EDRM PRIVILEGE LOG PROTOCOL BACKGROUND DOCUMENT + EXHIBITS A+B+C

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EDRM Privilege Log Protocol Background

I. Introduction

Federal Rule of Civil Procedure 26(b)(1) establishes a distinction between "privilege" and "nonprivileged" matters and permits a party to obtain discovery only of "nonprivileged matters . . . relevant to any party's claim or defense." Rule 26(b)(5) states:

(A) *Information Withheld*. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

(i) expressly make the claim; and

(ii) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

Accordingly, Rule 26 does not specify the form of "privilege logs," beyond the requirement of enabling other parties to assess privilege. The burden is on the producing party to support their claims of privilege, but the rule provides wide leeway to determine the optimal means of privilege logging. This has given rise to debates regarding the format and scope of privilege logs. While there is no national consensus, some courts have recognized this issue and established local rules or guidelines that set forth certain parameters for privilege logs.

In litigation, the producing party has the burden to satisfy Federal Rule 26. As the amount of information collected, produced and withheld as privileged has increased over the years, many different methods have been used to create a privilege log.

Current practices for privilege logging are not optimal for either the producing party or the requesting party in some cases. In cases with large productions and a significant number of privileged documents, the traditional preparation of privilege logs can be burdensome and time consuming. The resulting privilege log may sometimes not be sufficient for requesting parties to evaluate the privilege claims; for example, when information necessary to do so is not provided or only boilerplate descriptions of documents or reasons for withholding are included. And logs often are not produced on a rolling basis but instead close to the end of discovery, leaving the requesting party with little time to challenge privilege assertions, seek production of improperly withheld documents, or obtain further discovery related to what those documents reveal. When that occurs, the requesting party also does not have the opportunity in depositions that have already taken place to use any document found to be improperly withheld (without reopening discovery).

Some earlier ideas to streamline the logging process, such as the creation of "group logs" or "category logs," may work for some cases or some types of documents but may suffer from some of the same problems identified above, including the potential for disputes about what information should be included, time consuming preparations, and insufficient data for requesting parties to evaluate privilege claims.

Accordingly, a committee was created under the auspices of EDRM to try to devise potential alternatives to traditional privilege logging. The committee includes lawyers who most often represent producing parties, lawyers who most often represent requesting parties, technical specialists and other professionals at law firms and service providers who regularly deal with privilege issues and privilege logs. The result was the EDRM Privilege Log Protocol.

The EDRM Privilege Log Protocol will help lead to "the just, speedy, and inexpensive determination" of disputes, in accordance with FRCP 1, through streamlined privilege logging. It leverages enhanced communications and readily available technology to bring five important improvements to the privilege logging and assessment process:

1. Setting up more communications and transparency between parties to address privilege issues up front;
2. Providing tools for requesting parties to better evaluate privilege logs and claims;
3. Allowing producing parties to use metadata privilege logs in the first instance to reduce the time and expense of logging and to allow requesting parties to obtain privilege logs more quickly;
4. Allowing requesting parties to obtain more detailed information about a reasonable number of the documents logged to better assess privilege decisions that are being made if information in the log is insufficient. This approach yields additional information about the documents, which can then be considered when assessing whether privilege claims are appropriate; and
5. Reducing the likelihood of privilege disputes or the need for courts or special masters to resolve such disputes because of the increased communication and transparency.

It is anticipated that parties, judges, special masters and/or other dispute resolution tribunals may choose to adopt this protocol in its existing form, or with appropriate modifications, for particular cases.

II. Traditional Format of Privilege Logs: Document-by-Document

A. PROCESS OVERVIEW

In order to more fully understand why the traditional method of creating privilege logs may need improvements, this section discusses the process and components of a traditional privilege log in more depth. A privilege log is a table of those documents or other items which have been withheld from production or redacted based on attorney-client privilege or work product protection. The table generally contains the type of information listed below:

1. Bates range of each document withheld or redacted
2. Filename of the document
3. Type of document (letter, memo, report, handwritten note)
4. Date of document
5. Subject of the document
6. Author /From
7. To/recipients/cc/ bcc/
8. Custodian
9. Withheld or redacted
10. Privilege type (e.g., attorney-client or work product)
11. Privilege description

Much of this information is obtained initially from objective metadata. The traditional method of privilege logging is to log every single document that has been withheld for privilege with objective information (author, date, etc.) about the document as well as the basis for the privilege claim. Notably, requirements were nationally articulated in the 1993 amendment of the Federal Rules of Civil Procedure with the language of 26(b)(5) which specified disclosure requirements in response to concern that non-protected material was being withheld from discovery.

Typically, there will be a privilege log layout in the review platform to assist reviewers in reviewing the documents slated to be withheld for privilege. This layout will contain all of the fields that will appear in the final privilege log. When preparing a privilege log, attorneys will search for documents that have been tagged within the document review

platform's database[1] as entirely privileged and partially privileged. A best practice is to create QC searches to ensure that privileged documents are properly withheld from production and logged. Such searches will check for things like whether the documents fall within the relevant time period of "anticipation of litigation" in order to claim work product protection and that families are coded consistently (if required), etc. In some cases, attorneys will create a manual "privilege description" which explains the basis of the privilege combined with the subject of the document or populate the description from pre-set descriptions. Then, the metadata fields for the documents retrieved in the search for the documents to be withheld for privilege are typically exported to an application such as Excel where name normalization and formatting consistency is achieved via macros, find and replace, etc. Some teams use a process that combines multiple fields from metadata[2] to automate the description field as much as possible. Still, it traditionally is a labor-intensive process.

See Exhibits A, B and C for detailed examples that show how detailed the preparation of privilege logs can be using traditional methods.

B. DATA ENTRY

The data entry component of a privilege log involves capturing information, found within the privileged document, that is informative about the document's origin(s) and creation.

1. Email Handling

   a. Databases used to host documents can extract data from emails and populate it in fields. This typically includes the Date, From, TO, CC, BCC of the most recent in time email only. The information is then formatted to be consistently displayed. This formatting process can be time consuming.

   b. Many times, the privilege log agreement requires logging each email in a wholly withheld thread. This may require reviewers to expend more time-per-document typing in dates and names included in the lower email threads for which no metadata can be extracted. Technology exists to extract the names and can be used to speed up this process, but the formatting process is still time consuming.

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[1] Also referred to as a workspace or repository.
[2] Also known as concatenation.

c. If parties are producing only the most inclusive threads, then the specific metadata for the lesser-in-time email threads will not appear on the log (because metadata is provided only for the last-in-time email) unless the reviewers manually populate the information.

d. Even if parties are not producing only inclusive threads, there is no guarantee that every email in the thread has been included in the document collection or review; and therefore the receiving party may not have access to the metadata for the lesser-in-time email threads unless the reviewers manually populate the information.

2. Loose E-docs (word docs, powerpoint, spreadsheets, etc.)

a. Metadata may be extracted from loose e-docs and populated in fields such as author, date created, date last modified, title, etc. However, that metadata may not always be available, in which case reviewers would expend time and effort to manually populate fields with that information (to the extent it can be ascertained).

3. Considerations

a. Depending on the complexity of the approach used and technology used, the data entry process can be a time-consuming part of the process.

b. However, if the producing party does not populate that information, then the requesting party may have a difficult time fully assessing the privileged status of the documents.

c. One alternative option to avoid manually populating metadata for the lesser-in-time email threads is for parties to agree to produce those emails where all the threads in the chain are privileged with redactions on all the text, leaving the headers unredacted for the receiving party to review. Although this negates the data entry burden, it takes time and effort to make multiple redactions per document, especially if there are extremely long threads in the collection.

C. NAME NORMALIZATION

Though reviewers can use the extracted metadata from Sender[3] and Recipient[4] fields to assist in privilege log creation, the data as it exists in the fields may need to be cleaned up for formatting consistency and name normalization. For example, the field data may contain:

- Jane Doe <jane.doe@clientco.com>
- Jane Doe </O=CLIENTCO/OU=HR/CN=RECIPIENTS/CN=BB1JDOE>
- Jane Doe (jdoe@gmail.com)<jdoe@gmail.com>

All of the above represent the same person and may be normalized to Doe, Jane or Jane Doe for production on the privilege log.

Note that when names are not normalized, the receiving party may bear the burden of performing the normalization to assist with their own review of the privilege log. For example, the receiving party will not be able to efficiently sort or filter the log for certain names without normalization.

D. CREATION OF THE NARRATIVE/DESCRIPTION

Creation of the narrative or description field on a privilege log involves parsing of various required elements. The document needs to be identified and the claim of privilege must be substantiated in the description. This information must be provided in a manner that will allow, without divulging the privileged material, opposing counsel and/or the court to evaluate the claim of privilege.

Below are some narrative examples.

- Document seeking advice of in-house litigation manager re: *** development.
- Document reflecting advice of in-house litigation manager regarding *** litigation.
- Email chain containing advice of counsel regarding settlement agreement negotiations.

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[3]Also referred to as the From field.
[4]This includes the fields: To, CC, and BCC.

- Redacted text containing information provided by in-house litigation manager regarding litigation costs.
- Slide prepared for comment by in-house litigation regarding underlying patent litigations.

Often the most time-consuming step when creating a privilege log is constructing an accurate description. The description references the withheld privileged information without revealing the protected information. Its purpose is to support the privilege asserted. The description, together with more detailed information about the document itself (sender, recipient, date, etc) allows the requesting party to determine whether the claim is appropriate by assessing the consistency of the description with the other information about the document. Although technology exists to assist in creating the privilege descriptions, currently, these technologies may be cost prohibitive for many cases and parties.

The description typically includes: 1) a description of the type of document (spreadsheet, email or etc.) 2) a description of the legal action (reflecting counsel's legal advice) and 3) the subject matter of the document (standard operating procedures or government investigation). The description can be typed by a reviewer or created using fields that have pre-populated choices. Yet, both approaches are limited in that the descriptions may not accurately describe the document(s).

E. NAME AND PARTY INFORMATION

Historically, many different approaches have been used to identify privileged names, third parties and in rare occurrences all parties on a privilege log.

1. A common approach is to put a qualifier such as an * or ^ next to a privileged name (i.e. the attorney or agent of the attorney). Parties may also agree to use a similar but different qualifier for third parties. Adding this information can be very time consuming. Technology is available to make this process more automated but with the automation typically comes formatting which removes other helpful information.
2. Another approach that is used is to provide a list of the privilege names contained in the documents. This approach requires the requesting party to cross-check the list against every entry in the log to identify where attorneys appear in the documents on the privilege log.

3. Personnel List. Sometimes the requesting party requests a list of all people and titles that appear on a privilege log, which can help assess the privilege (for example, inclusion of many low-level staff in a communication might suggest privileged information was not conveyed). This is rarely agreed to as it can be time-consuming and difficult to accomplish. Additionally, in large document reviews employees change roles and responsibilities quite regularly which may limit the usefulness of the personnel list. However, there may be some technologies that can assist with the process, but those may not be feasible for all parties.

III. Alternative Privilege Log Formats and Considerations

Non-traditional privilege logs typically seek to reduce the time and cost of preparing privilege logs. Technology has assisted legal practitioners in developing efficiencies in the process. Unfortunately, these efficiencies may come at the expense of efficacy.

