

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF MISSOURI
 EASTERN DIVISION

JO ANN HOWARD &)	
ASSOCIATES, P.C., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:09CV01252 ERW
)	
J. DOUGLAS CASSITY, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter comes before the Court upon “Plaintiffs’ Motion for *In Camera* Review” [ECF No. 1439].

In an Order dated September 18, 2013, this Court, after weighing the severity of waiving the privilege afforded attorney-client communications against the conduct of certain defendants during the course of discovery in this matter, found that waiver of privilege concerning documents possessed by the Wittner Defendants, among others, was appropriate [ECF No. 1279]. The Court ordered any attorney/client privilege that had been asserted concerning all documents listed in a 47-page privilege log, prepared by Wittner Defendants on behalf of Forever Defendants, and produced to Plaintiffs, be waived, and directed Wittner Defendants to provide revised responses to Plaintiffs’ Requests for Production, removing all objections and otherwise complying with the Court’s directions in its June 24 Order. The Court reaffirmed this ruling on November 13, 2013, when it denied the Wittner Defendants’ motion to reconsider and request for clarification; however, the Court stated it was “willing to conduct an *in camera* review, upon a sufficient showing of the applicability of the attorney-client privilege [ECF No. 1340].

In their Motion, Plaintiffs report that, in response to the Court's November 13, 2013 Order, the Wittner Defendants sent a revised privilege log, containing 306 entries involving twenty entities and seven individuals, to all parties on December 27, 2013 [ECF No. 1439-2]. Plaintiffs move the Court to conduct an *in camera* review of documents listed on the Wittner Defendants' revised privilege log. Plaintiffs state that many documents listed on the revised log either do not appear to be privileged; were disclosed to third parties, or involve defunct entities. Plaintiffs further state the Wittner Defendants do not oppose the relief requested in this motion, and, upon the Court's request, will produce the documents to the Court for its review. Wittner Defendants have not filed a response to Plaintiffs' Motion. On March 10, Plaintiffs filed a Stipulated Voluntary Dismissal with Prejudice of Complaint against Wittner Defendants, and on March 12, 2014, this Court, in accordance with the parties' stipulation, dismissed with prejudice, all claims against Wittner Defendants.

On March 27, 2014, the Court issued an Order holding the Motion in abeyance, and directing Plaintiffs to submit a Status Report regarding their Motion [ECF No. 1477]. In accordance with the March 27 Order, Plaintiffs submitted a Status Report, indicating the issues surrounding the revised privilege log have not been resolved, and asserting the *in camera* review remains warranted due to the relevance of the documents in the Wittner Defendants' possession, to the facts in this action [ECF No. 1489].

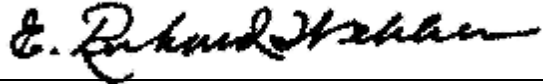
Accordingly,

IT IS HEREBY ORDERED that "Plaintiffs' Motion for *In Camera* Review" [ECF No. 1439] is **GRANTED**.

IT IS FURTHER ORDERED that Wittner Defendants, or the party having custody and

control of the documents that are listed on the Wittner Defendants' revised privilege log [ECF No. 1439-2], shall produce to this Court the documents to which privilege is being asserted, and shall deliver the documents to chambers for the Court's review, within ten (10) days of this Order.

Dated this 8th day of April, 2014.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE