

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. **05-cv-00478-BNB-PAC**

EDWARD J. KERBER,
NELSON B. PHELPS,
JOANNE WEST,
NANCY A. MEISTER,
THOMAS J. INGEMANN, JR.,
Individually, and as Representative of plan participants
and plan beneficiaries of the QWEST PENSION PLAN,

Plaintiffs,

vs.

QWEST PENSION PLAN,
QWEST EMPLOYEE BENEFITS COMMITTEE,
QWEST PENSION PLAN DESIGN COMMITTEE,
QWEST COMMUNICATIONS INTERNATIONAL, INC.,

Defendants.

**PLAINTIFFS' REPLY [to Docket No. 53] IN SUPPORT OF
[Docket No. 39-1] MOTION TO COMPEL DOCUMENT PRODUCTION
and FOR MODIFICATION OF SCHEDULING ORDER**

Named Plaintiffs hereby submit a reply to Docket No. 53, Defendants' February 6, 2006 filed Response to Plaintiff's January 11, 2006 Motion to Compel Document Production and For Modification of Scheduling Order. This Court has scheduled a hearing on this matter on Friday, February 10, 2006 at 10:30 a.m.

1. *After* Plaintiff's January 11, 2006 motion to compel was filed, Qwest Defendants began producing the documents that had been requested on November 15, 2005. Last week, on February 2, Qwest Defendants produced another significant wave of responsive documents, together with a ten page list entitled "Attorney/Client Privilege and Work Product Log for Email," A copy of that list is attached hereto as Exhibit 4.

2. Qwest Defendants's delayed document production has prejudiced Named Plaintiffs, as they needed the documents in order to conduct depositions and educate an expert witness. The discovery deadline clock is running out. Qwest Defendants' document production is incomplete.

3. Due to Qwest Defendants' delay in producing requested documents, Plaintiffs will need at least three more months additional time to conduct discovery. Also, due to Defendants' continuing objections to key Interrogatories provided to Defendants, Named Plaintiffs will have to pursue a motion to compel responses to the Interrogatories. With the past week, defense counsel confirmed by email message that Qwest Defendants stand by their objections to Interrogatories Nos. 5, 9 and 10. No response has been provided to Interrogatory No. 11.

4. When Qwest Defendants finally provided an untimely written response to Plaintiff's November 15, 2005 discovery request, they provided boiler plate objections, asserting attorney-client privilege and attorney-work product privilege. (See Docket No. 39-1, Exhibit 2, p. 2 ¶ D).

5. Furthermore, Qwest Defendants' privilege log (Exhibit 4 hereto) provided on February 2, 2006 is **untimely**. Fed.R.Civ.Proc. Rule 26(b)(5) advisory committee's note (1993 Amendments) states: "To withhold materials without such notice is contrary to the rule, subjects the party to sanctions under Rule 37(b)(2), and may be viewed as a waiver of the privilege or protection." Named Plaintiffs contend this Court should view Qwest Defendants' untimely disclosure of the privilege log as tantamount to being a waiver and order production of the listed documents. Notably, the Tenth Circuit has refused to issue a writ of mandamus to a trial court

which ruled that untimeliness had destroyed the attorney-client privilege, even though it was “not seriously disputed that the privilege would have attached if the objection had been timely and adequately asserted.” *Peat, Marwick, Mitchell & Co. v. West*, 748 F.2d 540, 542 (10th Cir. 1985) (per curiam). Here, there is more good reason to deem Qwest Defendants’ untimely privilege log constitutes a waiver because it is very questionable whether a privilege attaches to each of the documents listed on Qwest Defendants’ privilege log (Exhibit 4).

6. In the alternative, if this Court chooses not to deem Qwest Defendants’ untimely privilege log constitutes a waiver of the asserted privilege, this Court should order production of the alleged privileged documents because for each entry appearing on Qwest Defendants’ privilege log, there is insufficient information to enable Named Plaintiffs to evaluate the applicability of the claimed privilege or protection. Specifically, for each entry on the privilege log (Exhibit 4), one cannot determine exactly what is the privilege being asserted. Is it attorney-client? Is it attorney work product? Is it both?