A. TYPES OF ALTERNATIVE LOGS

A categorical log is one type of non-traditional privilege log. A party identifies categories of privileged documents by subject-matter, a custodian limitation or some other objective grouping and discloses the total number of documents being withheld for a given category. Categorical privilege logs group documents into several agreed upon categories to reduce the need to write individual descriptions for each document. Creating a categorical log requires careful assessment of each document to determine which category it falls into. Typically, these categories are broad and provide the requesting party with little information as compared to individual descriptions. Categorical logs also lack the document-by-document information necessary to assess whether the description is accurate. The description or assessing which category the document belongs in can be a substantial component of the overall work required to complete a privilege log.

Another type of non-traditional log is a metadata only log. The metadata log is an export, in table format, of the objective metadata for each document being withheld for privilege, without normalizing the metadata prior to production or completing missing data fields. This includes basic date and bibliographic metadata (author/recipient/date/subject/file type). It also typically includes privilege basis (AC/WP), but does not include a narrative description of the document or the privilege asserted.

Another hybrid of this approach is a "metadata plus description" log. Similar to the metadata only log, the metadata for the documents is exported "as-is", but there would be a separate field manually populated with a narrative description of the document and the privilege asserted.

B. CONSIDERATIONS

The categorical log appeals for its simplicity, but there is very little visibility into the privilege claims because information (the "who," "what," and "when" for example) about the individual documents withheld is not provided.

In both of the metadata log approaches, metadata for some documents may be limited or non-descriptive (for example, the author of an attachment or loose document may not be populated or may not be populated with a name; the "to" field may be populated with only the name of a distribution group without identifying who the recipients were; and subject lines and file names may be opaque). A scanned pdf attached to an email may have no useful metadata.

These issues with alternative logs may hinder the receiving party from being able to fully assess the privilege assertions.

Additionally, neither metadata log approach can be used for non-electronic, scanned documents (hard copy) since no metadata would be available.

IV. "Metadata-Plus" Privilege Log Recommendation and Considerations

This committee recommends a metadata-plus log approach where parties simply extract a document's metadata and include it on the privilege log as-is, with no manipulation. This process is quick and can be beneficial to both parties. Part of the burdensome work with the historical approaches include formatting names for consistency. The producing party will still need to identify the privilege type on the log, and to perform a thorough privilege analysis.

Our committee recommends using as much available metadata as possible to avoid any need to create a separate description for the privilege log. For example, the information in the email subject and/or document title, together with the file path and other metadata produced, may be more useful for the requesting party than a manual description

when assessing the claim of privilege. The producing party may redact these metadata fields if they reveal privileged information, but this should be an extremely rare occurrence, and in those instances the producing party has the option to instead create a non-privileged description.

A key component of the process is an up-front discussion among the parties of any unique or "gray areas," so they can be resolved prior to privilege log creation. As part of this process, the Committee recommends that the producing party provide the requesting party any list(s) of privilege names the team used when reviewing the logged documents. Most, if not all, producing parties maintain large lists for their clients. This list could be shared very easily. The requesting party benefits because they are notified of all the potential privilege actors that may appear on the privilege log. The producing party can update the list as new privileged names are identified.

Once the log is produced, the requesting party may select a reasonable number of entries to inquire about as part of an iterative meet and confer process. The producing party will then provide additional information about those entries as agreed in the meet and confer. The parties will continue this process with the hopes of resolving disputes in a collaborative fashion. The intent of this provision is to provide an efficient way to identify deficiencies that may exist within the larger population of entries, which would then be remedied by the producing party providing more information or a more descriptive log for similar types of entries.

The metadata-plus log approach does not, however, resolve the problem of metadata that is blank, opaque, incomplete, or that doesn't exist (such as metadata for lesser-in-time emails) and that, in a traditional log, would be manually populated by the producing party. The requesting party must now identify missing metadata fields that the producing party would ordinarily populate and affirmatively request more information if needed. But the processes recommended for communication and cooperation in filling in those gaps, where needed, may help resolve those deficiencies by ensuring additional information is provided to the requesting party after meet and confers.

