
B. Waiver

Respondent asserts that by selectively producing Brannon-Quale's and Complaint Counsel's written communications with declarants and by allowing the declarants to testify about their interactions with Brannon-Quale and other FTC staff, Complaint Counsel waived any claim of work product protections of Brannon-Quale's recollections of those communications. "[D]isclosure to an adversary waives work product protection as to items actually disclosed. . . . But disclosure of some documents does not destroy work product protection for other documents of the same character." Pittman v. First F.3d 983, 988 (8th Cir. 1997) (citing Wright & Miller, § 2024 at 209); In re United Mine Workers of America Employee Benefit Plans Litig., 159 F.R.D. 307, 310-12 (D.D.C.1994) (production of documents protected by attorney work product doctrine resulted in waiver of privilege only as to those documents produced). Furthermore, waiver generally applies only to the specific materials disclosed and not to the broader subject matter of the information. Fed. R. Evid. 502(a) (Advisory Committee Notes). Submission of a declaration about ministerial tasks by a member of a party's legal team does not open that individual to deposition about protected matters beyond the scope of the tasks described in *Trade Traffic Jam Events LLC*, 2021 WL 3465724, at *3-4 (F.T.C. July 23, 2021). Accordingly, Complaint Counsel's producing written communications with the nonparty declarants and allowing the nonparty declarants to testify about their interactions with Brannon-Quale and other FTC staff does not constitute a waiver of protection for Brannon-Quale's and the FTC's communications and interactions with the nonparty declarants.

C. Substantial Need

Respondent asserts that the information being sought is critical to testing the veracity of the statements contained in the nonparty witness declarations, as well as those statements' credibility and the integrity of the drafting process. Production of work product may be allowed "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." 16 C.F.R. § 3.31(c)(5). Where respondent was "capable of conducting interviews and taking depositions of fact witnesses, it he

IV.