

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

EDEN ROGERS and BRANDY WELCH,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;

ALEX AZAR, in his official capacity as Secretary
of the UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;

ADMINISTRATION FOR CHILDREN AND
FAMILIES;

LYNN JOHNSON, in her official capacity as
Assistant Secretary of the ADMINISTRATION
FOR CHILDREN AND FAMILIES;

SCOTT LEKAN, in his official capacity as
Principal Deputy Assistant Secretary of the
ADMINISTRATION FOR CHILDREN AND
FAMILIES;

HENRY MCMASTER, in his official capacity as
Governor of the STATE OF SOUTH CAROLINA;
and

MICHAEL LEACH, in his official capacity as State
Director of the SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

Case No. 6:19-cv-01567-JD

**PLAINTIFFS' NOTICE OF
MOTION AND MOTION TO
COMPEL PRODUCTION OF
AMENDED PRIVILEGE LOGS
FROM DEFENDANTS HENRY
MCMASTER AND
MICHAEL LEACH**

Plaintiffs Eden Rogers and Brandy Welch (“Plaintiffs”) respectfully submit this Notice of Motion and Motion to Compel Production of Amended Privilege Logs from Defendants Henry McMaster and Michael Leach (together, “State Defendants”).

Plaintiffs served discovery requests on State Defendants on June 4, 2020, to which State Defendants initially responded on August 4, 2020. Following unsuccessful negotiations regarding the sufficiency of these productions, Plaintiffs filed a motion to compel additional productions (ECF No. 107), and, on October 27, 2020, this Court directed the parties “to redouble their efforts, in good faith, to reach a compromise on the matters raised in [Plaintiffs’] motion.” (ECF No. 112.) State Defendants ultimately supplemented their productions in December 2020 and January 2021 and produced privilege logs on December 18, 2020 (Director Leach) and January 21, 2021 (Governor McMaster). (Barbur Decl., Exs. 1, 2.)¹

On March 18, 2021, counsel for Plaintiffs sent a letter to State Defendants’ counsel to address certain deficiencies in their privilege logs. (Barbur Decl., Ex. 3.) In particular, the letter noted that State Defendants’ privilege logs failed to identify which people listed in the “From”, “To” and “CC” columns are attorneys and failed to describe the documents in any meaningful way, including providing any indication concerning why information in the documents is supposedly privileged. (*Id.*) Plaintiffs requested that State Defendants produce revised privilege logs remedying these deficiencies so as to enable Plaintiffs’ counsel to adequately assess privilege claims with respect to the withheld documents. (*Id.*)

Governor McMaster responded to Plaintiffs’ letter on March 23, 2021. (Barbur Decl., Ex. 4.) In his response, Governor McMaster identified the Governor’s and Director Leach’s in-house and outside counsel. (*Id.*) However, “[a]s to any remaining concerns expressed in [Plaintiffs’] letter”, counsel for Governor McMaster stated that “the privilege

¹ In light of State Defendants’ agreement to supplement their productions, Plaintiffs withdrew their initial motion to compel on January 20, 2021. (ECF No. 124.)

log complies with the applicable rule and we do not plan to revise it”. (*Id.*) Director Leach, meanwhile, did not respond to Plaintiffs’ letter until April 5, 2021, at which point he stated in an email that “the response of Director Leach is the same as that made by Miles Coleman on behalf of Governor McMaster” and offered to identify any individuals in Director Leach’s privilege logs “for whom additional identifying information is needed”. (Barbur Decl., Ex. 5.)

Plaintiffs now move to compel from both Governor McMaster and Director Leach production of amended privilege logs that comply with the Federal Rules. Plaintiffs’ motion is timely under Local Civil Rules 7.03 and 37.01(A) (D.S.C.) because Plaintiffs did not learn until receiving Governor McMaster’s letter on March 23 that Governor McMaster did not intend to remedy the deficiencies in his privilege log and did not learn until receiving Director Leach’s email on April 5 that he similarly did not intend to produce a revised log. Plaintiffs are filing this motion within 21 days of receiving those communications and “‘immediately after the issue[] raised thereby [was] ripe for adjudication’”. *See ContraVest Inc. v. Mt. Hawley Ins. Co.*, No. 9:15-cv-00304-DCNMGB, 2016 WL 11200705, at *8 (D.S.C. Dec. 12, 2016), *report and recommendation adopted by* 273 F. Supp. 3d 607 (D.S.C. 2017), *mandamus granted in part on other grounds sub nom. In re Mt. Hawley Ins. Co.*, 773 F. App’x 771 (4th Cir. 2019) (quoting Local Civ. Rule 7.03 (D.S.C.)). Pursuant to Local Civil Rule 7.04 (D.S.C.), Governor McMaster’s and Director Leach’s privilege logs, as well as the relevant correspondence between the parties, are attached as exhibits to the Declaration of Peter T. Barbur (“Barbur Decl.”), filed herewith.

* * *

Federal Rule of Civil Procedure 26(b)(5)(A) provides that “[w]hen a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must . . . describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim”. Fed. R. Civ. P. 26(b)(5)(A). To comply with these requirements, “a party seeking protection from producing documents must produce a privilege log that identifies each document withheld, information regarding the nature of the privilege/protection claimed, the name of the person making/receiving the communication, the date and place of the communication, and the document’s general subject matter.” *AVX Corp. v. Horry Land Co.*, No. 4:07-CV-3299-TLW-TER, 2010 WL 4884903, at *3 (D.S.C. Nov. 24, 2010) (internal quotations omitted).

