

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
ILLINOIS, ROCK ISLAND DIVISION

Stephanie Rusk v. Henry County, Illinois

Rusk · No. 4:25-cv-04076-SLD-RLH · Decided May 29, 2026

SUMMARY

The United States District Court for the Central District of Illinois vacated a magistrate judge’s order denying Stephanie Rusk’s motion to compel discovery in her FMLA action against Henry County, Illinois. The court granted Rusk leave to reply and concluded that the prior order inadequately addressed certain documents, relied on unsupported factual assertions, and failed to analyze whether portions of a recording and related materials were discoverable.

CASE DETAILS

COURT	United States District Court for the Central District of Illinois, Rock Island Division
WRITING FOR THE COURT	Sara Darrow
JURISDICTION	United States District Court for the Central District of Illinois, Rock Island Division
DECIDED	May 29, 2026
DOCKET	4:25-cv-04076-SLD-RLH
DISPOSITION	vacated
PROCEDURAL POSTURE	Plaintiff objected under Federal Rule of Civil Procedure 72(a) to a magistrate judge's order denying her motion to compel discovery. The district court granted leave to reply, vacated the magistrate judge's order, and directed the magistrate judge to issue a new ruling.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 72(a), a district judge must modify or set aside a magistrate judge's order on a nondispositive matter if it is clearly erroneous or contrary to law. Clear error exists when the district court is left with the definite and firm conviction that a mistake has been made.
PRECEDENTIAL VALUE	unpublished
PARTIES	Stephanie Rusk v. Henry County, Illinois

TOPICS

discovery dispute

attorney client privilege

work product doctrine

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PRACTICE AREAS

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family and medical leave act

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work product doctrine

QUESTIONS PRESENTED

1. Whether the district court should grant Rusk leave to file a reply addressing new and unexpected arguments in the County's response.
2. Whether the magistrate judge's privilege ruling was clearly erroneous or contrary to law under Federal Rule of Civil Procedure 72(a).
3. Whether the magistrate judge improperly failed to address the January 13 documents independently and relied on unsupported attorney argument rather than evidence.
4. Whether the withheld communications and recording required document-by-document analysis and additional factual development before determining whether attorney-client privilege applied.

HOLDINGS

1. Leave to reply was warranted because the County's response introduced arguments that Rusk could not reasonably have anticipated and because a reply would promote completeness.
2. The magistrate judge's order was clearly erroneous because it failed to independently address the January 13 documents, relied on unsupported factual assertions in the County's briefing, and did not adequately consider whether portions of the recording or other materials were discoverable.
3. Attorney-client privilege cannot be established merely because documents were requested by counsel, attached to a potentially privileged email, or included in a meeting involving legal advice; the proponent must provide sufficient facts to establish the privilege for each communication or document.

KEY QUOTATIONS

“When claims of privilege are contested, they must be resolved on a document-by-document basis.”

“Counsel’s unsupported statements are, of course, not evidence.”

“The inquiry into whether documents are subject to a privilege is a highly fact-specific one.”

FACTUAL BACKGROUND

Rusk alleged that Henry County eliminated her position as a Behavioral Health Registered Nurse while she was on FMLA leave and did not offer her an equivalent position upon her return. The County withheld January 13, 2025 emails and documents and a November 5, 2025 closed-session recording, asserting attorney-client privilege, work-product protection, and other grounds. The magistrate judge denied Rusk's motion to compel based on attorney-client privilege, relying in part on factual assertions in the County's briefing.

PROCEDURAL HISTORY

Rusk sued Henry County under the Family and Medical Leave Act. During discovery, she moved to compel production of emails, documents, and an audio recording withheld under asserted privileges. Magistrate Judge Ronald Hanna denied the motion to compel based on attorney-client privilege. Rusk timely objected, and the district court reviewed the nondispositive order under the clear-error and contrary-to-law standard.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Magistrate Judge Ronald Hanna must issue a new ruling on Rusk's motion to compel consistent with the district court's order, including a document-by-document and fact-specific privilege analysis and consideration of whether additional factual development or in camera review is necessary.

CASES CITED

- Magnuson v. Exelon Corp., 658 F. Supp. 3d 652, 658 (C.D. Ill. 2023)
- Shefts v. Petrakis, No. 10-cv-1104, 2011 WL 5930469, at *8 (C.D. Ill. Nov. 29, 2011)
- Weeks v. Samsung Heavy Indus. Co., 126 F.3d 926, 943 (7th Cir. 1997)
- Upjohn Co. v. United States, 449 U.S. 383, 389, 394-96 (1981)
- Denius v. Dunlap, 209 F.3d 944, 952 (7th Cir. 2000)
- Sandra T.E. v. S. Berwyn Sch. Dist. 100, 600 F.3d 612, 618, 620 (7th Cir. 2010)
- In re Grand Jury Procs., 220 F.3d 568, 571 (7th Cir. 2000)
- Commodity Futures Trading Comm'n v. Weintraub, 471 U.S. 343, 348 (1985)
- Gerba v. Nat'l Hellenic Museum, 338 F. Supp. 3d 851, 857 (N.D. Ill. 2018)
- RBS Citizens, N.A. v. Husain, 291 F.R.D. 209, 218 (N.D. Ill. 2013)
- Am. Nat'l Bank & Tr. Co. of Chi. v. Equitable Life Assurance Soc'y of the U.S., 406 F.3d 867, 879-80 (7th Cir. 2005)
- United States v. Diaz, 533 F.3d 574, 578 (7th Cir. 2008)
- S. Capitol Bridgebuilders v. Lexington Ins. Co., No. 1:21-cv-1436-RCL, 2022 WL 444098, at *7 (D.D.C. Feb. 14, 2022)
- Kodish v. Oakbrook Terrace Fire Prot. Dist., 235 F.R.D. 447, 453 (N.D. Ill. 2006)
- For Your Ease Only, Inc. v. Calgon Carbon Corp., No. 02 C 7345, 2003 WL 21475905, at *4 (N.D. Ill. June 24, 2003)