

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

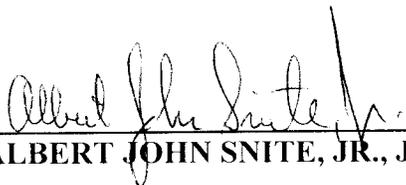
JEROME ASKEW,	:	JUNE TERM, 2012
	:	
Plaintiffs,	:	NO. 1590
	:	
v.	:	COMMERCE PROGRAM
	:	
THE INSURANCE COMPANY OF	:	
THE STATE OF PENNSYLVANIA, et	:	
al.,	:	
	:	
Defendants.	:	

DOCKETED
JUN 27 2013
C. HART
CIVIL ADMINISTRATION

ORDER

AND NOW, this 26th day of June, 2013, upon consideration of Plaintiff's Motion to Compel, and an *in camera* review of Defendant The Insurance Company of the State of Pennsylvania's Attorney/Client Privilege and Work Product redactions noted in their Privilege Log, it is **HEREBY ORDERED** that Plaintiff's Motion to Compel is **DENIED**.¹

BY THE COURT:


ALBERT JOHN SNITE, JR., J.

Askew Vs Chartis Insurance Etal-ORDMM

¹ See attached memorandum.



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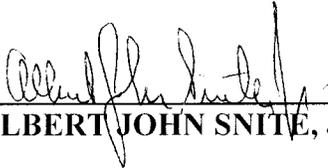
MEMORANDUM

Plaintiff filed a Motion to Compel production of documents and after Oral Argument on May 28, 2013 the Court ordered Plaintiff and Defendant to simultaneously file supplemental briefs as to Attorney/Client Privilege and Work Product Privilege redactions made to documents and noted by Defendant Insurance Company of Pennsylvania (“ISOP”) on the Privilege Log. On June 12, 2013 the Court ordered Defendant to produce the documents for an *in camera* review. The Court has reviewed the documents.

- (1) Plaintiff argues that Chartis’ in house counsel was operating in a claims representative capacity and therefore the Attorney/Client Privilege and Work Product Privilege does not apply. Additionally, the Court generally agrees with Plaintiff’s argument that bad faith behavior cannot be insulated by simply having an attorney present.

- (2) However, in this case it is clear that Chartis' in house counsel was still an attorney giving legal advice in the handling of the underlying Worker's Compensation claim. After *an in camera* review of the documents this Court has determined that the Defendant's redactions are Attorney/Client Privilege and Work Product Privilege, and must be protected.
- (3) Finally, this Court fails to understand Plaintiff's claim that the redacted information pertaining to the underlying Worker's Compensation claim, for which Defendant ISOP paid Plaintiff \$84,453.83,² is relevant to the present action. Plaintiff admits that they do not seek any Work Product or Attorney/Client Privilege relating to the instant action and that they only seek documents relating to Defendants handling of the underlying Worker's Compensation claim.³ The documents sought by Plaintiff regarding the underlying Worker's Compensation claim are not relevant to the legal question in the instant litigation.

BY THE COURT:


ALBERT JOHN SNITE, JR., J.

² Pl.'s Supp. Brief Mot. Compel p. 4.

³ *Id.*