7. For example, Qwest Defendants’ privilege log (Exhibit 4) reveals that in most often the withheld email does not reflect legal advice, because the email was transmitted for the following purposes:

“review and comment” (Bates JS011-014);

“discussion regarding history of pension death benefit” (SC137);

“discussion regarding death benefit and ERISA funding obligations” (JS098, JS112);

“discussion regarding ERISA funding” (JS123);

“forwarding retiree letter for review” (JS077-078);

“forwarding retiree letter regarding plan amendment for review” (SC038-039);

“forwarding retiree letter for review and comment” (JS038-043); and

“relaying meeting with C. Kennedy and letter drafted by same: (SC042);

All such email and similarly described documents should be produced by Qwest Defendants.

8. According to the privilege log (Exhibit 4), Qwest Defendants are withholding facts obtained from Watson Wyatt Worldwide Actuary about “death benefit evaluation assumptions.” (JS0124, JB 001). Certainly, information coming from the actuaries whose bills are paid by the Qwest Pension Plan is not privileged. A party resisting discovery based on the attorney-client privilege or work product doctrine has the burden of establishing the privilege applies. *Horton v. U.S.*, 204 F.R.D. 670, 673 (D. Colo. 2002). Before any communication is privileged, it must “involve application of law to facts or the rendering of an opinion of law in response to the client’s legal inquiries.” *United States v. Am. Tel. & Tel. Co.*, 86 F.R.D. 603, 615 (D.D.C. 1980). Neither the attorney-client nor the work product protection applies to communications made between outside actuaries and Qwest counsel in the ordinary course of business. When Qwest lawyers direct factual investigations, they are often acting in a business, not a legal, capacity. See *Mission Nat’l Insur. v. Lilly*, 112 F.R.D. 160, 163-64 (D. Minn 1986) (where the investigation by in-house counsel included non-legal opinions and thoughts about the facts, as opposed to legal or trial matters, it was “ordinary business ... outside the scope of ... privileges”). Thus, “the attorney-client privilege does not protect client communications that relate only to business or technical data.” *Simon v. G.D. Searle Co.*, 816 F.2d 397, 403 (8th Cir. 1987), *cert. denied*, 484 U.S. 917 (1987) (collecting cases). The purpose of the attorney-client privilege is to encourage clients to communicate freely with their attorneys. Michael H. Graham, *Handbook of Federal Evidence* § 511.1 n.2. (5th ed.). The privilege is narrowly

construed, however, “because it inhibits the truth finding process.” *In re M&L Business Machine Co.*, 161 B.R. 689, 695 (D. Colo. 1993) (stating that the attorney client privilege must be applied “to prevent litigants from selectively asserting the privilege as a tactical tool for their own benefit”). The actuaries employed by Watson Wyatt are not the clients of Qwest in-house attorneys.¹ This Court should order Qwest Defendants to produce all responsive documents which reflect communications received from the Qwest Pension Plan’s actuaries.

9. In addition, Qwest Defendants’ privilege log (Exhibit 4) reflects withholding of papers that Named Plaintiffs have good reason to believe are communications between plan administrators and Qwest in-house counsel. See, e.g., an email reflecting a specific communication between Qwest in-house counsel Steve Christoffersen to Felicity O’Herron and Judy Osse labeled to-wit: “discussing potential role of EBC re: plan amendment issue and forwarding draft outline” (SC089-092). It is undisputed that the EBC (Qwest Employee Benefits Committee) is the named fiduciary for the Qwest Pension Plan (Answer to Second Amended Complaint ¶ 26). Qwest Defendants will not dispute that Ms. O’Herron is an EBC member and that Judy Osse and Margie Dobis are plan administrators. Qwest Defendants cannot assert a privilege with respect to communications between plan administrators and in-house counsel.

