

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for said Commonwealth on the eleventh day of July, in the year two thousand and seventeen:

present,

<u>HON. RALPH D. GANTS</u>)	Chief Justice
)	
<u>HON. BARBARA A. LENK</u>)	
)	
)	
<u>HON. GERALDINE S. HINES</u>)	Justices
)	
)	
<u>HON. FRANK M. GAZIANO</u>)	
)	
)	
<u>HON. DAVID A. LOWY</u>)	
)	
)	
<u>HON. KIMBERLY S. BUDD</u>)	
)	
)	
<u>HON. ELSPETH B. CYPHER</u>)	

ORDERED: That the Massachusetts Rules of Civil Procedure adopted by order dated July 13, 1973, as amended, to take effect on July 1, 1974, are hereby amended as follows:

Rule 26 By deleting the current Rule 26(b)(5)(A) and inserting the new Rule 26(b)(5)(A), attached hereto.

The amendment accomplished by this order shall take effect on September 1, 2017.

ORDERED:

<u>HON. RALPH D. GANTS</u>)	Chief Justice
)	
<u>HON. BARBARA A. LENK</u>)	
)	
)	
<u>HON. GERALDINE S. HINES</u>)	Justices
)	
)	
<u>HON. FRANK M. GAZIANO</u>)	
)	
)	
<u>HON. DAVID A. LOWY</u>)	
)	
)	
<u>HON. KIMBERLY S. BUDD</u>)	
)	
)	
<u>HON. ELSPETH B. CYPHER</u>)	

MASSACHUSETTS RULES OF CIVIL PROCEDURE

Rule 26. General Provisions Governing Discovery

(b)(5) *Claims of Privilege or Protection of Trial Preparation Materials.*

(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.

The court, upon motion, may order the withholding party to provide such additional information as is necessary to assess the claim of privilege.