Clerk of the Superior Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2024-005545 05/04/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
A. Patel
Deputy

SHEILA JANISCH

FRANK M FOX

v.

SCOTTSDALE MOUNTAIN COMMUNITY ASSOCIATION, et al.

EDEN COHEN

JUDGE MCDOWELL

RULING ON MOTION TO QUASH AND COUNTER-MOTION TO COMPEL

Pending before the Court is the March 31, 2026 *Defendants' Motion to Quash Plaintiffs' Subpoenas Duces Tecum to Insurance Companies and Motion for Protective Order* and the April 16, 2026 *Plaintiff's Opposition to Defendants' Motion to Quash and Cross Motion to Compel Production.*

This Motion was filed in matter CV2026-002331 before it was consolidated into CV2024-005545.

Defendants argue the subpoena issued to its insurance company seeks material that is not relevant to this action and material that is protected by the work-product and attorney-client privileges. Plaintiffs' response indicates the privilege was waived and Defendants have not produced its policy.

Plaintiff fails to identify which privilege she argues was waived. Plaintiff argues because certain members of the Association referenced a "purported "official" carrier determination" in a letter sent to other members of the association the privilege was waived. It is unclear how dissemination of an "official determination" made by a carrier waives any attorney-client or work-product privileges, because it hasn't been established that determination is privileged in the first place. Under most circumstances, a carrier's determination of coverage is not, without more, protected by either the attorney-client or work-product privileges.

Plaintiffs did not address Defendants' arguments that the following categories of documents are not relevant to any claim in this case (i) the carrier's decision to retain CHDB law, (ii) documents regarding the alleged letters to the community (including the carrier's and CHDB Law's comments, (iii) materials created during the Association's renewal or application process for 2024-2026 (including "loss-run" reports and premium analyses), (iv) documents of the $5,000 deductible payment and premium audits, (v) full master policy reconstruction with declaration page and endorsements, (vi) records of financial reserves set aside for specific claims, and (viii) the carrier's "internal manuals and Standard Operating Procedures" for handling "bad faith," "malice," or "defamation" claims. As an initial matter, this is not a bad faith claim, so why any information about the carrier's procedures for handling bad faith claims would be relevant is unknown. Moreover, the information identified in these seven categories does not tend to establish any elements of Plaintiffs' claims in this action. Who the insurance company hired as defense counsel, the Association's prior claims history, payment of the deductible, the carrier's reserves, and the carrier's procedures for handling defamation claims are not reasonably calculated to lead to the discovery of admissible evidence on any pending cause of action.

Other than asserting the waiver argument identified above, Plaintiffs did not respond to any of Defendants' arguments that the following categories are protected by the attorney-client or work-product privilege, (i) adjustor claim logs and internal diaries; (ii) alleged "non-legal" fact investigation reports; (iii) pre-litigation and external communications between the insurance carrier and Defendants; (iv) pre-litigation and external communications such as carrier "advice" or "instruction" regarding letters sent to the community by Defendants; (iv) attorney billing records; (v) carrier records that include internal emails and logs regarding the carrier's impression of Plaintiffs' claims or documents where CHDB Law made such comments; (vi) and status reports or case evaluations submitted by CHDB Law, redacted only for mental impressions and legal strategy. The Court.is unpersuaded by Plaintiffs' argument about waiver and Plaintiffs advanced no other arguments justifying the production of the material sought.

IT IS ORDERED granting Defendants' Motion to Quash

IT IS ORDERED denying Plaintiffs' Cross Motion to Compel.