10. The courts have ruled that, when an attorney advises an ERISA plan administrator or other fiduciary concerning any matters of plan administration, the attorney's clients are the

¹ A key disputed issue in this case is whether or not Pension Death Benefits are “vested” benefits. Named Plaintiffs contend that Watson Wyatt actuaries repeatedly included the value of Pension Death Benefits in the “*vested* benefits” column when determining the pension plan’s annual liabilities and this is the subject of a discovery dispute concerning Interrogatories to which Qwest Defendants have not yet provided answers. (See Docket No. 39-1, Exhibit 1, pp. 9-12, Responses to Interrogatories Nos. 9 and 10).

plan participants and plan beneficiaries for whom the fiduciary acts, not the plan administrator. *In re Long-Island Lighting Co.*, 129 F.3d 268, 271-72 (2d Cir. 1997); *Wildbur v. Arco Chemical Co.*, 974 F.2d 631, 645 (5th Cir. 1992), *clarified*, 979 F.2d 1013 (5th Cir. 1992); *United States v. Evans*, 796 f.2d 264, 265-66 (9th Cir. 1986) (“There is no attorney-client privilege between a pension trustee and an attorney who advises the trustee regarding the administration of the plan”); *Petz v. Ethan Allen, Inc.*, 113 F.R.D. 494, 497 (D. Conn. 1985) (“When an attorney advises a fiduciary about a matter dealing with the administration of an employee’s benefit plan, the attorney’s client is not the fiduciary personally but, rather, the trust’s beneficiaries”); *Washington-Baltimore Newspaper Guild, Local 35 v. Washington Star Co.*, 543 F. Supp. 906, 910 (D. D.C. 1982) (“An employer cannot , by retaining the same counsel as that used by the plan, defeat disclosure by a plan’s attorney of communications between the plan’s trustees and the employer”); *Donovan v. Fitzsimmons*, 90 F.R.D. 583 (N.D. IL 1981); *Rock v. Unum Life Ins. Co. of America*, 167 F.R.D. 88, 90 (D. Co. 1996, Mag. Judge Abram) (agreeing with reasoning in *Petz, supra* and *Washington Star Co., supra*; *Lewis v. UNUM Corporation Severance Plan*, 203 F.R.D. 615 (D. Kan. 2001). The privilege log (Exhibit 4) lists numerous other email communications between legal counsel and plan administrators Judy Osse (*See* SC008, SC011, SC016, SC026-29, SC057, SC086-088, SC104, SC138, SC163, JB010, JB014 and JB026,) and between legal counsel and Margie Dobis (*See* SC016, SC055 and JB033). Therefore, this Court should order Qwest Defendants to produce to Named Plaintiffs the email and documents reflecting communications between plan administrators and legal counsel.

11. Lastly, Qwest Defendants’ privilege log (Exhibit 4) reflects withholding of papers simply because they reflect facts communicated to an attorney. The case law supports Named

Plaintiffs' position that the discovery of underlying facts from the source are not protected merely because they have been communicated to an attorney. *Industrial Clearinghouse v. Browning Manufacturing Division of Emerson Electric Company*, 953 F.2d 1004, 1007 (5th Cir. 1992) (citing *United States v. El Paso*, 682 F.2d 530, 538-39, n.10 (5th Cir. 1982)). A privilege cannot be manufactured by simply transmitting an email to include an in-house lawyer as a recipient. "Merely because the factual information is transmitted through an attorney does not mean it takes on a confidential character." *United States v. Davis*, 132 F.R.D. 12 (S.D. N.Y. 1990). Named Plaintiffs contend that an *in camera* review by this Court will show that the practice of "cc'ing" Qwest in-house lawyers with clearly nonlegal communications is a favorite device at Qwest to create an unfounded claim of attorney-client privilege and a sanctuary for hiding documents and factual information from future litigants.

