the lower courts have thus uniformly held that pre-existing documents which could have been obtained by court process from the client when he was in possession may also be obtained from the attorney by similar process following transfer by the client in order to obtain informed legal advice.

Fisher v. United States, 425 U.S. 391, 403-04 (1976). Accordingly, to the extent that the forwarded documents are independently responsive to plaintiff's document requests, have not already been produced, and are not otherwise privileged, they must be produced.

D. Chart and Abbreviated Notations

In the interest of clarity, I have included in this memorandum two charts. The first summarizes various abbreviations I have used to describe my analysis of the materials. The second lists each document submitted for *in camera* review and my rulings on each assertion of

privilege.

Abbreviated Notation	Explanation
Opinion work product	Document appears to have been prepared for trial or in anticipation of litigation and reflects counsel's mental impressions. The SSA's claim of work product protection is sustained.
Not because of litigation	Based on information provided by defendant, the document cannot fairly be said to have been prepared or obtained because of the prospect of litigation or for trial. The SSA's claim of work-product privilege is denied.
Reveals confidential communication made in furtherance of legal services	Document reveals a communication from the SSA to counsel that was intended to be confidential and made, either explicitly or implicitly, for the purpose of obtaining legal advice or services. The SSA's claim of attorney-client privilege is granted.
Does not reveal confidential communication made in furtherance of legal services	Document does not disclose a communication from the client that the client intended to be confidential and made for the purpose of obtaining legal advice or services. The SSA's claim of attorney-client privilege is denied.

Bates #	Privilege Claimed	Ruling	Reason
RB000003- RB000004	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB00316	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB001105	Work Product	Sustained	Opinion work product
RB001106	Work Product	Sustained	Opinion work product
RB001107- RB001111	Work Product	Sustained	Opinion work product
RB001112- RB001114	Work Product	Sustained	Opinion work product

RB001121	Attorney-Client Work Product	Denied Sustained	Does not reflect a confidential communication from a <i>client</i> ¹ Opinion work product
RB001132	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001133	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001134- RB001135	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001143	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
RB001144	Attorney-Client	Denied	Does not reflect a confidential communication from a <i>client</i> . <u>See</u> footnote 1, <i>supra</i> .
RB001145	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001154- RB001156	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001157- RB001159	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001160- RB001169	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001182- RB001184	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001195	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

¹ “The attorney-client privilege only applies to communications that are the product of an attorney-client relationship and maintained as confidential between the attorney and the client. *Brinton*, 636 F.2d at 603. The mere fact that the person whose opinion is sought is an attorney does not create a privileged communication.” Tri-State Hospital Supply Corp. v. United States, No. 00-1463, 2005 WL 3447890, at *3 (D.D.C. Dec. 16, 2005).

RB001198- RB001199	Attorney-Client	Sustained/ Denied	Sustained as to the 12:02 PM and 11:46 AM e-mails, which reveal confidential communication made in furtherance of legal services; denied as to the 11:21 AM and 9:54 AM e-mails, which do not reveal confidential communication made in furtherance of legal services
RB001203	Work Product	Sustained	Opinion work product
RB001204	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001210	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB001255	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001256	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB001257	Work Product	Sustained	Opinion work product
RB001266- RB001272	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001273- RB001290	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001298- RB001303	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001355	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB001356	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product

RB001357	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001360	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001361- RB001372	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001373	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001374	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001378	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB001459- RB001471	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001472	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001473	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001474	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001475- RB001477	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001496	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001502- RB001503	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001504- RB001506	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

RB001507	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001508	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001509	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001510	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB001511	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001513	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB001516	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001534- RB001535	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB001536- RB001538	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001705- RB001707	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB001717- RB001734	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB001736	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product
RB001737	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
	Work Product	Sustained	Opinion work product

RB001738	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001739- RB001742	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001761	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001762	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001763- RB001770	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001784- RB001785	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001786	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001787- RB001791	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB001792	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001794	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001795- RB001796	Attorney-Client Work Product	Sustained/ Denied Sustained	Sustained for the first page, which reveals confidential communication made in furtherance of legal services; denied for the second page, which does not reveal confidential communication made in furtherance of legal services Opinion work product
RB001801	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB001882- RB001884	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

RB001889- RB001890	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
RB001966	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002001	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002002- RB002003	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002005- RB002007	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002008- RB002010	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002031- RB002036	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002053- RB002054	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002055	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002056- RB002057	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB005058- RB002069	Work Product	Sustained	Opinion work product
RB002073- RB002075	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002109	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002110	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product

RB002112	Attorney-Client Work Product	Sustained Denied	Reveals confidential communication made in furtherance of legal services Not because of litigation
RB002113- RB002118	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002163- RB002166	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002167	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002168	Work Product	Sustained	Opinion work product
RB002173- RB002174	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002213	Work Product	Sustained	Opinion work product
RB002217- RB002219	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002220	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002221- RB002222	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002270- RB002272	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002273	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002274	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
RB002276	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

RB002277- RB002279	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002280- RB002282	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002283- RB002285	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002286- RB002288	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002289- RB002290	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002291	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002292- RB002299	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002300- RB002302	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002303- RB002304	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002307	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002308	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002309	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002318	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002324	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

RB002325	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002326- RB002345	Attorney-Client	N/A	Insufficient information ²
RB002348- RB002353	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002354	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002359- RB002360	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002361	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002370- RB002371	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002380	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002385- RB002386	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
RB002387- RB002388	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002409	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002473- RB002475	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

² Neither the description of this document on the SSA's privilege log nor the face of the document provides enough information to determine whether it is attorney-client privileged. As will be discussed later in this opinion, the SSA is instructed to file an *in camera* statement explaining why it believes this document is privileged.

RB002497- RB002500	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002503	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
RB002505	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002542	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002558- RB002559	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002573- RB002574	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002736	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002925- RB002926	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002927- RB002928	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002929	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002930	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002931	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product

RB002932	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002933- RB002934	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002936- RB002937	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002938- RB002942	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002960	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002961- RB002962	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB002963- RB002965	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002966- RB002969	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002970- RB002972	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002973	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
RB002974- RB002975	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002976- RB002979	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB002980- RB002981	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002982	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002983	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002984- RB002985	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002986	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002997	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB002998	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB002999- RB003000	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB003001	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003002	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003003- RB003004	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB003005	Attorney-Client Work Product	N/A	Innocuous ³
RB003020- RB003021	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003022	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB003025	Attorney-Client	Denied	Does not reveal confidential communication made in furtherance of legal services
RB003028	Attorney-Client Work Product	Sustained Denied	Reveals confidential communication made in furtherance of legal services Not because of litigation
RB003052	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003053	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003054	Work Product	Sustained	Opinion work product
RB003055	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003059	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003065	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003124	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

³ Sustaining privilege for this document would trivialize the work product doctrine and the attorney-client privilege. However, because this document contains no information of use to this litigation, I will not order it produced.

RB003125	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003126	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003127- RB003128	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB003132- RB003134	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003135- RB003136	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003156	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003168- RB003170	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003171	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003172	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003174- RB003176	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003179- RB003180	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003181	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB003182	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003183	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003184	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003288	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB003290- RB003298	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003562- RB003569	Attorney-Client Work Product	Sustained/ Denied Sustained/ Denied	Sustained for the cover e-mail, which reveals confidential communication made in furtherance of legal services and opinion work product; denied for the attached documents unless otherwise privileged or nonresponsive
RB003590- RB003595	Attorney-Client Work Product	Sustained/ Denied Sustained/ Denied	Sustained for the cover note, which reveals confidential communication made in furtherance of legal services and opinion work product; denied for the attached documents unless otherwise privileged or nonresponsive
RB003597- RB003599	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003600	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003622- RB003624	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003625- RB003626	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB003657- RB003658	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003659	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003660	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB003661	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB003662- RB003664	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003665- RB003667	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003669- RB003670	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003671	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003672- RB003686	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003692	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB003694	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003695	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product

RB003696- RB003705	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003706	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003707	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB003755	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB003756	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB004609	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB004610- RB004611	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB004613	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB004614	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB004615- RB004616	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB004617- RB004628	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB004632- RB004633	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB004634	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB004635- RB004640	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB006242- RB006244	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB007032	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB007033- RB007034	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB007035- RB007036	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB007045- RB007058	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB007059- RB007078	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB007079- RB007092	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB007816- RB007824	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB007825- RB007839	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB008416	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB008419	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB008625	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB008646- RB008649	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB008943	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB008945	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB008946- RB008948	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB008949	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB008950- RB008955	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB008978	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB008979- RB008991	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB008982- RB008985	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB008990- RB008992	Work Product	Sustained	Opinion work product
RB008993- RB008994	Work Product	Sustained	Opinion work product

RB008995- RB008997	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB008998- RB008999	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB009002- RB009005	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB009009- RB009012	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB009393- RB009394	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB009410- RB009411	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB009412	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB009414	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB009420- RB009422	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB009642	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB012773	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB012855	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

