

IN THE COURT OF CLAIMS OF OHIO

STEVEN LISS	:	
	:	
Plaintiff	:	Case No. 2013-00139
v.	:	Judge Patrick M. McGrath
	:	Magistrate Holly T. Shaver
CLEVELAND STATE UNIVERSITY	:	
	:	
Defendant	:	

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NON-WAIVER OF PRIVILEGE, OR CLAWBACK AGREEMENT

Plaintiff, Steven Liss, and Defendant, the Cleveland State University, (each a "Party", and Plaintiff and Defendant collectively the "Parties"), agree and stipulate as follows:

The Parties are engaged in discovery. Given the volume of electronically stored information ("ESI") that Defendant is producing in response to Plaintiff's discovery requests, there is a risk of inadvertent disclosure of certain privileged information. Accordingly, pursuant to Rule 26(B)(6) of the Ohio Rules of Civil Procedure [which is analogous to Federal Rule of Civil Procedure 26(b)(5)(B)], the Parties agree to this non-waiver, or "clawback" agreement. The parties hereby adopt by reference the definitions of "attorney-client privilege" and "work-product protection" set forth in Rule 502 of the Federal Rules of Evidence.

A Party who does not intend to waive the privilege associated with a document or ESI, and yet inadvertently produces such document or information, may, within five business days after discovering inadvertent production, notify the opposing Party that such production was inadvertent and should have been withheld because of privilege, the grounds for the claimed privilege and amend its discovery response and privilege log to provide for the return of said document. The opposing Party must then promptly return the document in question and any copies, both paper and electronic, to the producing Party. Both Parties hereby acknowledge that the requesting Party does not waive any right it has, or may have,

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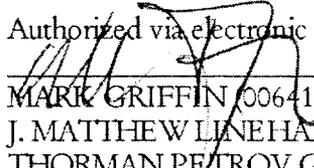
to challenge the producing Party's assertion of privilege and to request discovery of said document pursuant to an order of the Court.

IT IS SO ORDERED.


MAGISTRATE HOLLY T. SHAVER

Agreed to:

Authorized via electronic transmission on 9/10/2013


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