

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

GLENN GRAFF, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	Case No. 1:09-CV-00670
	)	
v.	)	Judge Susan J. Dlott
	)	Magistrate Judge Karen L. Litkovitz
HAVERHILL NORTH COKE	)	
COMPANY, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**CLAW-BACK ORDER**

Inadvertent or unintentional production of any document, testimony, or other information for which the producing party claims a privilege or protection shall not constitute a waiver of such privilege or protection if, as soon as reasonably possible after the producing party becomes aware of any inadvertent or unintentional disclosure, the producing party, in writing, designates any such document, testimony, or other information as protected from disclosure and requests return of such document, testimony, or other information to the producing party. Upon written request by the producing party, any party who has received such materials shall, within twenty (20) days, destroy or return all copies of such materials to the producing party and shall destroy any portion of its materials derived from or based thereon, except that such materials may be sequestered and/or submitted under seal to the Court in the event that a motion to vacate any such designation is filed. The receiving party shall confirm in writing that such procedure has been followed within thirty (30) days of receipt of a written request from the producing party.

If the receiving party objects to the designation of inadvertently produced documents as privileged or protected, it must make a good faith effort to resolve any such objection with the producing party. The parties shall complete a meet-and-confer to resolve objections within twenty (20) days of receiving the request from the producing party. The meet-and-confer period may be extended by agreement of the Parties. If the Parties fail to reach agreement, the receiving party may move for an order from this Court vacating the designation within ten (10) days of the conclusion of the meet-and-confer period. Any response to the motion shall be filed within ten (10) days and any reply shall be filed within five (5) days. Any such motion, opposition, or reply shall be no longer than 10 pages. In the event that a timely motion vacating the designation is filed, the deadlines for the receiving party to destroy or return the disputed documents and to confirm such destruction or return are suspended pending resolution by the Court. The receiving party may not use or disclose any disputed materials until the claim is resolved, except that such materials may be submitted under seal with the Court in connection with a motion to vacate the


designation. Nothing in this provision prevents the Parties from engaging in an expedited informal resolution of any such dispute.

The Parties have 30 days from the issuance of this Order to move to vacate designations or otherwise object in writing to any previous unresolved claim(s) that privileged documents were inadvertently produced.

Pursuant to Fed. R. Evid. 502(d), all privileges and protections concerning privileged documents, testimony, or other information produced in this action in connection with the Supplemental Custodian Production are not waived as a result of such production as to any other entities or persons that are not a party to this action in any other state or federal proceeding.

**IT IS SO ORDERED.**

Date: 3/28/14

  
Karen L. Litkovitz, Magistrate Judge  
United States District Court