State Defendants’ privilege logs are plainly deficient. They provide no meaningful descriptions of the documents being withheld, much less information that would allow Plaintiffs to assess the claims of privilege. State Defendants’ inclusion of a “Subject/File Name” column identifying the email subject line or file name for each privileged communication or document is not sufficient because those descriptions are far too vague to allow Plaintiffs’ counsel to determine what the document even is and whether a privilege is being properly asserted. For instance, the very first entry on Governor McMaster’s privilege log, dated February 21, 2018, is “Draft memo on the issues”, with an attachment labeled “Title IV.docx”. (Barbur Decl., Ex. 2.) Nothing about this subject line or file name would permit Plaintiffs even to understand what the document is and they certainly do not provide information that would allow Plaintiffs to assess whether the assertion of privilege

is proper. Other entries on the log include: “RE: meeting – phone or in person” (dated March 12, 2018), “Constituent Letter” (dated March 13, 2018), “FW: Constituent Letter” (dated March 15, 2018), “Fwd: Constituent Letter” (dated March 20, 2018), “Miracle Hill” (dated April 4, 2018 and March 28, 2019) and “Re: Governor McMaster” (dated March 13, 2019), to name just a few of the least decipherable examples. (*Id.*)

Director Leach’s privilege log contains substantially similar inadequate entries. To list a few examples, his log includes an entry dated March 13, 2019 with the subject line “FW: Governor McMaster”, and an attachment with the file name “McMaster SC Governors Office 1.18.19.pdf”; entries from December 5, December 7, December 11 and December 17, 2018 with the subject lines “FW: statistics Miracle Hill” or “RE: statistics Miracle Hill”; and an entry from May 9, 2018 with the subject line “MH”. (Barbur Decl., Ex. 1.) When presented with similarly vague privilege log entries, courts in this district have concluded that the producing party has “not compl[ied] with [its] duty to provide a proper privilege log”. *Beaufort Reg’l Chamber of Com. v. City of Beaufort*, No. 9:18-CV-02565-RMG, 2019 WL 2150930, at *2 (D.S.C. May 16, 2019) (holding that a privilege log without “any general description of the document withheld” is deficient and explaining that “each entry should have a description, such as ‘discussion regarding X’ or other similarly general description” that would allow the opposing side “to determine [whether] a privilege is properly asserted”); *see also Wellin v. Wellin*, No. 2:13-CV-1831-DCN, 2018 WL 2604867, at *5 (D.S.C. May 25, 2018) (holding log entries that simply stated “factual summary created for counsel for use in litigation” failed to “provide any information as to the subject of the document” and therefore did “not meet the requirements of Rule 26(b)(5)(A)”). The same conclusion is warranted here.

Indeed, the lack of a description column is particularly troubling with respect to Governor McMaster's privilege log, which includes a number of entries with no attorneys listed and other entries where the withheld communication was neither sent from nor addressed to an attorney, but an attorney instead was simply copied in the "CC" field. (Barbur Decl., Ex. 2 (two entries dated March 13, 2018 and one each dated January 23, 2019, February 16, 2019 and February 11, 2020)). Although the fact that an attorney does not appear on or is merely copied on an email "is not fatal to a claim of privilege", *Hepburn v. Workplace Benefits, LLC*, No. 5:13-CV-00441-BO, 2014 WL 12623294, at *2, *4 (E.D.N.C. Apr. 18, 2014), it emphasizes the need for meaningful descriptions of the documents and sufficient information to permit Plaintiffs to assess the claim of privilege. "Documents which would not be privileged in the hands of the client . . . do not become privileged in the hands of an attorney," *United States v. Swain*, No. CIV. M90-4-1, 1991 WL 47102, at *8 (D.S.C. Feb. 5, 1991), and "[d]ocuments which do not refer to work product prepared by an attorney or other agent of a party to aid in forthcoming litigation, and which were generated in the ordinary course of business, are discoverable," see *First S. Bank v. Fifth Third Bank, N.A.*, No. CIV.A. 7:10-2097-MGL, 2013 WL 1840089, at *4 (D.S.C. May 1, 2013). An appropriate description of each withheld document is thus essential to enable Plaintiffs to assess State Defendants' privilege calls.

Because State Defendants' privilege logs fail to comply with Federal Rule of Civil Procedure 26(b)(5)(A), Plaintiffs respectfully request that this Court direct State Defendants to produce amended privilege logs that provide a description of each document withheld from their productions sufficient to enable Plaintiffs to assess State Defendants' assertions of privilege.

A supporting memorandum is not required as a full explanation of the motion is set forth herein. Local Civ. Rule 7.04 (D.S.C.).

LOCAL CIVIL RULE 7.02 (D.S.C.) CERTIFICATION

The undersigned counsel for Plaintiffs hereby certifies that Plaintiffs' counsel attempted in good faith to confer with State Defendants' counsel in an effort to resolve the issues raised in this motion prior to its filing as described in greater detail above.

Dated: April 12, 2021

s/ Nekki Shutt

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GREENVILLE DIVISION**

EDEN ROGERS and

BRANDY WELCH,

Plaintiffs,

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UNITED STATES DEPARTMENT OF HEALTH
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ALEX AZAR, in his official capacity as Secretary
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ADMINISTRATION FOR CHILDREN AND
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HENRY MCMASTER, in his official capacity as
Governor of the STATE OF SOUTH
CAROLINA; and

MICHAEL LEACH, in his official capacity as
State Director of the SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

Case No. 6:19-cv-1567-JD

**DECLARATION OF
PETER T. BARBUR IN SUPPORT
OF PLAINTIFFS' MOTION TO
COMPEL PRODUCTION OF
AMENDED PRIVILEGE LOGS
FROM DEFENDANTS HENRY
MCMASTER AND MICHAEL
LEACH**

DECLARATION OF PETER T. BARBUR

I, PETER T. BARBUR, declare as follows:

I am a Partner of the law firm Cravath, Swaine & Moore LLP and am admitted *pro hac vice* as counsel to Plaintiffs Eden Rogers and Brandy Welch in the above-captioned action.

I submit this declaration in support of Plaintiffs' Motion to Compel Production of Amended Privilege Logs from Defendants Henry McMaster and Michael Leach, dated April 12, 2021.