WHEREFORE, Named Plaintiffs, pursuant to Fed.R.Civ.P., Rule 37, request an order directing Qwest Defendants promptly to produce all responsive documents to the November 15, 2005 discovery request. In view of Qwest Defendants' incomplete and untimely privilege log provided on February 2, 2006, Exhibit 4 filed herewith, Named Plaintiffs request an order declaring the asserted privileges are waived and the listed documents must be produced. In the alternative, Named Plaintiffs respectfully request that this Court review the documents listed on Exhibit 4 *in camera* to determine the applicability of the asserted attorney-client and attorney-work product privileges and order production of non privileged documents.

In addition, Named Plaintiffs' seek modification of the Scheduling Order and an extension of Named Plaintiffs' discovery deadlines, the deadline for Named Plaintiffs' to comply with Rule 26 with respect to expert reports and the deadline for Named Plaintiffs' motion for

class certification. Dated: February 7, 2006.

s/ Curtis L. Kennedy
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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February, 2006, a true and correct copy of the above and foregoing document, together with Exhibit 4, was electronically filed with the Clerk of the Court using the CM/ECF system and a courtesy copy was emailed to Defendants' counsel of record as follows:

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Also, copy of the same was delivered via email to Named Plaintiffs as follows:

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Attorney for Named Plaintiffs

Exhibit 4

ATTORNEY/CLIENT PRIVILEGE and WORK PRODUCT LOG FOR EMAIL

DATE	FROM	TO	SUBJECT MATTER OF THE COMMUNICATION	BL
9/8/03	J. Sanford, Vice President, Compensation, Benefits & HRIS, Plan Design Committee Member	K. DuWaldt, Vice President and Association General Counsel, Qwest Legal Department	Requesting legal advice regarding threatened litigation relating to amendment of Qwest Pension Plan	SC001
10/2/03	B. Allen, Executive Vice President of Human Resources, Qwest Corporation, Plan Design Committee Member	K. DuWaldt	Forwarding retiree letter regarding death benefit for review and comment	JS011-014
10/2/03	K. DuWaldt	B. Allen	Response	JS011-014
10/7/03	F. O'Herron Sr. Director – Financial Security Benefits, Qwest Serv. Corporation, (also a Senior Attorney reporting to K. DuWaldt in legal department)	K. DuWaldt	Re: Retention of outside counsel to address amendment of pension plan	SC097-101
10/9/03	E. Ammidown, Sr. Director Benefits – Health and Life, Qwest Serv. Corp.	S. Christoffersen, Senior Attorney, Qwest Legal Department, K. DuWaldt, L. Sadler, Staff Advocate, Policy and Law, J. Stanoch, State Pres., Public Policy, Qwest Serv. Corp. Stanoch, C. Delaney, Senior Attorney, Qwest Legal Department, K. Jones, Employee Communications – HR, F. O'Herron, J. Sanford	Draft Letter to MN PUC For Review By Counsel	JS030-031
10/10/03	K. DuWaldt	E. Ammidown, S. Christoffersen, L. Sadler, J. Stanoch, C. Delaney, K. Jones, F. O'Herron, J. Sanford	Forwarding comments on draft letter to MN PUC, including draft letter reflecting edits of legal	JS028, 030-032

			counsel	
10/10/03	J. Brown, Senior Attorney, Qwest Legal Department	S. Christoffersen	Draft letter to MN PUC reflecting edits of legal counsel	JS064-065
10/10/03	C. Delaney	E. Ammidown, K. DuWaldt, S. Christoffersen, L. Sadler, J. Stanoch, K. Jones, F. O'Herron, J. Sanford	Forwarding comments on draft letter to MN PUC	JS028
10/11/03	K. DuWaldt	J. Brown	Re: Retention of outside counsel to address amendment of pension plan	SC 097
10/12/03	J. Brown	N. Strelau, Partner Kutak Rock, LLC	Re: Same	SC093-096
10/13/03	J. Brown	S. Christoffersen	Re: Same	SC097
10/13/03	S. Christoffersen	K. DuWaldt, C. Delaney	Discussion regarding history of pension death benefit	SC137
10/13/03	C. Delaney	R. Martin, Partner, Wheeler Trigg & Kennedy LLC	Forwarding same	SC137
10/14/03	J. Osse, Lead Benefits Professional	S. Christoffersen	Providing S. Christoffersen with information regarding plan documents for purposes of preparing legal analysis of Plan amendment	SC138
10/21/03	F. O'Herron	C. Delaney	Requesting Review of Draft Letter from F. O'Herron on behalf of B. Allen to C. Kennedy regarding 9/26/03 letter	JS058-59
10/22/03	B. Allen	K. Walker, President, Qwest Asset Management Co., cc: F. O'Herron, J. Sanford	Discussion regarding death benefit and ERISA funding obligations	JS 098
10/22/03	K. Walker	B. Allen, cc: F. O'Herron, J. Sanford	Discussion regarding death benefit and ERISA funding obligations	JS 098
10/22/03	F. O'Herron	B. Allen, K. Walker cc: J. Sanford	Discussion regarding death benefit and ERISA funding obligations	JS 122
10/22/03	K. Walker	F. O'Herron, B. Allen cc: J. Sanford	Discussion regarding death benefit and ERISA funding obligations	JS 122

10/22/03	J. Sanford	F. O'Herron	Discussion regarding ERISA funding	JS123
10/29/03	N. Strelau	S. Christoffersen	Request for documents in course of preparing legal analysis of Plan amendment	SC050
10/30/03	F. O'Herron	K. Jones, J. Osse, C. Delaney, S. Christoffersen	Requesting legal advice on behalf of PDC regarding generic response to retiree letter regarding plan amendment	SC105
10/30/03	K. Jones	F. O'Herron, J. Osse, C. Delaney, S. Christoffersen	Requesting advice on a response letter in light of threatened litigation	SC105
10/30/03	C. Delaney	R. Martin	Requesting advice on a response letter regarding plan amendment	SC037
10/30/03	F. O'Herron	C. Delaney, R. Martin	Requesting advice on a response letter regarding plan amendment	SC037
11/3/03	C. Delaney	S. Christoffersen	Litigation Risk Analysis	SC139
11/4/03	B. Allen	K. DuWaldt	Forwarding retiree letter for review	JS077-078
11/5/03	K. DuWaldt	B. Allen	Response regarding letter	JS077-78
11/5/03	B. Allen	K. DuWaldt	Comments re DuWaldt response	JS 077-78
11/5/03	F. O'Herron	J. Sanford	Comment discussing legal advice regarding plan amendment issue, LIMITED REDACTION ONLY	JS044
11/5/03	L. Cutthrell for K. DuWaldt	C. Delaney, S. Christoffersen	Forwarding retiree letter regarding plan amendment for review	SC038-039
11/6/03	C. Delaney	F. O'Herron	Forwarding Proposed response letter to retirees regarding potential amendment of death benefit, with comments	SC106
			Draft response letter authored by C. Delaney	SC107-108
11/6/03	C. Delaney	S. Christoffersen	Forwarding proposed	SC106

