UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

In re The Boeing Company Aircraft Securities Litigation

No. 19 CV 2394 (N.D. Ill. Feb. 17 2026) · No. No. 19 CV 2394 · Decided February 17, 2026

SUMMARY

The court addresses plaintiffs' motion to compel Boeing defendants to provide a more detailed privilege log and produce documents withheld under the attorney-client privilege and work-product doctrine. The court grants the motion in part, ordering defendants to further amend their privilege log and produce or redact documents determined not to be privileged, while declining at this stage to order production of specified categories of documents. The opinion also discusses confidentiality designations, public access, in camera review, and the required specificity of privilege-log descriptions.

CASE DETAILS

COURT	United States District Court for the Northern District of Illinois, Eastern Division
WRITING FOR THE COURT	Young B. Kim
JURISDICTION	United States District Court for the Northern District of Illinois, Eastern Division
DECIDED	February 17, 2026
DOCKET	No. 19 CV 2394
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs in a putative securities-fraud class action moved to compel Defendants to produce a more detailed amended privilege log and to produce or redact categories of documents withheld under the attorney-client privilege and work-product doctrine.
STANDARD OF REVIEW	The withholding party bears the burden of establishing privilege or work-product protection on a document-by-document basis. Privileges are construed narrowly, and a privilege log must provide enough information for the opposing party and court to assess the claim.
PRECEDENTIAL VALUE	nonprecedential

PARTIES	Plaintiffs v. The Boeing Company, Dennis Muilenburg, Gregory Smith, Defendants

TOPICS

discovery dispute · civil procedure · commercial litigation · securities fraud

PRACTICE AREAS

civil procedure · discovery · securities litigation · commercial litigation · privilege

QUESTIONS PRESENTED

1. Whether Defendants' privilege log complied with Federal Rule of Civil Procedure 26(b)(5).
2. Whether boilerplate or conclusory descriptions were sufficient to establish attorney-client privilege or work-product protection.
3. Whether attachments, business records, board materials, communications among non-lawyers, and communications on which attorneys were copied could be withheld or required production or redaction.
4. Whether disclosure of documents to third parties waived attorney-client privilege or work-product protection.
5. Whether the court should conduct in camera review or instead require Defendants to amend the privilege log.

HOLDINGS

1. A privilege log must describe each withheld document with sufficient specificity to permit the opposing party and the court to assess the asserted privilege or protection, including the document's form, subject matter, participants or capacities, purpose, and basis for the claim. Boilerplate and conclusory descriptions are inadequate.
2. Attorney-client privilege protects confidential communications made for the purpose of obtaining legal advice, and work-product protection applies to documents prepared because of the prospect of litigation rather than in the ordinary course of business.
3. An attachment need not have an independent basis for privilege when the act of transmitting it to counsel is part of a communication for purposes of obtaining legal advice. Communications among non-lawyers or communications on which an attorney is merely copied may nevertheless be privileged when they convey or reflect confidential legal advice, but copying an attorney or using legal terminology alone is insufficient.
4. Voluntary disclosure to a third party may waive attorney-client privilege, but disclosure does not automatically waive work-product protection; work-product waiver occurs when disclosure substantially increases the opportunity for potential adversaries to obtain the information.

KEY QUOTATIONS

> *“An adequate privilege log “identif[ies] for each separate document . . . the date, the author and all recipients, along with their capacities, the subject matter of the document, the purpose for its production and a specific explanation of why the document is privileged.””* (Analysis)

> *“While Rule 26(b)(5) does not require each description to be unique, the descriptions Defendants use must be sufficiently detailed for Plaintiffs and the court to assess the nature of the privilege being asserted and whether it applies.”* (Analysis, A. Boilerplate Descriptions)

> *“Whereas “voluntary disclosure to a third party can constitute a waiver of the attorney-client privilege, this will not suffice to waive the work product doctrine.””* (Analysis, F. Third-Party Disclosure)

FACTUAL BACKGROUND

Plaintiffs assert securities-fraud claims concerning Boeing's statements about safety problems with the 737 MAX after the Lion Air Flight 610 and Ethiopian Airlines Flight 302 crashes. During discovery, Defendants withheld or redacted thousands of documents and produced privilege logs containing more than 11,000 entries. Plaintiffs challenged the logs as vague and asserted that Defendants improperly withheld business records, board materials, communications among non-lawyers, communications merely copying attorneys, and documents disclosed to third parties.

PROCEDURAL HISTORY

The court previously ordered Defendants to complete document production and serve a privilege log. Defendants served an initial log exceeding 14,000 entries, followed by amended logs. Plaintiffs moved to compel based on alleged deficiencies in the descriptions and asserted privilege claims. The court granted the motion in part, denied it in part, and ordered Defendants to further amend the privilege log and produce or redact documents as required by the opinion.

DISPOSITION

other

REMAND INSTRUCTIONS

Defendants must further amend the privilege log to provide the required detail, reassess challenged documents, produce documents that are not privileged, and redact and produce documents that contain both privileged and nonprivileged material. Plaintiffs may file a second motion to compel identifying disputed line numbers after the amended log and additional production.

CASES CITED

- Kerr v. U.S. Dist. Ct. for N. Dist. of Cal., 426 U.S. 394, 406 (1976)
- St. Paul Guardian Ins. Co. v. Walsh Constr. Co., No. 15 CV 10324-8 (N.D. Ill. Oct. 12, 2021), objections overruled (N.D. Ill. Mar. 30, 2022)
- United States ex rel. McGee v. IBM Corp., No. 11 CV 3482-4 (N.D. Ill. Apr. 4, 2017)
- Am. Nat'l Bank & Tr. Co. of Chi. v. Equitable Life Assur. Soc'y of U.S., 406 F.3d 867, 878-80 (7th Cir. 2005)

- In re BankAmerica Corp. Sec. Litig., 270 F.3d 639, 644 (8th Cir. 2001)
- Binks Mfg. Co. v. Nat'l Presto Indus., Inc., 709 F.2d 1109, 1118-19 (7th Cir. 1983)
- Sandra T.E. v. S. Berwyn Sch. Dist. 100, 600 F.3d 612, 622-23 (7th Cir. 2010)
- Towne Place Condo. Ass'n v. Phila. Indem. Ins. Co., 284 F. Supp. 3d 889, 898-99 (N.D. Ill. 2018)
- Denius v. Dunlap, 209 F.3d 944, 952 (7th Cir. 2000)
- United States v. White, 950 F.2d 426, 430 (7th Cir. 1991)
- United States v. Lawless, 709 F.2d 485, 487 (7th Cir. 1983)
- RBS Citizens, N.A. v. Husain, 291 F.R.D. 209, 216-19 (N.D. Ill. 2013)
- United States v. Defazio, 899 F.2d 626, 635 (7th Cir. 1990)
- Motorola Sols., Inc. v. Hytera Commc'ns Corp., No. 17 CV 1973 (N.D. Ill. Jan. 10, 2018)
- Washtenaw Cnty. Emps.' Ret. Sys. v. Walgreen Co., No. 15 CV 3187-6 (N.D. Ill. July 14, 2020)
- United States ex rel. McGee v. IBM Corp., No. 11 CV 3482 (N.D. Ill. Apr. 4, 2017)
- Shaffer v. Am. Med. Ass'n, 662 F.3d 439, 446 (7th Cir. 2011)
- Swidler & Berlin v. United States, 524 U.S. 399, 411 (1998)
- Linet Americas, Inc. v. Hill-Rom Holdings, Inc., 740 F. Supp. 3d 685, 702-11 (N.D. Ill. 2024)
- Upjohn Co. v. United States, 449 U.S. 383, 389 (1981)
- Willis Elec. Co. v. Polygroup Trading Ltd., No. 15 CV 3443 (D. Minn. Feb. 16, 2021)
- Belcastro v. United Airlines, Inc., No. 17 CV 1682 n.2 (N.D. Ill. Apr. 19, 2021)
- Muro v. Target Corp., No. 04 CV 6267 (N.D. Ill. Nov. 28, 2006)
- Muro v. Target Corp., 250 F.R.D. 350, 363 n.21 (N.D. Ill. 2007)
- Rainey v. Plainfield Cnty. Consol. Sch. Dist. No. 202, No. 07 CV 3566 (N.D. Ill. Apr. 16, 2009)
- United States v. S. Chi. Bank, No. 97 CR 849-1 (N.D. Ill. Oct. 30, 1998)
- Burden-Meeks v. Welch, 319 F.3d 897, 899 (7th Cir. 2003)
- United States v. Evans, 113 F.3d 1457, 1463 (7th Cir. 1997)
- In re Sulfuric Acid Antitrust Litig., 235 F.R.D. 407, 433 (N.D. Ill. 2006), supplemented, 432 F. Supp. 2d 794 (N.D. Ill. 2006)
- Rehling v. City of Chi., 207 F.3d 1009, 1019 (7th Cir. 2000)
- Logan v. Commercial Union Ins. Co., 96 F.3d 971, 976-77 (7th Cir. 1996)
- Livingston v. City of Chicago, No. 16 CV 10156 (N.D. Ill. Aug. 9, 2021)
- Nucap Indus. Inc. v. Robert Bosch LLC, No. 15 CV 2207-2 (N.D. Ill. Aug. 23, 2017)
- McCullough v. Fraternal Ord. of Police, Chi. Lodge 7, 304 F.R.D. 232, 237 (N.D. Ill. 2014)
- BankDirect Capital Finance, LLC v. Cap. Premium Fin., Inc., 326 F.R.D. 176, 181 (N.D. Ill. 2018)
- Miller UK Ltd. v. Caterpillar, Inc., 17 F. Supp. 3d 711, 736 (N.D. Ill. 2014)
- Appleton Papers, Inc. v. E.P.A., 702 F.3d 1018, 1022, 1025 (7th Cir. 2012)
- Union Pac. Res. Co. v. Nat. Gas Pipeline Co. of Am., No. 90 CV 5378 (N.D. Ill. July 20, 1993)