1. Attached hereto as **Exhibit 1** is a true and correct copy of Defendant Michael Leach's privilege log, served on December 18, 2020.
2. Attached hereto as **Exhibit 2** is a true and correct copy of Defendant Henry McMaster's privilege log, dated January 21, 2021.
3. Attached hereto as **Exhibit 3** is a true and correct copy of a letter from Peter Barbur to Miles Coleman and Kenneth Woodington, *et al.*, dated March 18, 2021.
4. Attached hereto as **Exhibit 4** is a true and correct copy of an email from Miles Coleman to Katherine Janson and Kenneth Woodington, *et al.*, dated March 23, 2021, and a true and correct copy of a letter from Miles Coleman to Peter Barbur, *et al.*, dated March 22, 2021.
5. Attached hereto as **Exhibit 5** is a true and correct copy of an email from Kenneth Woodington to Katherine Janson, *et al.*, dated April 5, 2021.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 12, 2021.

A handwritten signature in black ink, consisting of stylized, cursive letters, positioned above a horizontal line.

Peter T. Barbur

Exhibit 1

Rogers et al. v. U.S. Dept. of Health and Human Servs. et al.

Civil Action No. 6:19-cv-01567-TMC

Defendant Michael Leach (DSS)'s supplement privilege log accompanying his Objections and Responses to Plaintiffs' First Set of Requests for Production, his Objections and Supplemental Responses to Plaintiffs' First Set of Requests for Production, and the documents produced therewith

Date	Document type	From	To	CC	Subject/File Name	Privilege
5/29/2018	Email	Thomas Limehouse	Miles Coleman, Jay Thompson, Tony Catone	Mardi Fair	Re: FYI- Faith-based proviso -	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-05-15 Gov. McMaster to Chm. Lewis & David.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
03/13/2019	Email	Richele Taylor	Tony Catone		FW: Governor McMaster	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				McMaster SC Governors Office 1.18.19.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
05/16/2019	Email	Thomas Limehouse	Tony Catone	Michael Leach	FW: Letter from Gov. McMaster to Chm. Lewis & Davis	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-05-15 Gov. McMaster to Chm. Lewis & David.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense

03/12/2018	Email	Richele Taylor	Karen L. Wingo, Tony Catone		FW: Miracle Hill Proviso Language	Attorney-Client; Work Product; Common Interest / Joint Defense
12/05/2018	E-mail	Richele Taylor	Tony Catone		FW: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
12/17/2018	E-mail	Richele Taylor	Tony Catone		FW: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
05/01/2019	Email	Thomas Limehouse	Jay T. Thompson, Miles E. Coleman, BCook, Tony Catone, Ken Woodington	Mardi Fair	RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachments				2019.05.01 Lewis Davis Ltr to SC Officials.pdf; 2019.05.01 Lewis Davis Ltr to Miracle Hill.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
07/02/2018	Email	Richele Taylor	Tony Catone		Fwd: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2018-06-29 Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care.pdf	

02/21/2018	Email	Richele Taylor	Susan Alford	Karen L. Wingo, Tony Catone	Letter to Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				Letter to Miracle Hill.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
03/12/2018	Email	Richele Taylor	Tony Catone		Meeting - phone or in person	Attorney-Client; Work Product; Common Interest / Joint Defense
04/29/2019	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
04/26/2019	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
04/26/2019	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
04/29/2019	Email	Thomas Limehouse	Tony Catone	Mardi Fair	ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
05/11/2020	Email	Thomas Limehouse	Tony Catone		Order Eden Rogers Case	Attorney-Client; Work Product; Common Interest / Joint Defense
05/08/2019	Email	Thomas Limehouse	Miles E. Coleman, Jay T. Thompson, Tony Catone, B. Cook, Ken Woodington	Mardi Fair	RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense

05/16/2019	Email	Thomas Limehouse	Miles E. Coleman, Jay T. Thompson, BCook, Tony Catone, Ken Woodington	Mardi Fair	RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-05-15 Gov. McMaster to Chm. Lewis & David.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
08/12/2019	Email	Thomas Limehouse	Miles E. Coleman, Mardi Fair	BCook, Jay T. Thompson, Ethan Bercot, Tony Catone, Ken Woodington	Update re: Rogers and Maddonna lawsuits	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachments				2019.8.9—Rogers v. HHS et al.—Gov. McMaster’s Reply in Supp. of Mot. to Stay.docx July 23 email w S. Dunn.pdf June 27 email w Susan Dunn.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
04/25/2018	Email	Thomas Limehouse	Tony Catone	Richele Taylor	Executive Order Issue	Attorney-Client; Work Product; Common Interest / Joint Defense
05/29/2018	Email	Thomas Limehouse	Becky Laffitte	Monty Todd, Michael Montgomery, Robin Owens, Tony Catone, Susan Alford,	June 1 hearing Michelle H May 29	Attorney-Client; Work Product; Common Interest / Joint Defense

				Amanda Whittle, HollyPisarik, Taron B. Davis, Butch Bowers, Jay Wolfe		
05/30/2018	Email	Thomas Limehouse	Becky Laffitte	Monty Todd, Michael Montgomery, Robin Owens, Tony Catone, Susan Alford, Amanda Whittle, Holly Pisarik, Taron B. Davis, Butch Bowers, Jay Wolfe, Shelley Stafford, Robin Owens	June 1 hearing Michelle H May 30	Attorney-Client; Work Product; Common Interest / Joint Defense
05/25/2018	Email	Thomas Limehouse	Becky Laffitte	Monty Todd, Michael Montgomery, Robin Owens, Tony Catone, Susan Alford, Amanda Whittle, Holly Pisarik, Tron	June 1 hearing Michelle H	Attorney-Client; Work Product; Common Interest / Joint Defense