			response letter for review	
11/6/03	J. Sanford	B. Allen, F. O'Herron	Discussing legal question regarding death benefit	SC035-036
11/6/03	B. Allen	F. O'Herron, J. Sanford	Posing legal questions regarding death benefit	SC035
11/6/03	J. Sanford	B. Allen, F. O'Herron	Providing thoughts on legal questions posed by B. Allen	SC035
11/6/03	B. Allen	J. Sanford, F. O'Herron	Response	SC035
11/7/03	M. Dobis, Manager, Defined Benefit Plans	S. Christoffersen	Proposed Response Letter to Individual Making Request Regarding Individual Retiree Benefits For Review By Counsel	SC055
11/8/03	S. Christoffersen	C. Delaney	Comments on proposed response letter to retirees regarding potential death benefit plan amendment	SC106
11/10/03	B. Allen	K. DuWaldt	Forwarding retiree letter for review and comment	JS038-043 (JS048-053 duplicate)
11/11/03	F. O'Herron	K. Jones, C. Delaney, S. Christoffersen, K. DuWaldt, B. Allen	Requesting comments on proposed response letter regarding potential plan amendment	SC035-036
11/11/03	C. Delaney	F. O'Herron, K. Jones, S. Christoffersen	Comments on proposed response letter to retirees regarding potential death benefit Plan amendment	SC109
11/11/03	S. Christoffersen	M. Dobis	Letter reflecting edits of counsel	SC051-053
11/13/03	S. Christoffersen	C. Delaney, F. O'Herron	Comments on plan terms relating to death benefit	SC140
11/18/03	J. Osse	S. Christoffersen, M. Dobis, M. Laurin	Describing attached draft of Amendment 2003-5 and asking for comment, LIMITED REDACTION	SC016 (SC021 is a dup.)
			Draft Amendment 2003-5 attached thereto	SC022-025

11/19/03	S. Christoffersen	J. Osse, M. Dobis, M. Laurin	Revised Draft agreement	SC017-020
11/19/03	J. Osse	S. Christoffersen	Forwarding outline of the pension death benefit modification issue for review by counsel	SC086-088
11/19/03	S. Christoffersen	F. O'Herron, J. Osse	Discussing potential role of EBC re: plan amendment issue and forwarding draft outline	SC089-092
11/19/03	S. Christoffersen	C. Delaney, R. Martin	same	SC89-092
11/19/03	F. O'Herron	S. Christoffersen, C. Delaney, R. Martin	same	SC089
11/19/03	J. Osse	S. Christoffersen, M. Laurin, M. Dobis	Describing attached draft SMM and asking for comment	SC011
			Draft SMM attached to 11/19/03 email	SC12-15
11/20/03	N. Strelau	C. Delaney	Forwarding summary of relevant plan provisions	SC141-164
11/20/03	C. Delaney	F. O'Herron, S. Christoffersen	Forwarding summary of relevant plan provisions	SC141-164
11/20/03	S. Christoffersen	J. Osse	Requesting a draft plan amendment	SC162
11/20/03	J. Osse	S. Christoffersen, F. O'Herron	Asking a question related to plan amendment	SC104
11/20/03	J. Osse	M. Dobis, S. Christoffersen, F. O'Herron	Draft Amendment 2003-5 for review by counsel	SC027-29
11/20/03	S. Christoffersen	J. Osse	Requesting Information Regarding Legal Compliance Issue for Draft Amendment	SC026
11/20/03	N. Strelau	C. Delaney	Providing index of retiree letters and comments	SC114
			Index of retiree letters and comments	SC115-131 (dup. copy at 4973-4989)
11/24/03	J. Osse	S. Christoffersen	Answering counsel's question	SC026
11/24/03	J. Osse	C. Delaney, C. Hardman, C. Kok, Director Labor Relations	Draft communication to employees regarding death benefit elimination for rvw.	SC057
11/25/03	S. Christoffersen	J. Pacheco (assistant to J.	Discussing Amendment	SC0010

		Cooper)	2003-5	
11/25/03	J. Pacheco	S. Christoffersen	Requesting Information Regarding 2003-5	SC0010
11/25/03	S. Christoffersen	J. Cooper (Plan Design Committee Member)	Answering questions regarding Amendment 2003-5	SC009-010
11/26/03	F. O'Herron		Attachment: Comments on draft employee communication regarding death benefit amendment for review by counsel	SC083
12/1/03	K. Jones	F. O'Herron, J. Osse, S. Christoffersen, J. Brown	Forwarding comments on draft communication for review by counsel	SC081, 084-085
12/1/03	S. Christoffersen	K. Jones, J. Osse, F. O'Herron, J. Brown	Advice relating to timing of communication	SC080
12/1/03	K. Jones	S. Christoffersen, J. Osse, F. O'Herron, J. Brown	Response to counsel regarding employee communications	SC080
12/1/03	S. Christoffersen	F. O'Herron, J. Osse, K. Jones, J. Brown	Comments on changes to communication to employees regarding plan amendment	SC082
12/1/03	J. Brown	K. Jones, J. Osse, F. O'Herron, S. Christoffersen	Proposing language for employee communication regarding plan amendment	SC079
12/2/03	J. Osse	C. Delaney, S. Christoffersen, M. Dobis, J. Brown, F. O'Herron	Request for legal advice on plan amendment issue, LIMITED REDACTION ONLY	SC008
12/2/03	K. Jones		Draft of employee communication regarding death benefit amendment for review by legal counsel and others	SC076
12/2/03	K. DuWaldt		Draft of employee communication regarding death benefit amendment edited by K. DuWaldt noting her changes	SC078
12/2/03	C. Delaney	L. Christoffersen, K. Jones; F. O'Herron, J. Osse	Comments on edits by K. DuWaldt	SC077
12/2/03	F. O'Herron	K. DuWaldt; S. Christoffersen,	Response and question of	SC072

		C. Delaney	legal counsel regarding draft changes	
12/3/03	K. DuWaldt	F. O'Herron, S. Christoffersen, C. Delaney	Discussion of legal advice pertaining to proposed changes to employee communication	SC072
12/3/03	F. O'Herron	K. DuWaldt, S. Christoffersen, C. Delaney	Proposing language for review by counsel	SC072
12/3/03	K. DuWaldt	F. O'Herron, S. Christoffersen, C. Delaney	Comment on proposed language	SC072
12/3/03	J. Osse	S. Christoffersen	Requesting review of a draft plan amendment, with attached plan amendment	SC163
12/4/03	N. Strelau	C. Delaney	Legal advice concerning amendment of pension plan to modify pension death benefit	CD001-035
12/4/03	K. Jones	J. Brown, S. Christoffersen	Forwarding draft of employee communication regarding death benefit amendment for review by counsel	JB007-009
12/4/03	K. Jones		Draft of employee communication regarding death benefit amendment containing edits by J. Brown and F. O'Herron and requesting further review by legal counsel	SC062-063
12/4/03	K. Jones	J. Brown, J. Osse, F. O'Herron, S. Christoffersen, J. Sanford	LIMITED REDACTION: re: legal counsel's advice regarding language of employee communication; attached draft communication for counsel's review	SC061, 066-067 (see also JB006)
12/4/03	S. Christoffersen		Draft of employee communication regarding plan amendment reflecting edits by legal counsel	SC060, 064-065
12/4/03	C. Delaney		Draft of employee communication regarding plan amendment reflecting edits of legal counsel	SC068-069

12/5/03	C. Delaney	R. Baer, K. DuWaldt	Litigation Risk Analysis Regarding Elimination of Death Benefit	SC133-136
12/6/03	C. Delaney	K. Jones	Providing legal advice and proposed edits to draft employee communication regarding death benefit amendment	SC059
12/8/03	K. Jones	C. Delaney	Response	SC059
12/8/03	C. Delaney	K. Jones	Providing legal advice regarding proposed changes to employee communication	SC058
12/9/03	J. Brown	F. O'Herron, J. Sanford, S. Christoffersen	Proposing Resolutions regarding plan amendments	SC102-103
12/10/03	S. Christoffersen	J. Brown, F. O'Herron, J. Sanford	Commenting on proposed resolutions	SC102
12/11/03	J. Sanford	R. Baer Executive Vice President & General Counsel, Qwest Corporation	Forwarding information regarding death benefit issues raised by retirees	JS125
12/11/03	J. Sanford	R. Baer	Discussion regarding death benefit amendment issues raised by retirees and legal analysis	JS110-111
12/11/03	R. Baer	J. Sanford	Legal opinion and comment in response to J. Sanford email	JS110
undated	S. Christoffersen		2003 Draft plan amendment prepared by S. Christoffersen	SC113
3/5/04	C. Delaney	B. Allen, F. O'Herron	Relaying meeting with C. Kennedy and letter drafted by same	SC042
3/8/04	K. Jones	F. O'Herron, C. Delaney	Requesting legal advice on a corporate communication concerning plan amendment issues	SC034
3/10/04	C. Delaney	K. Jones, F. O'Herron, S.	Response to request for legal	SC03

		Christoffersen	advice	
3/18/04	S. Christoffersen	F. O'Herron	Relaying comments on proposed response letter re plan termination, plan amendment	SC043
3/19/04	K. DuWaldt	C. Delaney, S. Christoffersen, F. O'Herron		
3/22/04	F. O'Herron	C. Delaney	Response to C. Delaney comments	SC043
5/7/04	F. O'Herron	J. Sanford	LIMITED REDACTION ONLY: discussion of conclusions of litigation risk analysis provided by counsel	JS134
7/8/04	C. Somer-Larsen, Consultant, Watson Wyatt Worldwide, Actuary	E. Ammidown, J. Brown, F. O'Herron	Responding to request for information from counsel regarding death benefit evaluation assumptions	JS0124
7/8/04	C. Somer-Larsen, Watson Wyatt, Actuary	J. Brown	Responding to request for information from counsel regarding death benefit evaluation assumptions	JB001
3/23/05	J. Osse	C. Delaney, J. Brown	Requesting review of standardized letter regarding death benefit	JB010
3/23/05	C. Delaney	J. Osse, J. Brown	Forwarding draft letter reflecting edits by counsel	JB010, 013
5/4/05	J. Osse	J. Brown	Question Regarding Interpretation of Amendment 2003-5 Relating to individual benefits question	JB014
5/4/05	J. Brown	J. Osse	Providing response to legal question	JB014
6/16/05	N. Strelau	J. Brown, J. Osse, M. Dobis	Forwarding proposed response to retiree regarding death benefit eligibility, reflecting counsel's	JB015-019

			questions and comments	
6/16/05	J. Brown	N. Strelau	Comments and edits to draft response	JB020-024
6/16/05	N. Srelau	J. Brown	Further proposals for draft response	JB025
6/16/05	J. Brown	J. Osse	Forwarding proposed response	JB025
6/17/05	J. Osse	J. Brown, N. Strelau	Providing further information regarding retiree and providing legal advice	JB026
6/17/05	C. Delaney	J. Brown, J. Osse, N. Strelau	Commenting on draft response	JB027
11/9/05	J. Brown	B. Quinn of Baird & Kiovsky, LLC, E. Kiovsky, Partner, Baird & Kiovsky, LLC	Requesting advice regarding standardized letter regarding status of death benefit	JB029-030
11/9/05	J. Brown	E. Patchett, S. Bryant, K. Candelaria	Providing advice on response letter regarding status of death benefit	JB031-32
11/10/05	M. Dobis	E. Patchett, cc: J. Brown	Request for J. Brown to comment on response	JB033
11/13/05	B. Kiovsky	J. Brown	Commenting on draft letter	JB035
11/14/05	J. Brown	J. Osse, M. Dobis	Forwarding proposed response letter reflecting edits by counsel	JB036-037
11/18/05	J. Brown	C. Delaney, N. Strelau, E. Kiovsky	Requesting Comments on draft SMM relating to death benefit amendment	JB039-040
11/19/05	E. Kiovsky	J. Brown	Comments on draft SMM regarding death benefit eligibility upon rehire	JB039-040