The committee recognizes that this metadata-plus log approach imposes some additional burdens on the requesting party. For example, without a description, the requesting party must infer the content of the withheld information and why the producing party believed it was privileged, requiring additional analysis, and when necessary, the need to affirmatively request additional information to substantiate the claim. Additionally, because the producing party does not normalize names

appearing in the metadata, the requesting party may do so to efficiently sort the data in the excel export (for example, by sender/author/custodian). The requesting party may also undertake the process to add notations to the export to identify attorneys in order to streamline their review of the log. These processes are frequently undertaken by the producing party in a "traditional" log, and therefore the metadata log shifts that burden to the requesting party.

But the process recommended for collaboration and cooperation after the initial metadata log is produced provides a mechanism for the requesting party to obtain a description where the metadata is insufficient for the party to assess the basis for the claim. Additionally, it is the committee's hope that the benefits of receiving privilege logs in a more timely fashion with some information that might not be provided in a traditional log (subject/filename) though without a description compensates for these additional burdens.

Importantly, as with non-traditional logs, producing a metadata export as a privilege log does not relieve the producing party of its obligation to carefully assess the claim of privilege for each document and to ensure it has a sound basis to withhold it. It would be an abuse of the process and a violation of a party's obligations under the Rules to simply run a privilege screen and export the metadata for documents hit by that screen merely because descriptions need not be drafted for each document withheld or redacted.

V. Conclusion

The traditional privilege logging process can frequently be time-consuming and expensive, and the end product may not provide enough information for the requesting party to assess the validity of the privilege claims. The goal of this protocol is to provide a framework for parties to cooperatively and collaboratively address privilege assertions in the most efficient way possible without impairing the requesting party's ability to assess the privilege. The Committee recognizes that this protocol may need to be customized to fit particular cases. The protocol aims to provide instructive alternatives to lessen the burden on the producing party and to provide the requesting party with a useful mechanism to evaluate privilege claims.

Exhibit A: Sample Privilege Log Guidance Used by a Project Manager for an Actual Matter in which the Traditional Document-by-Document Logging Method was Used[1]

This exhibit is provided to show the amount of time-intensive detail that is often required in a traditional document-by-document logging method. The method in this exhibit is not recommended by this committee, but rather is provided for illustrative purposes to show why this committee is recommending the alternative approach of a metadata log.

1. The Privilege Description or Narrative

Example descriptions for Attorney/Client documents:

- Attorney-client communications concerning [inventory reserves/ . . .].
- Attorney memo/notes concerning [inventory reserves/ . . .].
- Attorney research concerning [inventory reserves/ . . .].

Example descriptions for Work Product documents:

- Attorney work product prepared/compiled in response to [subpoena/litigation].
- Work product prepared/compiled by non-attorney at the request of counsel in response to [subpoena/litigation].

2. Mechanics [in a particular document review platform]:

1. Enter/edit the Privilege Description in the Text view so it can be done document-by-document without propagation across the family (which it will do in Quick Edit).
2. Ensure you are in the Privilege Description field and not the Attorney Notes field. It is the top field in text view (and Quick Edit).
3. When you have completed a privilege description on a document, check the "Privilege log Description Complete" tag.
4. If you use a copy/paste method, please be careful that your template material is correct and has no typos. I would suggest that you do not copy and paste. Read the existing privilege descriptions carefully; they have many typos and truncations, etc. due to poor copy/paste methods used previously.

3. Formatting/Language for Consistency

**Please clean up existing privilege descriptions that have any of the following problems.

- For the purpose of consistency across reviewers, please:

  o Begin each privilege log description with a capital letter.
  o End each privilege log description with a period.
  o For the phrase "attorney-client" as in "attorney-client communications", please include the hyphen.
  o Please do not use abbreviations; do not use e.g., atty. or [xxx] or even [ABCD]--just spell things out on the privilege log description.

- The privilege description should match the coding; i.e., Work Product language for documents coded Work Product and Attorney/Client language for documents coded Attorney/Client.

- While we are not limited to the examples provided or even the issue tags that were used, keep the topic part brief to 2-3 words; it is fine to say "shrink reserves" or "used inventory reserves," but you don't need to specify that the document pertained to a reserve *calculation* or something more specific. Likewise, you need not say the [xxxx] was in [xxxx] etc. "Less is more" in a privilege log. [Law Firm] prefers more general descriptions.

- You need not specify the file type as "spreadsheet" or "presentation"; we will export the file extension for the privilege log.

- Finally, for draft SEC filings/statements: just use the document title as the brief insert for the type of document as "10-K" or "10-Q" or "press release" or "earnings release" rather than other variations like "SEC filings" or "Statement filings." Per [attorney name deleted]: "draft filings should be described as such, and not using one specific issue tag as a description. For example, I have seen several draft 10-Qs described as communications related to "[xxxx]." Though this may be the topic that made the document responsive, we should describe it in more general terms because of the breadth of topics covered in the document."

- Likewise, you need not specify who the attorney is or who the client is in "attorney-client" communications; i.e., do not say "attorney-client communications with [law firm]."

- Likewise, the appropriate Work Product phrasing (depending on whether an attorney or non-attorney prepared it) re: that a document was prepared *in response to the subpoena/litigation* is sufficient to describe a document that is re: the litigation hold or document collection or document production etc. (We should not have these in this set of documents.) You need not specify that it was re: a collection or production or the date of production, etc.

- For Work Product, we don't need to specify the topic of the work product that has been prepared [e.g., [xxxx]], merely that it has been "prepared in response to a subpoena", or "in response to litigation", etc. Plus, we would have already provided the general topic in the parent email description.

- Clearly claim Attorney Client or Work Product. Make a specific claim to Attorney Client or Work Product per document. It is not so important which choice of language is used (as long as it is coded for that), but the language should be a little precise in describing each document as a communication/research/memo/notes rather than just using "communications" across the entire family.

- Do not convolute the Attorney Client language of "concerning [x topic]" with the Work Product language of "in response to [x]" and vice versa. That is--"Attorney Client … in response to subpoena" and "Work Product … concerning [xxxx]" etc.

- Do not convolute attorney versus non-attorney work on Work Product descriptions. That is, do not say "attorney work product prepared by non-attorney" instead of just "work product prepared by non-attorney at the request . . ." Clean up entries that have this mix up.

- Do not use language that you may have used on other projects but that is not under the parameters of the language expected on this project. E.g., do not use language such as "Email involving counsel reflecting legal advice" OR "*Email involving counsel requesting legal advice*" OR "*Email involving counsel facilitating legal advice*"). Please clean up existing descriptions that do not follow the expected language.

4. Specific Issues

Child documents:

The Privilege Log Description for the child(ren) should be similar to that of the parent, e.g., Spreadsheet concerning [xxxx] for a child whose parent is described as Attorney-client communications concerning [xxxx].

--all child documents should also begin with an explicit claim to Attorney/Client or Work Product and not merely "Spreadsheet concerning [xxxx]."

Redacted documents:

The phrasing is the same for wholly privileged or withheld documents.

Documents that are both Work Product and Attorney/Client Privileged:

You need not have two sentences or a combination of Attorney/Client and Work Product in one sentence. One or the other is cleaner. It usually works best to use the Attorney Client language for the parent and Work Product language for the children.

Document that is Responsive only by virtue of a Responsive family:

- You can write a privilege description that is appropriate for the subject matter that a given document deals with. For example, if a child is Not Responsive on its face and is Responsive only by virtue of its family status, then write a privilege description that is appropriate to the subject matter on the face of the child--e.g.,

  o the description for the parent could be: "Attorney-client communications concerning financial information."
  o the child could be: " . . . concerning acquisition of [xxx]."

The topic of the child need not be that of the parent if it deals with something else.

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[1]This illustrates how much effort goes into training a privilege log team and keeping their work consistent.

Exhibit B: Creating a Traditional Document-by-Document Privilege Log

1. Compiling the Log in Excel from Metadata Fields Exported from Review Platform

Begnum (BATES No.)	Privileged	Privilege Asserted (Privilege Reason)	Privilege Description	Privilege Log	Privilege Comments /Issues	PrivLog Custodian	PrivLog Author	PrivLog LeadDate	PrivLog Sender	PrivLog Recipients (addressee/To)	PrivLog Sent CC (Copied TO)	PrivLog Sent BCC	Document Characteristics
e.g., [FIRST 3 LETTERS OF CUSTODIAN + e or p (electronic or paper) + 7 or more digits	Yes	--Attorney-Client Privilege --Attorney Work Product --Attorney-Client Privilege; Attorney Work Product --Attorney-Client Privilege; Attorney Work Product; Common Interest Doctrine --Attorney-Client Privilege; Common Interest Doctrine --Attorney Work Product; Common Interest Doctrine	See 'Priv Desc' sheet; basically: Type of doc + seeking/giving + legal advice from + inhouse/outside counsel + re:_____.	--After [X] Date --Categorical Privilege Log		[Last Name, First Name]	in the first draft of the priv log it may be metadata (e.g., email username) that may not be regular name format AND final version may be properly formatted name (first name last name) with an asterisk if an attorney		--initially can take form of [first name] [last name] <username@co.com>; [first name] [last name] <first.last@co.com> etc.---after cleanup it will be [first name] [last name] with an asterisk for an attorney --OR [last name], [first name] [mid init.] <username@co.com> --OR [Exchange Resource] <username@co.com> --x.500 address in legacyExchangeDN attribute in Active Directory e.g., [mailbox username] </O=ORGANIZATION/ OU=ADMINISTRATIVE GROUP/ CN= RECIPIENTS/ CN=USERNAME>	multiple entries exported in the 1 field, separated by a semicolon--initially can take form of [first name] {last name} <first.last@co.com>; [first name] [last name] <first.last@co.com> etc.--after cleanup it will be [first name] [last name] with an asterisk for an attorney --OR [last name], [first name] [mid init.] <username@co.com> --OR [Exchange Resource] <username@co.com> --x.500 address in legacyExchangeDN attribute in Active Directory e.g., [mailbox username] </O=ORGANIZATION/ OU=ADMINISTRATIVE GROUP/ CN= RECIPIENTS/ CN=USERNAME>	multiple entries exported in the 1 field, separated by a semicolon--initially can take form of [first name] {last name} <first.last@co.com>; [first name] [last name] <first.last@co.com> etc.--after cleanup it will be [first name] [last name] with an asterisk for an attorney --OR [last name], [first name] [mid init.] <username@co.com> --OR username@co.com <username@co.com> --OR [Exchange Resource] <username@co.com> --x.500 address in legacyExchangeDN attribute in Active Directory e.g., [mailbox username] </O=ORGANIZATION/ OU=ADMINISTRATIVE GROUP/ CN= RECIPIENTS/ CN=USERNAME>		e.g., marginalia, b/w, illegible

Privilege log Library: For corporations that have different matters involving same custodians over time, use of hash value to identify privileged files from other matters and add to privilege log in new matter. For example, if privilege documents were logged in matter "x" and the same custodian collected for matter "y," use hash value to add privileged documents from matter "x" to matter "y" log without additional review work.

2. Creating the Narrative Column for the Privilege log: Parsing out the Elements

Note some example entries that begin with "house" should read "in-house."

