

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

MIKE TOWNSEND

PLAINTIFF

VS.

NO. 5:11CV00055 JMM

BAYER CORPORATION

BAYER HEALTHCARE PHARMACEUTICALS, INC.

DEFENDANTS

ORDER

Pending is Plaintiff's motion to compel. (Docket # 35). Plaintiff seeks to obtain copies of certain documents to which the Defendants claim a privilege. The Court has reviewed the privilege log along with the documents *in camera*. The Court finds that Plaintiff's motion should be GRANTED IN PART AND DENIED IN PART.

The Court agrees with the Defendants that the documents appearing at exhibit numbers 1-32, which have not been previously produced, are protected from discovery as attorney-client communication. Accordingly, Plaintiff's motion is denied as to exhibits 1-32.

The documents appearing at exhibits 33-68 are not protected from discovery. Defendant claims that the documents are protected by both the attorney-client privilege and work-product doctrine. However, the documents appear to have been produced in the normal course of business and not in anticipation of litigation. There is no work-product immunity for documents prepared in the regular course of business rather than for purposes of litigation. *Simon v. G.D. Searle & Co.*, 816 F.2d 397, 401 (8th Cir. 1987). Further, these documents are not made privileged simply because they were provided to

or made by a lawyer. Plaintiff's motion to compel is GRANTED as to exhibit numbers 33-68.

IT IS SO ORDERED this 31st day of August, 2012.


James M. Moody
United States District Judge