

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT BOWLING GREEN
CASE NO. 1:11-CV-00157-TBR**

JOHN MADISON

PLAINTIFF

v.

NATIONWIDE MUTUAL INSURANCE COMPANY

DEFENDANT

MEMORANDUM OPINION AND ORDER

This matter is before the Court upon the Plaintiff's renewed motion to compel discovery that was made orally at a telephonic conference held on October 15, 2012, with all parties represented by counsel. Senior Judge Thomas B. Russell has referred this matter to the undersigned Magistrate Judge for ruling on all discovery motions (DN 14).

For the reasons below, the prior briefs of the parties are deemed sufficient (DN 23, 24, and 26) and the Plaintiff's renewed motion to compel is GRANTED.

The Court previously granted the Plaintiff's Motion To Compel Discovery (DN 27 granting DN 23) and ordered the Defendant to PRODUCE the entire insurance claims file subject to further objection. The Defendant produced the file except for documents identified in its updated Privilege Log (DN 28-1) as being withheld due to attorney-client and work-product privilege.

This Court has consistently held that, while the evidence may ultimately be found to be inadmissible, a "[p]laintiff is entitled to discover all documentation concerning the defense of the underlying uninsured motorist and property damage claims, but not entitled to discover documents regarding the bad faith claim." *Graham v. Gallant Ins. Group*, 60 F.Supp.2d 632, 635 (W.D.Ky.1999).

(See also *Minter v. Liberty Mut. Fire Ins. Co.*, 2012 WL 2430471 at *3 (W.D.Ky.), holding that the work product doctrine "was created to protect the integrity of the adversarial process in

ongoing litigation, and does not typically protect from discovery work product created in other cases or concluded suits,” including the contents of the claims file for the underlying litigation containing documents created before plaintiff filed the bad faith complaint.)

For the foregoing reasons, the Plaintiff’s renewed oral motion to compel discovery is hereby GRANTED. The Defendant shall PRODUCE all documents listed on its updated privilege log dated prior to 9/9/11.

October 22, 2012



**Lanny King, Magistrate Judge
United States District Court**