FILED IN
BUSINESS COURT OF TEXAS
BEVERLY CRUMLEY, CLERK
ENTERED
6/3/2026

**THE BUSINESS COURT OF TEXAS**
**ELEVENTH DIVISION**

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| TATE GROUP AUTOMOTIVE, LLC,<br><br>*Plaintiff,*<br><br>v.<br><br>LEGACY AUTOMOTIVE CAPITAL, LLC, THE REYNOLDS AND REYNOLDS COMPANY, TOMMY BARRAS, and BENJAMIN CATANESE,<br><br>*Defendants.* | §<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§<br>§ | Cause No. 25-BC11B-0020 |

# COURT MINUTE ENTRY REGARDING CHATGPT MATERIALS *IN CAMERA* REVIEW

Pursuant to the Court's Minute Entry dated April 20, 2026, the Court has completed its *in camera* review of the Kris Tate-ChatGPT "conversations" that Plaintiff withheld based upon a claim of attorney work product protection. Defendants argue that attorney work product protection does not extend to a non-lawyer's "chats" with an artificial intelligence ("AI") tool; or, alternatively, that Kris Tate's use of AI waived any potentially applicable privilege. They seek an order compelling the documents' production. Plaintiff disagrees. In three letters subsequent to the April 20 Minute Entry, the parties argued their

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positions; including, on Defendants' behalf, a request that the Court order Plaintiff to identify all discovery materials that Mr. Tate (and/or the Tate Group more generally) shared with ChatGPT.

The issue presented is a novel one, as evidenced by the fact that all case law authorities cited by the parties date from 2026. Indeed, one of them refers to its ruling as "a question of first impression nationwide."

The short answer is that the Court agrees with the analysis and reasoning in the cases cited by Plaintiff: *Warner v. Gilbarco, Inc.,* 2026 WL 373043, at *4 (E.D. Mich. Feb. 10, 2026) and *Morgan v. V2X, Inc.,* 2026 WL 864223, at *3-5 (March 30, 2026). In particular, the Court agrees with these cases' recognition that "work product protections are typically waived *by disclosure to an adversary,* or in circumstances that substantially increase the likelihood that an adversary will obtain the materials." *Morgan,* 2026 WL 864223, at *5 (emphasis added). *See also Warner,* 2026 WL 373043, at *4 ("to the extent Defendants argue that Plaintiff waived the work-product protection by using ChatGPT, the work-product waiver has to be a waiver *to an adversary* or in a way likely to get in an adversary's hand.") (emphasis in original).

Further, the Court disagrees with the primary authority cited by Defendants in support of waiver, *United States v. Heppner,* 2026 WL 436479 (S.D.N.Y. Feb. 17, 2026). And these are all federal cases, whereas the Texas rules set forth a different standard for protectable attorney work product, and plainly appear on their face to extend that protection to Mr. Tate's ChatGPT conversations: they are "material prepared or mental impressions



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developed in anticipation of litigation or for trial *by or for a party* . . . ." TEX. R. CIV. P. 192.5(a)(1) (emphasis added).

The above constitutes a model of clarity relative to what the Court assumes to be Plaintiff's 2nd and 3rd Supplemental Privilege Logs submitted in support of its response to Defendants' discovery letters. In particular, it appears that Plaintiff has submitted for *in camera* review documents that have been withheld *both* on grounds of privilege and non-responsiveness. The Court has not reviewed for non-responsiveness, however (and without the parties' discovery requests/responses before it, cannot practically do so).[1]

Accordingly (and assuming the Court has accurately reviewed the documents submitted for *in camera* review), the Court is of the opinion that the following pages should be produced because they do not constitute protectable attorney work product within the meaning of TEX. R. CIV. P. 192.5(a)(1): Document #81, pp. 198-218, 260-283, 287-309, 311-331. The remainder may be withheld from production on the basis of attorney work product, for the reasons identified above.

Notwithstanding the foregoing analysis, however, the Court agrees with Magistrate Judge Braswell that work product protection extends only so far. *See Morgan,* 2026 WL 864223, at *5 (ordering plaintiff to disclose identity of AI tool he used). Reasoning analogously, the Court is of the opinion that – to the extent it has not already done so –

[1] On this point, the Court has serious concerns about the intelligibility of Plaintiff's *in camera* submission and privilege log, and the corresponding ability of Defendants to understand what is being withheld from production and on what basis. Accordingly, Plaintiff is hereby ordered to disclose to Defendants all documents that it submitted for this *in camera* review that have been withheld solely on the basis of relevance and/or non-responsiveness.



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Plaintiff must disclose to Defendants all discovery materials or products that it has shared with ChatGPT (by Bates number, if applicable), including any materials that were produced pursuant to the Protective Order. The Court will be prepared to address any potential violations of the Protective Order's terms if and when they may be shown to have occurred.

Further, the Court recommends that the parties confer and consider negotiating amendments to the Protective Order that would make unquestionably clear whether, how, and to what extent if so, Confidential Information may be shared with any AI tool or other Large Language Model system. In this regard, the Court refers the parties to the relevant discussion in the *Morgan* case. *See* 2026 WL 864223, at *6-7.

The Court has previously advised the parties that entry of these less formal orders is not intended to be final, but serves to certify their compliance with BCLR 4. If any party requires an ultimate ruling on these matters – particularly if they anticipate exercising their appellate remedies – it has leave to file and set for submission or oral hearing an appropriate motion to quash/for protection or for reconsideration of these determinations forthwith, without first proceeding under BCLR 4.

ENTERED this 3rd day of June, 2026.

JUDGE GRANT DORFMAN
TEXAS BUSINESS COURT
ELEVENTH DIVISION



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