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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CAROLINA CASUALTY INSURANCE  
COMPANY,

Plaintiff,

v.

OAHU AIR CONDITIONING SERVICE,  
INC. dba OAHU AIR CONDITIONING  
CO., et al.,

Defendants.

No. 2:13-cv-01378 WBS AC

ORDER

Pending before the court are cross-motions to compel by plaintiff and defendant Pacific Commercial Services LLC (“PCS”). ECF Nos. 106 (PCS’s motion) & 107 (plaintiff’s motion). The motions came on for hearing on February 18, 2015, and were taken under submission. Before the court resolves the motions, however, IT IS HEREBY ORDERED that the parties are directed to make further submissions as follows:

1. Both plaintiff and PCS shall, no later than Friday, February 20, 2015 at 4:30 p.m., serve and file declarations – not briefs or legal arguments – setting forth facts to be considered in evaluating the “totality of the circumstances” surrounding the Elite Investigation reports, including, as pertinent, the hiring of Elite, the role of Elite during the investigation, Elite’s interactions with plaintiff and plaintiff’s counsel, the creation and presentation of the reports, and any other facts relevant to the question of whether the reports are work product protected by Fed.

1 R. Civ. P. 26(b)(3) and United States v. Torf (In re Grand Jury Subpoena (Mark Torf/Torf  
2 Environmental Management), 357 F.3d 900 (9th Cir. 2004).

3 2. Defendant PCS shall submit, no later than March 11, 2015 at 4:30 p.m.:

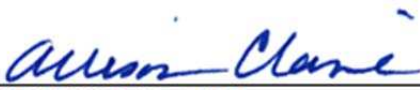
4 (a) A detailed privilege log of all documents it is withholding from discovery  
5 pursuant to the joint defense privilege; and

6 (b) A declaration setting forth facts supporting the existence of a joint defense  
7 privilege, see United States v. Ruehle, 583 F.3d 600, 6-7-08 (9th Cir. 2009), including  
8 when and how the joint defense agreement was established.

9 3. Plaintiff shall submit, no later than March 11, 2015 at 4:30 p.m., a detailed  
10 privilege log of all documents in its claim file that it is withholding from discovery pursuant to a  
11 claim of work product or privilege.

12 4. Plaintiff shall produce to PCS, no later than Friday, March 20, 2015 at 4:30 p.m.,  
13 the settlement agreement reached in litigation in Massachusetts on or about August 2013,  
14 involving Smith Systems Transportation and Clean Harbors Environmental Services, which PCS  
15 seeks to compel in this motion. Plaintiff is granted this time to allow any interested party to  
16 intervene if it objects to the production.

17 DATED: February 18, 2015

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19 ALLISON CLAIRE  
20 UNITED STATES MAGISTRATE JUDGE  
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