RB012882	Attorney-Client Work Product	Sustained Denied	Reveals confidential communication made in furtherance of legal services Does not reveal any work product
RB012941- RB012942	Attorney-Client Work Product	Sustained/ Denied Denied	Sustained for second sentence, which reveals confidential communication made in furtherance of legal services; denied for remainder Not because of litigation
RB012983- RB012985	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB012994	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB013014	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB013050	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB013168- RB013169	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB013180	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013189- RB013190	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013269	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013281- RB013283	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013354- RB013355	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB013453- RB013458	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013459- RB013487	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013488- RB013493	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013494- RB013503	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013504- RB013508	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013513- RB013514	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013515- RB013516	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013545	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB013688- RB013696	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013699	Work Product	Sustained	Opinion work product
RB013701- RB013704	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013705- RB013711	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB013712- RB013713	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013715- RB013716	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013717- RB013718	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013719- RB013720	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013721- RB013722	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013723- RB013724	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013725- RB013730	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013731- RB013742	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013743- RB013746	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013747- RB013753	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013754- RB013784	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013785- RB013790	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB013795- RB013796	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013797	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013800- RB013803	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013855- RB013862	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013867- RB013871	Work Product	Sustained	Opinion work product
RB013872	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB013950	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB013951	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014115	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014116	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014117	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014193	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product

RB014194- RB014197	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014224	Attorney-Client Work Product	N/A	Innocuous. <u>See</u> footnote 3, <i>supra</i> .
RB014225	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014226	Attorney-Client Work Product	N/A	Innocuous. <u>See</u> footnote 3, <i>supra</i> .
RB014227- RB014229	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014237	Attorney-Client Work Product	N/A	Innocuous. <u>See</u> footnote 3, <i>supra</i> .
RB014238- RB014240	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014248	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014249	Attorney-Client	Sustained	Innocuous. <u>See</u> footnote 3, <i>supra</i> .
RB014250- RB014251	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014270- RB014273	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014274- RB014276	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014277- RB014282	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product

RB014283- RB014288	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014291- RB014293	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014812- RB014813	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014814	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014817	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014818	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
RB014819- RB014820	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014821- RB014822	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014844- RB014846	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
RB014941- RB014942	Work Product	Sustained	Opinion work product
RB014944- RB014948	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014950	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product

RB014969- RB014972	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB014990- RB015016	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB015277- RB015280	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
RB015282- RB015284	Attorney-Client Work Product	Sustained Sustained	Reveals confidential communication made in furtherance of legal services Opinion work product
B1DP00089 4	Attorney-Client Work Product	Denied Sustained	Does not reveal confidential communication made in furtherance of legal services Opinion work product
B1DP00140 7	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services
B1DP00144 5	Attorney-Client	Sustained	Reveals confidential communication made in furtherance of legal services

In addition to the documents in the above chart, the SSA submitted two unbates-numbered documents referenced on its supplemental March 17, 2005 privilege log. These documents were the subject of Plaintiff's Rule 37 Motion to Compel Production of Documents, the resolution of which was stayed by my November 1, 2005 order pending *in camera* review of the two documents at issue. Banks v. Office of the Senate Sergeant-at-Arms, No. 03-56 (D.D.C. Nov. 1, 2005) (order). The SSA asserted the work product privilege for both documents on the ground that they reveal information that its counsel gathered during interviews conducted in anticipation of litigation. After reviewing these documents *in camera*, I find that they are an SSA employee's notes of a conversation with counsel and that the notes expressly state what counsel

asked another employee and what counsel learned from that other employee during the course of conducting interviews because of the present litigation. As previously discussed, counsel's witness interviews are opinion work product. Accordingly, I will sustain the SSA's claim of work product protection for these two documents and plaintiff's motion to compel will now be denied.

II. MOTION TO EXPEDITE AND SET SCHEDULE

Plaintiff has moved the Court to "expedite the last of discovery in this matter" and to set a schedule for the filing of dispositive motions. However, in so moving, plaintiff does not explain what discovery remains outstanding. Nor does plaintiff propose a schedule for completing discovery or for filing dispositive motions. Therefore, in lieu of setting such deadlines, I will order the parties to meet and confer regarding the completion of discovery and the filing of dispositive motions and to file with the Court, no later than fourteen days from the date of this memorandum opinion, a joint proposed scheduling order.

CONCLUSION

For the reasons stated herein, I will order defendant to produce, within 10 days of this memorandum opinion, all of the documents as to which its claim(s) of work product protection and attorney-client privilege have been denied. As to those documents for which the court has sustained the SSA's claims of privilege in part, defendant shall produce redacted versions of the materials to plaintiff. As to document number RB002326-RB002345, the SSA shall submit *in camera*, within 10 days of this opinion, a statement as to why it contends that it is protected by the attorney-client privilege.

Dated:

JOHN M. FACCIOLA
UNITED STATES MAGISTRATE JUDGE