

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**DAVID S. GRONIK, JR., et al.,
Plaintiffs,**

v.

Case No. 10-CV-00954

**NORMAN BALTHASAR, et al.,
Defendants
and Third-Party Plaintiffs,**

v.

**SHOREWEST REALTORS, INC., et al.,
Third-Party Defendants.**

DECISION AND ORDER

The parties have asked me to review several witness statements drafted by Norman and Susan Balthasar's counsel to determine whether they are protected by the attorney work-product doctrine. See Fed. R. Civ. P. 26(b)(3). The statements in question were taken from Roger Haliburton, Chip Carmichael, Steve Ashcroft, Tom Weiss, and Franz Schermer in 2010. Having reviewed these statements, I find that they are privileged because they were prepared in anticipation of litigation and contain the mental impressions of the Balthasars' attorneys. Thus, the Balthasars have the right to withhold them.

I will also deny plaintiffs' request that I order the Balthasars to provide either redacted copies of the statements or summaries of the factual information contained therein. A summary of these statements composed by the Balthasars' attorney could still betray some of her mental impressions of the case, and all five of these witnesses are still available and have been interviewed by plaintiffs. The fact that the witnesses cannot

remember the exact content of their statements to the Balthasars does not make them unavailable. The witnesses still remember the factual events underlying this litigation. The only exception is Roger Haliburton, who told plaintiffs that he cannot recall the precise dates of his repair work on plaintiffs' home, but his statement to the Balthasars does not contain any specific dates that would help plaintiffs.

THEREFORE, IT IS ORDERED that plaintiffs' request for copies of the witness statements drafted by the Balthasars' counsel is **DENIED**.

Dated at Milwaukee, Wisconsin, this 16th day of July, 2012.

s/ Lynn Adelman
LYNN ADELMAN
District Judge