

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
LOUISIANA

Andrew Babinski v. Todd Queen, et al.

Babinski · No. 20-426-SDD-EWD · Decided April 7, 2026

SUMMARY

The United States District Court for the Middle District of Louisiana explains its denial of Andrew Babinski’s motion to compel second depositions concerning an August 16, 2019 meeting involving LSU personnel and general counsel. The court holds that Defendants established the attorney-client privilege through supplemental evidence and that the crime-fraud exception did not apply. The court also denies the request to re-depose an additional witness because it was raised for the first time in reply and after the discovery deadline.

CASE DETAILS

COURT	United States District Court for the Middle District of Louisiana
WRITING FOR THE COURT	Erin Wilder-Doomes
JURISDICTION	United States District Court for the Middle District of Louisiana
DECIDED	April 7, 2026
DOCKET	20-426-SDD-EWD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under the Federal Rules of Civil Procedure to compel four defendants, and later sought to re-depose a fifth witness, regarding questions about a meeting allegedly protected by the attorney-client privilege. The court denied the motion by order dated December 23, 2025 and issued these written reasons.
STANDARD OF REVIEW	The moving party must show that the requested discovery is relevant or likely to lead to admissible evidence and within the scope of Rule 26(b)(1); the resisting party then bears the burden of showing that the discovery is irrelevant, overbroad, unduly burdensome, or oppressive. The party asserting attorney-client privilege bears the burden of establishing its applicability.
PRECEDENTIAL VALUE	unpublished district court opinion; persuasive authority only
PARTIES	Andrew Babinski v. Todd Queen, et al.

TOPICS

discovery dispute

attorney client privilege

civil procedure

evidence

fourteenth amendment

PRACTICE AREAS

civil procedure

discovery

evidence

civil rights

QUESTIONS PRESENTED

1. Whether the communications made during the August 16, 2019 meeting were protected by the attorney-client privilege.
2. Whether the presence of an LSU Academic Affairs representative waived the attorney-client privilege.
3. Whether the crime-fraud exception defeated the attorney-client privilege.
4. Whether Plaintiff was entitled to re-depose the witnesses under the discovery rules.

HOLDINGS

1. The communications made during the meeting were protected by the attorney-client privilege because Defendants established that the communications were between LSU employees and LSU's general counsel, were intended to be confidential, were kept confidential, and were made for the purpose of obtaining or providing legal advice.
2. The presence of the LSU Academic Affairs representative did not waive the attorney-client privilege because she was an LSU representative involved in the matter and the communications occurred among LSU personnel participating in obtaining legal advice.
3. The crime-fraud exception did not apply because Plaintiff relied primarily on allegations in his pleadings and failed to make a prima facie showing that any defendant intended to further a crime during the attorney-client representation.
4. Plaintiff was not entitled to re-depose the defendants or the additional witness concerning communications made during the meeting because those communications were privileged and the crime-fraud exception did not apply.

KEY QUOTATIONS

“The foregoing statements, unchallenged by Plaintiff, sufficiently establish that the communications made at the Meeting are protected by the attorney-client privilege.” (II)

“Allegations in pleadings are not evidence and are not sufficient to make a prima facie showing that the crime-fraud exception applies.” (II)

FACTUAL BACKGROUND

The motion concerned an August 16, 2019 meeting attended by LSU faculty and employees, including the defendants, an LSU academic-affairs representative, and LSU's general counsel. Plaintiff sought testimony about whether his academic situation and continuation in a Ph.D. program were discussed, but witnesses were

instructed not to answer based on attorney-client privilege. LSU's deputy general counsel later submitted an affidavit stating that the meeting was convened to obtain legal advice regarding Plaintiff's conduct, applicable policies and laws, legal rights and responsibilities, and potential liability and safety issues.

PROCEDURAL HISTORY

Babinski sought to reconvene depositions after defense counsel instructed witnesses not to answer questions concerning an August 16, 2019 meeting involving LSU employees and LSU's general counsel. The court initially found that defendants had not adequately established that the entire meeting was privileged, but permitted them to supplement their privilege showing. After defendants submitted an affidavit from LSU's deputy general counsel, the court determined that the communications were privileged and denied the motion to compel.

DISPOSITION

other

CASES CITED

- United States v. Carr, 83 F.4th 267, 276 (5th Cir. 2023)
- Upjohn Co. v. United States, 449 U.S. 383, 389 (1981)
- InPwr Inc. v. Olson Restoration LLC, No. 21-821, 2022 WL 2286182, at *3 (W.D. La. June 23, 2022)
- Southern Scrap Material Co. v. Fleming, No. 01-2554, 2003 WL 21474479, at *2 (E.D. La. June 18, 2003)
- In re Vioxx Products Liability Litigation, 501 F. Supp. 2d 789, 796 (E.D. La. 2007)
- United States v. Hamdan, No. 19-60, 2021 WL 1931626, at *4-5 (E.D. La. May 13, 2021)
- Cashman Equipment Corp. v. Rozel Operating Co., No. 08-363, 2009 WL 2487984, at *2 (M.D. La. Aug. 11, 2009)
- Swoboda v. Manders, No. 14-19, 2016 WL 2930962, at *3-4 (M.D. La. May 19, 2016)
- Crosby v. Louisiana Health Service and Indemnity Co., 647 F.3d 258, 262 (5th Cir. 2011)
- Wyatt v. Kaplan, 686 F.2d 276, 283 (5th Cir. 1982)
- Firefighters' Retirement System v. Citco Group Ltd., No. 13-373, 2018 WL 276941, at *4 (M.D. La. Jan. 3, 2018)
- Mirror Worlds Technologies, LLC v. Apple Inc., No. 13-419, 2016 WL 4265758, at *1 (E.D. Tex. Mar. 17, 2016)
- SSL Services, LLC v. Citrix Systems, Inc., No. 2-08-cv-158, 2010 WL 547478, at *2 (E.D. Tex. Feb. 10, 2010)
- Equal Employment Opportunity Commission v. BDO USA, L.L.P., 876 F.3d 690, 695 (5th Cir. 2017)
- Benson v. Rosenthal, No. 15-782, 2016 WL 1046126, at *5 (E.D. La. Mar. 16, 2016)
- Stoffels v. SBC Communications, Inc., 263 F.R.D. 406, 411 (W.D. Tex. 2009)
- Navigant Consulting, Inc. v. Wilkinson, 220 F.R.D. 467, 473 (N.D. Tex. 2004)
- Nutmeg Insurance Co. v. Atwell, Vogel & Sterling, 120 F.R.D. 504, 510 (W.D. La. 1988)

- Raymond v. Unum Group, No. 20-352, 2022 WL 10208218, at *5 (M.D. La. Oct. 17, 2022)
- Covey v. Colonial Pipeline Co., 336 F.R.D. 514 (N.D. Ala. Aug. 4, 2020)
- Drummond Co., Inc. v. Conrad & Scherer, LLP, 885 F.3d 1324, 1335 (11th Cir. 2018)
- Glenn v. Copeland's of New Orleans, LLC, No. 24-2917, 2025 WL 553683, at *4 (E.D. La. Feb. 19, 2025)

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