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client.”<sup>5</sup> Attorney-client privilege exists “[w]here a client seeks legal advice from a professional legal advisor.”<sup>6</sup> However, just because a communication is made by or includes an attorney does not make the communication automatically privileged; the primary purpose must be legal advice.<sup>7</sup>

The Court conducted an in camera review of the email communications at issue and finds the following documents are not privileged. These documents should be sent to Plaintiff’s counsel:

1. 027\_Linked.L\_Temp\_00016144
2. 030\_Linked.L\_Temp\_00016037
3. 032\_Linked.L\_Temp\_00016039
4. 033\_Kilbane.M\_Temp\_00006995
5. 035\_Kilbane.M\_Temp\_00002653
6. 036\_Kilbane.M\_Temp\_00019799
7. 038\_Kilbane.M\_Temp\_00002651
8. 053\_Kilbane.M\_Temp\_00002646
9. 055\_Kilbane.M\_Temp\_00002645
- 10.056\_Kilbane.M\_Temp\_00006985
- 11.060\_Kilbane.M\_Temp\_00002644
- 12.061\_Kilbane.M\_Temp\_00002643
- 13.062\_Kilbane.M\_Temp\_00019766
- 14.064\_Kilbane.M\_Temp\_00016240
- 15.066\_Kilbane.M\_Temp\_00006984
- 16.070\_Kilbane.M\_Temp\_00002642
- 17.071\_Kilbane.M\_Temp\_00006982
- 18.073\_Linked.L\_Temp\_00004529
- 19.077\_Kilbane.M\_Temp\_00002639
- 20.078\_Kilbane.M\_Temp\_00012692
- 21.083\_Togliatti.A\_Temp\_00016648

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<sup>5</sup> [\*In re Grand Jury Subpoena \(United States v. Doe\)\*, 886 F.2d 135, 137 \(6th Cir.1989\)](#) (quoting [\*In re Grand Jury Investigation\*, 723 F.2d 447, 451 \(6th Cir.1983\)](#)).

<sup>6</sup> [\*In re OM Sec. Litig.\*, 226 F.R.D. 579, 587 \(N.D. Ohio 2005\)](#) (citing [\*Reed v. Baxter\*, 134 F.3d 351, 355-56 \(6th Cir.1998\)](#)).

<sup>7</sup> [\*Zigler v. Allstate Ins. Co.\*, No. 1:06CV2112, W2007 WL 1087607, at \\*1 \(N.D. Ohio Apr. 9, 2007\)](#). See also [\*United States ex rel. Barko v. Halliburton Co.\*, 75 F. Supp. 3d 532, 537 \(2014\)](#) (“The privilege prevents disclosure of confidential communications, but does not stop discovery of underlying factual information, even if that information finds its way into employee statements. The statements are protected; the underlying information is not.”)

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22. 111\_Kilbane.M\_Temp\_00006963
23. 113\_Kilbane.M\_Temp\_00019706
24. 115\_Kilbane.M\_Temp\_00019705
25. 124\_Linkers.L\_Temp\_00004514
26. 125\_Kilbane.M\_Temp\_00019576
27. TOGLIATTI.A\_TEMP\_00002219
28. LINKER.L\_TEMP\_00009716
29. KILBANE.M\_TEMP\_00019984
30. KILBANE.M\_TEMP\_00002667
31. TOGLIATTI.A\_TEMP\_00021477
32. LINKER.L\_TEMP\_0016262
33. LINKER.L\_TEMP\_0016245
34. LINKER.L\_TEMP\_00016241
35. LINKER.L\_TEMP\_00002150
36. LINKER.L\_TEMP\_00002152
37. LINKER.L\_TEMP\_00003095 and attachments
38. KILBANE.M\_TEMP\_00019983
39. DOC\_542
40. DOC\_542 attachment
41. KILBANE.M\_TEMP\_00006988 and attachment

The Court finds that the following documents are only partially privileged. They should be redacted and produced to Plaintiff:

1. 091\_Kilbane.M\_Temp\_00019740 – All emails following the first in the document (on page 1; dated April 4, 2019) may be redacted.
2. 099\_Linkers.L\_Temp\_00009699 – The email timestamped April 4, 2019 at 10:26 AM may be redacted.
3. 141\_Kilbane.M\_Temp\_00016225 – Only the last email in the document (timestamped May 3, 2019 at 10:54 AM) may be redacted.
4. 050\_Kilbane.M\_Temp\_00002648 – The second email in the document (on pages 2 and 3) may be redacted.
5. 051\_Kilbane.M\_Temp\_00006987 – The last email in the document (timestamped March 28, 2019 at 8:55 AM) may be redacted.
6. 054\_Linkers.L\_Temp\_00015854 – The last email in the document (timestamped March 28, 2019 at 8:55 AM) may be redacted.

Finally, the Court finds that the following redactions are inappropriate. Defendants must serve unredacted versions to Plaintiff:

1. DFNTS\_0000448
2. DFNTS\_0000342
3. DFNTS\_0000344

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4. DFNTS\_0000327
5. DFNTS\_0000323
6. DFNTS\_0000491
7. DFNTS\_0000492
8. DFNTS\_0005479
9. DFNTS\_0005481

### Conclusion

The Court **ORDERS PRODUCTION** of the documents above as instructed. The documents must be served by 4:00 p.m. on October 19, 2020.

IT IS SO ORDERED.

Dated: October 19, 2020

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE