

admissible evidence.

2. Defendants' Motion to Compel Return of Documents Pursuant to Fed. R. Civ. P. 26(b)(5)(B) and Fed. R. Evid. 502(B) is GRANTED IN PART and DENIED IN PART. The motion is granted in part as to the portion of the claims note that Plaintiff concedes is privileged. *See* proposed redactions at D.I. 72 at 2. The motion is denied in part as to the portion of the claims note quoted by Defendants in their Reply in Support of Defendants' Motion to Compel Return of Documents. Defendants failed to file their Reply under seal and, therefore, have waived any claim of attorney-client privilege over that portion of the claims note quoted in the Reply.

3. Plaintiff similarly failed to file its Response to Defendants' Motion to Compel Return of Documents Pursuant to Fed. R. Civ. P. 26(b)(5)(B) and Fed. R. Evid. 502(B) under seal even though that Response contains otherwise privileged information belonging to Defendants. The Court, therefore, will place the Response under seal. Plaintiff is hereby directed to file a redacted version of its Response within 7 days in accordance with section G of the Administrative Procedures Governing Filing and Service by Electronic Means.

4. Defendants' Motion to Compel Discovery Pursuant to Fed. R. Civ. P. 37(a)(3)(B) is GRANTED. Maintenance records for the U-Haul trailer at issue in the underlying litigation from 2008 to the present are relevant to the extent that they will assist Defendants' expert in determining the scope of the physical examination of the trailer.

Entered this 28th day of March 2012.

Richard G. Andrews
United States District Judge