

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL NO. 17-11016-RWZ

FREDERICK M. MASSARO

v.

AXA ADVISORS, LLC, *et al.*

ORDER

May 14, 2018

ZOBEL, S.D.J.

Now pending before me are a host of discovery motions. On May 3, 2018, after reviewing the parties' briefs and conducting an *in camera* review of certain documents provided to the court in connection with the motions, I conferred with and heard counsel concerning their discovery positions. Following are the resultant rulings.

I. **Plaintiff's Motion to Compel Documents from AXA Advisors, LLC (Docket # 32)**

Defendant shall promptly complete its production of documents it promised.

Concerning disputed documents, the motion to compel is allowed as to Requests 10, 15, and 17.

With respect to Request 13, to the extent the documents have not already been produced, plaintiff shall more specifically describe the documents he seeks. Absent such specificity, the motion to compel is denied.

II. Plaintiff's Motion to Compel Documents Withheld by Defendant AXA Advisors, LLC as Privileged (Docket # 34)

Because the documents sought are privileged, the motion is denied.

III. Defendants' Motion to Determine Privilege (Docket # 41)

This motion concerns e-mails between plaintiff, his former counsel and his new investment advisor who was assisting counsel. I am persuaded that these documents are privileged and defendants shall destroy the 58 pages of e-mails in its or its counsel's possession.

IV. Defendants' Motion to Compel Production of Documents Withheld as Privileged (Docket # 43)

The motion is allowed as to the e-mails between plaintiff and his son, control numbers 304, 1524 and 1526. These documents are not privileged.

_____ It is denied with respect to communications between plaintiff, his former counsel and his new investment advisor as they are privileged.

V. Additional Matters

Plaintiff shall promptly provide to defendants telephone numbers and other information necessary for defendants to obtain the service center calls described by the parties at the May 3, 2018 motion hearing.

The deadline for completion of fact discovery is extended to June 29, 2018. Should defendants wish to serve Requests for Admissions on plaintiff, they shall comply with L.R. 26.1(c). Such requests shall be served within fourteen days of this Order and plaintiff shall respond thereto by the close of fact discovery.

The parties shall submit a joint status report regarding settlement negotiations

and any other issues by August 31, 2018.

In the event the case is not settled, any dispositive motions shall be filed by September 28, 2018; oppositions are due by October 26, 2018; and reply briefs of no more than five pages may be filed by November 2, 2018. A motion hearing will be held on November 7, 2018.

May 14, 2018

DATE

/s/Rya W. Zobel

RYA W. ZOBEL
SENIOR UNITED STATES DISTRICT JUDGE