				B. Davis, Butch Bowers		
05/31/2018	Email	Thomas Limehouse	Becky Laffitte, Butch Bowers	Monty Todd, Michael Montgomery, Tony Catone, Amanda Whittle, Holly Pisarik	June 1 hearing Judge Gergel May 31	Attorney-Client; Work Product; Common Interest / Joint Defense
03/12/2018	Email	Richele Taylor	Tony Catone		Meeting - phone or in person	Attorney-Client; Work Product; Common Interest / Joint Defense
05/09/2018	Email	Richele Taylor	Tony Catone	Karen L. Wingo	MH	Attorney-Client; Work Product; Common Interest / Joint Defense
03/27/2018	Email	Richele Taylor	Tony Catone, Thomas Limehouse		Michelle H. - Executive Order No. 2018-12	Attorney-Client; Work Product; Common Interest / Joint Defense
03/28/2018	Email	Richele Taylor	Tony Catone, Thomas Limehouse		Michelle H. - Executive Order No. 2018-12	Attorney-Client; Work Product; Common Interest / Joint Defense
12/11/2018	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
12/07/2018	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
12/11/2018	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense

12/20/2018	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
12/20/2018	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
05/30/2019	E-mail	Thomas Limehouse	Tony Catone	Mardi Fair	Rogers v. USDHHS et al. - Filed Copy of Complaint	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				2019-5-30—ECF No.1—PLTs” Complaint—Rogers v. USDHHS et al..pdf	
5/16/2018	E-mail	Richele Taylor	Pamela Bryant		FW: Union DSS Investigator	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachments				Documents from <i>Means v. DSS</i>	

Exhibit 2

Rogers et al. v. U.S. Dept. of Health and Human Servs. et al.

Civil Action No. 6:19-cv-01567-TMC

Defendant Henry McMaster' privilege log accompanying his Objections and Responses to Plaintiffs' First Set of Requests for Production, his Objections and Supplemental Responses to Plaintiffs' First Set of Requests for Production, and the documents produced therewith

Date	Document type	From	To	CC	Subject/File Name	Privilege
2/21/2018	Email	Richele Taylor	Brian Symmes		Draft memo on the issues	Attorney-Client; Work Product
	Attachment				Title IV.docx	Attorney-Client; Work Product
2/21/2018	Email	Richele Taylor	Susan Alford	Tony Catone; Karen Wingo	Letter to Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
2/21/2018	Legal memo	Richele Taylor	Governor McMaster		2-21-18 privileged briefing.docx	Attorney-Client; Work Product
2/21/2018	Email	Karen Wingo	Richele Taylor	Tony Catone	Miracle Hill Communications	Attorney-Client; Work Product; Common Interest / Joint Defense
2/21/2018	Email	Richele Taylor	Brian Symmes		Miracle Hill Letter	Attorney-Client; Work Product
	Attachment				Miracle Hill Letter.doc	Attorney-Client; Work Product
2/22/2018	Email	Richele Taylor	Trey Walker		Letter Religious Exemption	Attorney-Client; Work Product

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Gov. Henry McMaster's privilege log
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	Attachment				Letter Religious Exemption.docx	Attorney-Client; Work Product
2/27/2018	Email	Richele Taylor	Trey Walker		Letter Religious Exemption	Attorney-Client; Work Product
	Attachment				Letter Religious Exemption.docx	Attorney-Client; Work Product
2/27/2018	Email	Richele Taylor	Thomas Limehouse		Letter Religious Exemption	Attorney-Client; Work Product
	Attachment				Letter Religious Exemption.docx	Attorney-Client; Work Product
2/27/2018	Email	Thomas Limehouse	Taylor Richele		Letter Religious Exemption- TL notes to RT draft	Attorney-Client; Work Product
	Attachment				Letter Religious Exemption- TL notes to RT draft.docx	Attorney-Client; Work Product
2/27/2018	Draft letter	Richele Taylor			Letter Religious Exemption – Final.doc	Attorney-Client; Work Product
3/12/2018	Email	Richele Taylor	Tony Catone		RE: meeting – phone or in person	Attorney-Client; Work Product; Common Interest / Joint Defense
3/13/2018	Email	Richele Taylor	Mark Plowden		Executive Order – Please forward ASAP	Attorney-Client; Work Product

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	Attachment				2018-03-13 FINAL Executive Order No. 2018-12.docx	Attorney-Client; Work Product
3/13/2018	Email	Brian Symmes	Trey Walker	Richele Taylor; Thomas Limehouse	Re: Executive Order Summary	Attorney-Client; Work Product
3/13/2018	Email	Brian Symmes	Richele Taylor; Thomas Limehouse; Trey Walker		EO DRAFT Release	Attorney-Client; Work Product
3/13/2018	Email	Brian Symmes	Zach Pippin		FW: EO Draft Release	Attorney-Client; Work Product
3/13/2018	Email	Brian Symmes	Richele Taylor; Thomas Limehouse; Trey Walker		RE: EO DRAFT Release	Attorney-Client; Work Product
3/13/2018	Email	Richele Taylor	Leigh Lemoine		Constituent Letter	Attorney-Client; Work Product
3/15/2018	Email	Richele Taylor	Leigh Lemoine		FW: Constituent Letter	Attorney-Client; Work Product
3/20/2018	Email	Richele Taylor	Leigh Lemoine		Fwd: Constituent Letter	Attorney-Client; Work Product
4/4/2018	Email	Amy Hornsby	Thomas Limehouse; Richele Taylor		Miracle Hill	Attorney-Client; Work Product

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Gov. Henry McMaster's privilege log
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4/25/2018	Email	Tony Catone	Thomas Limehouse; Richele Taylor		FW: Executive Order Issue	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				Senator Scott faith-based Child Placing Agency Letter.pdf	Attorney-Client; Work Product; Common Interest / Joint Defense
4/25/2018	Email	Richele Taylor	Trey Walker		FW: Executive Order Issue	Attorney-Client; Work Product
	Attachment				Senator Scott faith-based Child Placing Agency Letter.pdf	Attorney-Client; Work Product
4/25/2018	Email	Richele Taylor	Trey Walker		RE: Executive Order Issue	Attorney-Client; Work Product
4/25/2018	Email	Thomas Limehouse	Tony Catone	Richele Taylor	Re: Executive Order Issue	Attorney-Client; Work Product; Common Interest / Joint Defense
5/1/2018	Email	Richele Taylor	Trey Walker	Thomas Limehouse	FW: FOIA Request	Attorney-Client; Work Product
5/9/2018	Email	Richele Taylor	Tony Catone	Karen Wingo	RE: MH	Attorney-Client; Work Product; Common Interest / Joint Defense
5/31/2018	Email	Tony Catone	Thomas Limehouse		Fwd: Religious CPA issue in other states	Attorney-Client; Work Product; Common Interest / Joint Defense
7/2/2018	Email	Richele Taylor	Tony Catone		Fwd: Faith Leaders and Organizations Oppose Provision Allowing	Attorney-Client; Work Product; Common Interest / Joint Defense

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					Discrimination in Foster Care	
6/19/2018	Email	Jay Wolfe	Thomas Limehouse; Richele Taylor		RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
6/29/2018	Email	Jay Wolfe	Thomas Limehouse	Richele Taylor	RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
6/30/2018	Email	Trey Walker	Richele Taylor; Jay Wolfe, Sym Singh; Brian Symmes; Mark Plowden; John Cleveland; Thomas Limehouse		Fwd: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
7/2/2018	Email	Richele Taylor	Thomas Limehouse; Jay Wolfe		RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
7/2/2018	Email	Jay Wolfe	Thomas Limehouse; Richele Taylor		RE: Budget Proviso Legal Questions	Attorney-Client; Work Product
7/4/2018	Email	Richele Taylor	Trey Walker		Fwd: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
	Attachment				Letter to Faith Leaders.doc	Attorney-Client; Work Product

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7/4/2018	Email	Richele Taylor	Trey Walker		Re: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
7/5/2018	Email	Richele Taylor	Leigh Lemoine		FW: Faith Leaders and Organizations Oppose Provision Allowing Discrimination in Foster Care	Attorney-Client; Work Product
10/23/2018	Brian Symmes	Trey Walker; Richele Taylor			Fwd: ADL Letter to HHS	Attorney-Client; Work Product
10/23/2018	Trey Walker	Brian Symmes; Richele Taylor			RE: ADL Letter to HHS	Attorney-Client; Work Product
10/23/2018	Richele Taylor	Trey Walker; Brian Symmes			Re: ADL Letter to HHS	Attorney-Client; Work Product
10/25/2018	Brian Symmes	Richele Taylor; Trey Walker			FW: Gov. Henry McMaster Issues Executive Order Requiring State Agencies to Protect Religious Freedom	Attorney-Client; Work Product
10/25/2018	Richele Taylor	Brian Symmes; Trey Walker			Re: Gov. Henry McMaster Issues Executive Order Requiring State Agencies	Attorney-Client; Work Product

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					to Protect Religious Freedom	
10/25/2018	Brian Symmes	Richele Taylor; Trey Walker			Re: Gov. Henry McMaster Issues Executive Order Requiring State Agencies to Protect Religious Freedom	Attorney-Client; Work Product
10/26/2018	Richele Taylor	Brian Symmes; Trey Walker			FW: MHM's articulation of position and issues	Attorney-Client; Work Product
10/26/2018	Brian Symmes	Richele Taylor; Trey Walker			RE: MHM's articulation of position and issues	Attorney-Client; Work Product
11/9/2018	Richele Taylor	Richele Taylor			Christian Foster-Care Service for Christians Is Religious Liberty National Review	Attorney-Client; Work Product
12/20/2018	Email	Richele Taylor	Tony Catone		RE: statistics Miracle Hill	Attorney-Client; Work Product; Common Interest / Joint Defense
12/20/2018	Email	Richele Taylor	Leigh Lemoine		Draft- Updated Memo with statistics	Attorney-Client; Work Product
	Attachment				Updated Memo with statistics.docx	
12/20/2018	Legal memo	Richele Taylor	Governor McMaster		12-20-18 privileged briefing – updated for call w Azar.docx	Attorney-Client; Work Product

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12/21/2018	Email	Thomas Limehouse	Trey Walker; Mark Plowden; Richele Taylor; Brian Symmes		Letter from Miracle Hill to HHS Secretary Azar	Attorney-Client; Work Product
1/18/2019	Email	Leigh Lemoine	Trey Walker; Richele Taylor		FW: Governor McMaster	Attorney-Client; Work Product
1/23/2019	Email	Brian Symmes	Richele Taylor; Zach Pippin	Trey Walker	DRAFT: Gov. Henry McMaster Statement on U.S. Department and Health and Human Granting Religious Freedom Waiver Request	Attorney-Client; Work Product
1/23/2019	Email	Trey Walker	Brian Symmes	Richele Taylor; Zach Pippin	Re: DRAFT: Gov. Henry McMaster Statement on U.S. Department and Health and Human Granting Religious Freedom Waiver Request	Attorney-Client; Work Product
1/23/2019	Email	Richele Taylor	Tony Catone		FW: Gov. Henry McMaster Statement on U.S. Department and Health and Human Granting Religious Freedom Waiver Request	Attorney-Client; Work Product; Common Interest / Joint Defense
1/24/2019	Email	Thomas Limehouse	Donovan Mallory		FOIA Doc. Review	Attorney-Client; Work Product
	Attachment				Email Searches – Compressed.zip	Attorney-Client; Work Product

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	Attachment				Potentially Responsive Docs from Constituent Services.pdf	Attorney-Client; Work Product
2/16/2019	Email	Megan Finnern	Trey Walker	Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden; Kristy Quattrone; Pamela Evette	Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product
2/16/2019	Email	Trey Walker	Megan Finnern; Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden; Kristy Quattrone; Pamela Evette		Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product
2/16/2019	Email	Trey Walker	Megan Finnern; Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden;		Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product

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			Kristy Quattrone; Pamela Evette			
2/16/2019	Email	Thomas Limehouse	Trey Walker	Megan Finnern; Richele Taylor; Thomas Limehouse; Brian Symmes; Mark Plowden; Kristy Quattrone; Pamela Evette	Re: AP News: AP Exclusive: Lawsuit claims discrimination by foster agency	Attorney-Client; Work Product
3/13/2019	Email	Tony Catone	Richele Taylor		Re: Governor McMaster	Attorney-Client; Work Product; Common Interest / Joint Defense
3/23/2019	Email	Jay Thompson	Miles Coleman	Richele Taylor; Thomas Limehouse	[External] Re: Michigan foster-care lawsuit settled today	Attorney-Client; Work Product
3/28/2019	Email	Richele Taylor	Thomas Limehouse		Miracle Hill	Attorney-Client; Work Product
4/8/2019	Email	Thomas Limehous	Amy Hornsby	Leigh Lemoine	AUSCS FOIA Request	Attorney-Client; Work Product

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4/11/2019	Email	Thomas Limehouse	Miles Coleman; Jay Thompson		RE: [External] Re: AUSCS FOIA Request	Attorney-Client; Work Product
4/22/2019	Email	Thomas Limehouse	Tony Catone		Re: [External] Settlement in Michigan CPA case	Attorney-Client; Work Product; Common Interest / Joint Defense
4/26/2019	Email	Tony Catone	Thomas Limehouse		[External] ACLU inquiry	Attorney-Client; Work Product; Common Interest / Joint Defense
4/26/2019	Email	Thomas Limehouse	Trey Walker; Brian Symmes	Anita Fair	FW: [External] ACLU inquiry – PRIVILEGED & CONFIDENTIAL	Attorney-Client; Work Product
5/1/2019	Email	Thomas Limehouse	Jordan Marsh	Trey Walker; Anita Fair	Re: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product
5/1/2019	Email	Thomas Limehouse	Jay Thompson; Miles Coleman; Bob Cook; Tony Catone; Ken Woodington	Anita Fair	Fwd: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
5/1/2019	Email	Jordan Marsh	Thomas Limehouse; Trey Walker	Anita Fair	Re: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client
5/8/2019	Email	Miles Coleman	Thomas Limehouse	Jay Thompson; Anita Fair	[External] Pre-call re: Ways & Means letter	Attorney-Client; Work Product

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5/14/2019	Email	Miles Coleman	Thomas Limehouse	Jay Thompson; Anita Fair	Response to Ways & Means Committee	Attorney-Client; Work Product
	Attachment				2017.9.13—MHM—memo to RT.docx	Attorney-Client; Work Product
5/15/2019	Draft letter	Thomas Limehouse			2019-05-15 DRAFT Gov. McMaster to Reps. Lewis & Davis - E-Signature.docx	Attorney-Client
5/15/2019	Draft letter	Thomas Limehouse			2019-05-15 DRAFT Gov. McMaster to Reps. Lewis & Davis - E-Signature.docx	Attorney-Client
5/16/2019	Email	Jordan Marsh	Thomas Limehouse		Fwd: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client
5/16/2019	Email	Thomas Limehouse	Jay Thompson; Miles Coleman; Bob Cook; Tony Catone; Ken Woodington	Anita Fair	RE: [External] RE: Foster Care Waiver Letter (SC)	Attorney-Client; Work Product; Common Interest / Joint Defense
6/6/2019	Email	Jordan Marsh	Trey Walker; Mark Plowden; Thomas Limehouse		Confidential FYI – House appropriation bill next week	Attorney-Client

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6/6/2019	Email	Thomas Limehouse	Jordan Marsh; Trey Walker; Mark Plowden; Anita Fair		Confidential FYI – House appropriation bill next week	Attorney-Client; Work Product
6/6/2019	Email	Jordan Marsh	Thomas Limehouse; Trey Walker; Mark Plowden; Anita Fair		Confidential FYI – House appropriation bill next week	Attorney-Client; Work Product
6/11/2019	Email	Jordan Marsh	Thomas Limehouse; Trey Walker; Mark Plowden; Anita Fair		Confidential FYI – House appropriation bill next week	Attorney-Client; Work Product
8/8/2019	Email	Thomas Limehouse	Thomas Limehouse		Faith-based foster care groups assist children who need help	Attorney-Client; Work Product
9/19/2019	Email	Thomas Limehouse	Miles Coleman; Jay Thompson	Anita Fair	Fwd: [External] Ways and Means Investigation – PRIVILEGED & CONFIDENTIAL	Attorney-Client
9/25/2019	Email	Miles Coleman	Thomas Limehouse	Jay Thompson; Anita Fair	[External] Handy infographic re: faith-based foster care	Attorney-Client; Work Product
9/26/2019	Email	Thomas Limehouse	Trey Walker; Brian Symmes		Fwd: [External] Handy infographic re: faith-based foster care	Attorney-Client; Work Product

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10/2/2019	Legal memo	Anita Fair			2019-10-02 ASF notes recall re U_S_ House cong inquiry.pdf	Attorney-Client
11/1/2019	Email	Thomas Limehouse	Miles Coleman; Jay Thompson	Anita Fair	Fwd: [External] Fyi - Trump Admin Proposes End to Obama Crackdown Against Faith-Based Adoption and Foster Care Agencies	Attorney-Client; Work Product
11/1/2019	Email	Miles Coleman	Thomas Limehouse; Jay Thompson	Anita Fair	RE: Fyi - Trump Admin Proposes End to Obama Crackdown Against Faith-Based Adoption and Foster Care Agencies	Attorney-Client; Work Product
11/1/2019	Email	Miles Coleman	Thomas Limehouse; Anita Fair	Jay Thompson	[External] FW: HHS Announcement: Proposed Rule Regarding Grants Regulation	Attorney-Client; Work Product
11/21/2019	Email	Trey Walker	Thomas Limehouse	Brian Symmes; Mark Plowden; Anita Fair	Re: [External] Fwd: I hope my story inspires you to action – PRIVILEGED & CONFIDENTIAL	Attorney-Client; Work Product

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1/29/2020	Email	Thomas Limehouse	Trey Walker; Mark Plowden; Sym Singh; Brian Symmes		FW: [External] Tennessee passed foster care religious freedom bill	Attorney-Client; Work Product
2/11/2020	Email	Connelly Ragley	Sym Singh; Madison Hall		[External] Fwd: Faith based adoptions proviso history	Attorney-Client; Work Product; Common Interest / Joint Defense
	Attachment				Faith based adoptions proviso history.docx	Attorney-Client; Work Product; Common Interest / Joint Defense

Exhibit 3

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ANTONY L. RYAN
GEORGE E. ZOBITZ
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DARIN P. MCATEE
GARY A. BORNSTEIN
TIMOTHY G. CAMERON
KARIN A. DEMASI
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LAUREN ANGELILLI
TATIANA LAPUSHCHIK
ALYSSA K. CAPLES
JENNIFER S. CONWAY
MINH VAN NGO
KEVIN J. ORSINI
MATTHEW MORREALE
JOHN D. BURETTA
J. WESLEY EARNHARDT
YONATAN EVEN
BENJAMIN GRUENSTEIN
JOSEPH D. ZAVAGLIA

STEPHEN M. KESSING
LAUREN A. MOSKOWITZ
DAVID J. PERKINS
J. LEONARD TETI, II
D. SCOTT BENNETT
TING S. CHEN
CHRISTOPHER K. FARGO
DAVID M. STUART
AARON M. GRUBER
O. KEITH HALLAM, III
OMID H. NASAB
DAMARIS HERNÁNDEZ
JONATHAN J. KATZ
DAVID L. PORTILLA
RORY A. LERARIS
KARA L. MUNGOVAN
MARGARET T. SEGALL
NICHOLAS A. DORSEY
ANDREW C. ELKEN
JENNY HOCHENBERG
VANESSA A. LAVELY
G.J. LIGELIS JR.
MICHAEL E. MARIANI
LAUREN R. KENNEDY
SASHA ROSENTHAL-LARREA
ALLISON M. WEIN
MICHAEL P. ADDIS

JUSTIN C. CLARKE
SHARONMOYEE GOSWAMI
C. DANIEL HAAREN
EVAN MEHRAN NORRIS
LAUREN M. ROSENBERG
MICHAEL L. ARNOLD
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DANIEL J. CERQUEIRA
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PARTNER EMERITUS
SAMUEL C. BUTLER

OF COUNSEL
MICHAEL L. SCHLER
CHRISTOPHER J. KELLY

March 18, 2021

Rogers v. HHS: Privilege Logs

Dear Counsel:

We write to address deficiencies in the privilege logs Governor McMaster and Director Leach served in connection with their respective document productions in this matter.

Federal Rule of Civil Procedure 26(b)(5)(A) provides that “[w]hen a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must . . . describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim”.

To comply with these requirements, “a party seeking protection from producing documents must produce a privilege log that identifies each document withheld, information regarding the nature of the privilege/protection claimed, the name of the person making/receiving the communication, the date and place of the communication, and the document’s general subject matter.” *AVX Corp. v. Horry Land Co.*, No. 4:07-CV-3299-TLW-TER, 2010 WL 4884903, at *3 (D.S.C. Nov. 24, 2010) (internal quotations omitted).

Governor McMaster’s and Director Leach’s privilege logs do not meet these standards. The privilege logs fail to identify which people listed in the “From”, “To” and “CC” columns are attorneys, and lack a column describing the privileged information contained in the withheld documents. We therefore request that Governor McMaster and Director Leach produce revised privilege logs remedying these

deficiencies to enable us to adequately assess their privilege claims with respect to the withheld documents.

Very truly yours,



Peter T. Barbur

Miles E. Coleman, Esq.
NELSON MULLINS RILEY & SCARBOROUGH, LLP
2 W. Washington Street, 4th Floor
Greenville, South Carolina 29601

Kenneth P. Woodington, Esq.
DAVIDSON, WREN & DEMASTERS, PA
Post Office Box 8568
Columbia, South Carolina 29202

Copies to:

Jay T. Thompson, Esq.
NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 Main Street, 17th Floor
Columbia, South Carolina 29201

Robert D. Cook, Esq.
South Carolina Solicitor General
OFFICE OF THE ATTORNEY GENERAL
Post Office Box 11549
Columbia, South Carolina 29211

William H. Davidson, II, Esq.
DAVIDSON, WREN & DEMASTERS, PA
Post Office Box 8568
Columbia, South Carolina 29202

VIA ELECTRONIC MAIL

Exhibit 4

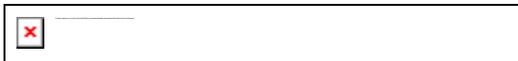
From: Miles Coleman <Miles.Coleman@nelsonmullins.com>
Sent: Tuesday, March 23, 2021 12:01 AM
To: Katherine Janson; Kenneth P Woodington (kwoodington@DML-LAW.com)
Cc: Jay Thompson; bcook@scag.gov; w davidson@dml-law.com; lcooper@aclu.org; dmach@aclu.org; sdunn@aclusc.org; kloewy@lambdalegal.org; ccook@lambdalegal.org; nshutt@burnetteshutt.law; mburnette@burnetteshutt.law; Peter Barbur; Rebecca Schindel; Mika Madgavkar; Cristopher Ray; Miranda J. Li; Serena Candelaria
Subject: RE: Rogers v. HHS -- Correspondence
Attachments: 2021.3.22 -- Rogers v. HHS et al. -- LTR to P. Barbur re privilege log 4849-1641-3922 v.1.pdf

External (miles.coleman@nelsonmullins.com)

[Report This Email](#) [FAQ](#)

Please find attached a letter in response to Peter’s letter dated March 18.

Miles



MILES COLEMAN PARTNER
miles.coleman@nelsonmullins.com
 GREENVILLE ONE | SUITE 400
 2 W. WASHINGTON STREET | GREENVILLE, SC 29601
 T 864.373.2352 F 864.373.2925
 NELSONMULLINS.COM [VCARD](#) [VIEW BIO](#)

From: Katherine Janson <kjanson@cravath.com>
Sent: Thursday, March 18, 2021 2:59 PM
To: Miles Coleman <Miles.Coleman@nelsonmullins.com>; Kenneth P Woodington (kwoodington@DML-LAW.com) <kwoodington@DML-LAW.com>
Cc: Jay Thompson <Jay.Thompson@nelsonmullins.com>; bcook@scag.gov; w davidson@dml-law.com; lcooper@aclu.org; dmach@aclu.org; sdunn@aclusc.org; kloewy@lambdalegal.org; ccook@lambdalegal.org; nshutt@burnetteshutt.law; mburnette@burnetteshutt.law; Peter Barbur <PBarbur@cravath.com>; Rebecca Schindel <rschindel@cravath.com>; Mika Madgavkar <mmadgavkar@cravath.com>; Cristopher Ray <cray@cravath.com>; Miranda J. Li <mjli@cravath.com>; Serena Candelaria <scandelaria@cravath.com>
Subject: Rogers v. HHS -- Correspondence

◀External Email▶ - From: prvs=17111162df=kjanson@cravath.com

Miles, Ken,

Please see the attached correspondence regarding Governor McMaster’s and Director Leach’s privilege logs.

Thank you.

Kate Janson
Cravath, Swaine & Moore LLP
825 Eighth Avenue | New York, NY 10019
T: 1 (212) 474-1989
kjanson@cravath.com

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March 22, 2021

Via electronic mail

Peter Barbur
Cravath, Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019-7475
PBarbur@cravath.com

RE: *Rogers et al. v. U.S. Dept. of Health and Human Servs. et al.*
Civil Action No. 6:19-cv-01567-JD (D.S.C.)
Our File No. 059326/01501

Peter:

I write in response to your letter dated March 18, 2021 regarding the privilege log served by Governor McMaster with his production of documents. One of the questions you raised is who among the individuals listed in the log are attorneys. That information should be apparent from our prior correspondence, the Governor's discovery responses, and the pleadings, but, as a courtesy and for avoidance of any doubt they are as follows: the Governor's current and former in-house counsel are Thomas Limehouse, Esq., Anita Fair, Esq., and Richele Taylor, Esq.; his outside counsel are Miles Coleman, Esq. and Jay Thompson, Esq.; the Solicitor General, also serving as counsel to the Governor, is Bob Cook, Esq.; in-house counsel for SCDSS and its Director is Tony Catone, Esq.; and outside counsel for SCDSS and its Director are Ken Woodington, Esq. and William Davidson, Esq.

I trust the foregoing information is responsive to your inquiry. As to any remaining concerns expressed in your letter, we believe the privilege log complies with the applicable rule and we do not plan to revise it.

Very truly yours,

A handwritten signature in blue ink that reads 'Miles Coleman'.

Miles E. Coleman

CC: (by electronic mail):
M. Malissa Burnette
Bob Cook

March 22, 2021
Page 2

Currey Cook
Leslie Cooper
Susan Dunn
Miranda J. Li
Daniel Mach
Mika Madgavkar
Christopher Ray
Nekki Shutt,
Jay Thompson
Ken Woodington

Exhibit 5

Subject: RE: Rogers v. HHS -- privilege log

From: Kenneth P. Woodington <kwoodington@DML-LAW.com>

Sent: Monday, April 5, 2021 2:17 PM

To: Katherine Janson <kjanson@cravath.com>

Cc: William H. Davidson II <w davidson@DML-LAW.com>; 'Miles Coleman (Miles.Coleman@nelsonmullins.com)' <Miles.Coleman@nelsonmullins.com>; 'Jay.Thompson@nelsonmullins.com' <Jay.Thompson@nelsonmullins.com>; 'bcook@scag.gov' <bcook@scag.gov>; lcooper@aclu.org; dmach@aclu.org; sdunn@aclusc.org; ccook@lambdalegal.org; kloewy@lambdalegal.org; nshutt@burnetteshutt.law; mburnette@burnetteshutt.law; Peter Barbur <PBarbur@cravath.com>; Rebecca Schindel <rschindel@cravath.com>; Mika Madgavkar <mmadgavkar@cravath.com>; Christopher Ray <cray@cravath.com>; Miranda J. Li <mjli@cravath.com>; Serena Candelaria <scandelaria@cravath.com>

Subject: RE: Rogers v. HHS -- privilege log

External (kwoodington@dml-law.com)

[Report This Email](#) [FAQ](#)

Dear counsel:

With regard to the issues raised in prior correspondence from Plaintiffs' counsel in connection with Defendant Leach's privilege logs, the response of Director Leach is the same as that made by Miles Coleman on behalf of Governor McMaster in his letter of March 22, 2021.

Mr. Coleman's letter identifies most of the individuals listed in Defendant Leach's privilege logs. If there are any individuals in Defendant Leach's privilege logs for whom additional identifying information is needed, please advise.

Sincerely,

Ken Woodington

Kenneth P. Woodington
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