

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya

Civil Action No. 13-cv-03206-WJM-KMT

CREW TILE DISTRIBUTION, INC.,

Plaintiff,

v.

PORCELANOSA LOS ANGELES, INC.,
PORCELANOSA NEW YORK, INC.,
PORCELANOSA TEXAS, INC., and
PROVEN, LTD., all d/b/a PORCELANOSA USA,

Defendants, Counterclaimants and Third-Party Plaintiffs,

v.

RYAN A. DAVIS, an individual,
DARLYNE A. DAVIS, an individual,
GLENN L. DAVIS, an individual,
SHANA L. BASTEMEYER, an individual,
PARADIGM TILE & STONE DISTRIBUTORS, LLC, a Colorado limited liability company,
and
G&D DAVIS HOLDINGS, LLC, a Nevada limited liability company,

Third-Party Defendants.

ORDER

This matter is before the court on “Defendants’ Resubmitted Motion to Compel Responses to Discovery from Plaintiff and Third Party Defendants” [Doc. No. 161].

Oral argument was held on this motion on February 3, 2016, at which time the court agreed to review submitted Exhibit 1 in camera to determine whether redactions were properly

made to protect the attorney client and work product privileges. The court has reviewed the unredacted version of a notebook kept by Defendant Darlyne A. Davis which was submitted to the court originally in redacted form. [Doc. No. 161-11 and Doc. No. 175-9.].] Having reviewed the unredacted document in camera and in light of the Affidavit of Darlyne Davis [Doc. No. 175-11] and the privilege log concerning this notebook [Doc. No. 175-12 at 4], the court finds as follows:

1. There is no indication, based on the totality of the notes in the spiral notebook, that the notebook contained “contemporaneous” notes taken at the time the events in question occurred. The totality of the notes are consistent with the representations made in the Davis Affidavit that the notes were taken during a meeting with Ms. Davis’ counsel in preparation for her deposition.

2. As to the redactions, the court finds that the following redactions were **improper** and the pages of the notebook should be produced to the Defendants with the following passages NOT redacted.

- a. Page 2, lines 1-2, reading “Jan 23,12 Jack’s title change - ”
- b. Page 2, line 8, reading “Ray 6-10”
- c. Page 3, lines 3-4, reading “Jack – late 09”
“Paco early 09”

3. The court further finds that all other redactions made by the Plaintiff were and are appropriate as protected by the attorney client and/or work product privileges.

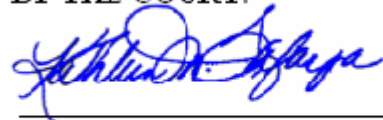
It is therefore **ORDERED**

“Defendants’ Resubmitted Motion to Compel Responses to Discovery from Plaintiff and Third Party Defendants” [Doc. No. 161] is granted in part and denied in part consistent with the record made during the hearing.

Plaintiff will submit a revised version of Exhibit 1, notebook of Darlyne Davis, to the Defendants on or before February 8, 2016.

Dated February 4, 2016.

BY THE COURT:



Kathleen M. Tafoya
United States Magistrate Judge