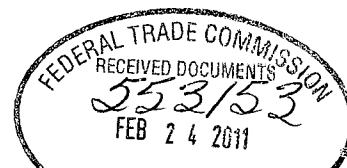


ORIGINAL

FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



LABORATORY CORPORATION)
OF MISSOURI)

and)

A document must meet two requirements for the deliberative process privilege to

1. Preparation of the document must be part of the deliberative process of the government.

2. The document must be the product of a meeting of the government.

Hearing preparations: Materials . . . [A] party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (c)(1) of this section and prepared in anticipation of litigation or for

hearing by or for another party or by or for that other party's representative (including the party's attorney, consultant, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of its case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the Administrative Law Judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

16. (C.F.R. § 31.31(c)(5). See also Fed. R. Civ. P. 26(b)(2). "If a party seeks discovery of materials otherwise discoverable under paragraph (c)(1) of this section and prepared in anticipation of litigation or for hearing by or for another party or by or for that other party's representative (including the party's attorney, consultant, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of its case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the Administrative Law Judge shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party."

discovery of documents and tangible things . . . prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative . . . only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of his case and that he is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such

IV.

Upon review of the Motion, Opposition, privilege logs and Feinstein and Nagler