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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

A.C.,  
Plaintiff,  
v.  
CITY OF SANTA CLARA, et al.,  
Defendants.

Case No. 13-cv-03276-HSG

**ORDER**

Re: Dkt. No. 66

Having read and considered the parties' joint discovery letter dated March 17, 2015 and the materials submitted by Defendants on March 24, 2015 for in camera review, the Court **ORDERS** as follows:

1. By April 24, 2015, each party shall submit a supplemental discovery letter of no more than three pages addressing the following question: under Fed. R. Civ. P. 26(b)(3) and Ninth Circuit cases interpreting that rule, can work product protection apply to material that was created in anticipation of litigation but not created at the request or direction of an attorney or an attorney's agent?
2. Plaintiff's letter must include any asserted basis for a showing of substantial need for discovery of the April 15, 2012 memorandum at issue, if the Court finds that the memorandum is entitled to work product protection.
3. Defendant's letter must attach and discuss any City of Santa Clara policies or procedures bearing on the question of whether the City's investigative work in response to administrative claims like Mr. Weaver's March 23, 2012 claim is conducted "in anticipation of litigation."
4. The Declaration of Rodger Hayton quoted by Defendants in the discovery letter does not provide a sufficient factual basis for the Court to resolve the issues presented. By

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April 24, 2015, Defendants shall submit for in camera review declarations containing firsthand knowledge, along with any other documentary evidence, sufficient to establish the following facts:

- a. the date the administrative claim filed by James Weaver on March 23, 2012 was resolved by the City of Santa Clara;
- b. the identity of any person who directed or asked Officer Crescini to draft the April 15, 2012 memorandum, and the specific content of any such communication;
- c. the identity of any attorney (including outside counsel and attorneys at the City Attorney's Office) involved in the preparation, review or transmission of the April 15, 2012 memorandum. For each identified attorney, the materials must describe the details and dates of such involvement, including the specific content of any communications with the Santa Clara Police Department or others regarding the April 15, 2012 memorandum.

**IT IS SO ORDERED.**

Dated: 4/20/2015

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge