

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ALINA BOYDEN and SHANNON ANDREWS,

Plaintiffs,

ORDER

v.

17-cv-264-wmc

ROBERT J. CONLIN, *et al.*,

Defendants.

The court held a telephonic hearing today on plaintiffs' motion to compel. (Dkt. #55.) The motion was GRANTED IN PART AND DENIED IN PART as described in detail on the record. In broad strokes, the court directed claw back of the DOJ memo (dkt. #57-5) under Fed. R. Evid. 502 as inadvertently produced and plainly privileged, but the court denied claw back of the perfunctory minutes for the closed session of the GIB meeting immediately before voting in open session “to reinstate the current exclusion related to benefits and services related to gender reassignment or sexual transformation” (*see* dkt. #57-4), which contained no privileged information other than the broad topics of the privileged discussion between Attorney Potter and GIB board members that will be necessary for both sides to assure that the attorney-client privilege is not invaded during subsequent depositions of board members. The court also ruled that certain discussions during the closed session were not privileged as described on the record notwithstanding Attorney Potter’s presence, including in particular (1) any *directive* he may have given or relayed as to how the board should vote (as opposed to legal discussion or recommendation) and (2) any comments or discussions among board members as to how or why they should vote (as opposed to discussion or questions directed to or

involving Attorney Potter). The defendant was further directed to produce Mr. Day for a continuation of his deposition on these topics. Finally, the parties are to meet and confer on the possible continuations of Messrs. Nispel's and Farrell's depositions and to contact Judge Conley's Chambers if the parties have any further disagreements.

Entered this 24th day of May, 2018.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge