

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JAMES LAGACE, :
 :
 Plaintiff, :
 :
 v. :
 : CASE NO. 3:06CV1317 (RNC)
 NEW ENGLAND CENTRAL RAILROAD, :
 :
 Defendant. :

ORDER ON PLAINTIFF'S MOTION TO COMPEL

Pending before the court is the plaintiff's Motion to Compel, doc. #22. The court heard oral argument on the plaintiff's motion on April 10, 2007.

As further discussed below, the court requires supplemental briefing before it can rule on the motion as to certain of the requests. The court therefore rules only on a portion of the plaintiff's motion, as follows:

Request #6: The plaintiff withdrew his motion as to this request, based on the representation of the defendant that all objections to the request have been withdrawn.

Request #7: Granted.

Request #12: Counsel agreed in open court that the documents listed on the defendant's privilege log are not responsive to this request. With that agreement in place, the court grants Request #12.

Request # 18: The defendant has withdrawn its objection and has responded. The motion to compel is therefore denied as to

this request.

Request #19: Granted.

Request #21: Granted.

Request #32: Granted.

Request #35: Granted.

Request #41: Granted as to any witness who may be used at trial to present evidence under Rules 702, 703 or 705 of the Federal Rules of Evidence. See Fed. R. Civ. P. 26(a)(2). The materials responsive to Request #41 need not be immediately produced but shall be produced with the defendant's expert disclosure, pursuant to the applicable scheduling order and Fed. R. Civ. P. 26(a)(2). The current deadline for the defendant to disclose experts is September 1, 2007. (See Doc. #11.)

Interrogatory #1: Granted, in that the defendant is required to produce those materials that it "may use to support its claims or defenses, unless solely for impeachment." Fed. R. Civ. P. 26(a).

As stated during oral argument, the court requires additional briefing on the work product issues implicated by Requests 1, 4, 9, 13, 15, 16, 28, 29 and 30 and by Interrogatory 7. The supplemental briefing shall address the factual and legal bases for the claim that the documents listed on the defendant's privilege log are protected by the work product doctrine. The defendant shall file its supplemental brief on or before April

25, 2007, and plaintiff's supplemental brief shall be filed on or before May 8, 2007. The parties may append affidavits or deposition transcripts to their briefs if they wish.

SO ORDERED at Hartford, Connecticut this 13th day of April, 2007.

_____/s/_____
Donna F. Martinez
United States Magistrate Judge