				pleading/letter/document/spreadsheet/presentation/article/MD&A/memo/news release/securities filing/license agreeement	requesting/seeking/responding to request for/reflecting/providing/containing/containing request for	legal advice of/mental impressions in anticipation of litigaiton	oustide/in house	counsel/ litigation manager(s)	re:	____
Attorney/Client Priv	attached	draft	Redacted							
Attorney/Client Priv				chain/cover email attaching [draft] [doc type]/email with attachment	prepared by/prepared at direction of					
Attorney/Client Priv				correspondence/discussion/draft text/email chain/information from [or provided by]/text	prepared for the purposes of obtaining					
Attorney/Client Priv					sent to [counsel] seeking/transmitted for the purpose of obtaining					
Attorney/Client Priv					provided to counsel for purposes of obtaining					
Work Product					prepared in anticipation of litigation					
Work Product					reflecting mental impressions					litigation strategy/settlement agreements/patent infringment/draft securities filing/litigation costs/legal budget/contract
Examples:				Letter from outside counsel providing trial-preparation materials to consulting expert.						
				house litigation manager regarding financial disclosure obligations.						
				house litigation managers regarding financial disclosure obligations						
				E-mail seeking advice of in-house litigation manager re: annual report.						
				Litigation status chart prepared at the direction of in-house counsel.						
				Memorandum reflecting advice of in-house litigation manager regarding litigation status.						
				securities filings that show previously provided legal advice.						
				Non-responsive cover e-mail between in-house counsel attaching securities filing.						
				cases and insurance policy and information provided by in-house litigation manager regarding legal expenses used to obtain legal advice rendered in connection with the underlying litigations and various legal matters.						
				house litigation manager regarding settlement agreement disclosure						

Exhibit C: Traditional Log Sample

Beginning Bates	Ending Bates	Primary Date/Time	Author	Entity From	Entity Recipient	Entity CC	Entity BCC	Entity Participant	Privilege Description	Privilege Type	Redacted
PRIV001	PRIV002	8/21/00 3:18		Archer, Ricky*	Farmer, Daren Mmccoy Cotton, Robert Rlloyd	Farmer, Daren Mmccoy Cotton, Robert		Archer, Ricky* Farmer, Daren Mmccoy Cotton, Robert Rlloyd	Email among in-house counsel and employees regarding Calpine gas provides information to in-house counsel for the purpose of rendering a legal opinion.	Attorney Client	
PRIV003	PRIV006	8/21/00 8:52	Sabine, Jennifer*						Draft Calpine gas nomination form reflects in-house counsel's legal opinion.	Attorney Client	
PRIV007	PRIV008	1/15/99 10:14	cftl						Draft HPL and Enron fuels nominations provided to in-house counsel for the purpose of rendering a legal opinion.	Attorney Client	
PRIV009	PRIV013	8/22/00 17:05	Ford, Jeff						Memorandum from in-house counsel to employees regarding organization changes contains in-house counsel's legal opinion.	Attorney Client	
PRIV014	PRIV015	8/23/00 9:57	Sabine, Jennifer*						Draft Calpine gas nomination provided to in-house counsel for the purpose of rendering a legal opinion.	Attorney Client	
PRIV016	PRIV017	10/20/00 9:40		Cotton, Robert	Baumbach, David Farmer, Daren Graves, Melissa Hakemack, Cynthia Hesse, Lisa Meyers, Julie Reinhardt, Donald P Smith, Susan Taylor, Vance L*	Baumbach, David Farmer, Daren Graves, Melissa Hakemack, Cynthia Hesse, Lisa Meyers, Julie Reinhardt, Donald P Smith, Susan		Baumbach, David Farmer, Daren Graves, Melissa Hakemack, Cynthia Hesse, Lisa Meyers, Julie Reinhardt, Donald P Robert, Cotten Smith, Susan Taylor, Vance L*	Redacted portion of email chain among in-house counsel and employees regarding oil delivery contains in-house counsel's legal opinion.	Attorney Client; Work Product	Yes
PRIV018	PRIV020	10/25/00 7:07		Sweeney, Christy	Allen, Lauri A* Bryan, Gary Farmer, Daren	Bryan, Gary		Allen, Lauri A* Bryan, Gary Farmer, Daren Sweeney, Christy	Email among outside counsel, in-house counsel and employees regarding gas allocation requests and contains outside counsel's legal opinion prepared in connection with litigation.	Attorney Client; Work Product	