

262 F.R.D. 393, 399 (D.Vt. 2009) (extending the privilege to communications between clients despite absence of attorneys).

The requested materials were also "prepared in anticipation of litigation or for trial" and therefore constitute attorney work-product, which is only discoverable upon a showing of "substantial need" for the materials and the inability to obtain the information through other means without "undue hardship." V.R.C.P. 26(b)(3). ANR has provided no such showing in their request for any communications related to the issues on appeal in this litigation.

In demanding communications between attorneys and clients involved in this case, which were made in preparation for the trial, ANR requests materials outside the scope of discovery. Compelling Save the Bay to produce such documents would have a chilling effect on the free flow of communication between attorneys and clients who share a common interest in a pending litigation, undermining the attorneys' ability to provide effective legal representation. Accordingly, ANR's Motion to Compel is DENIED.

Thomas S. Durkin, Judge
June 16, 2010
Date

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Date copies sent to: _____ Clerk's Initials _____

Copies sent to:

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