

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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HOWARD K. STERN, :  
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 Plaintiff, :  
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 - against - :  
 :  
 RITA COSBY, HACHETTE BOOK GROUP :  
 USA, INC. d/b/a Grand Central :  
 Publishing, and JOHN OR JANE DOE, :  
 :  
 Defendants. :  
 :  
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ORDER  
07 Civ. 8536 (DC)

**CHIN, District Judge**

The parties have written numerous letters to the Court raising discovery issues. The Court rules as follows:

1. Discovery is closed as of September 26, 2008, except that the parties may take the depositions of Mark Speer, Don Clark, Wilma Vicedomine, and the Nannies, as long as they are taken by October 20, 2008.

2. Plaintiff's request, set forth in his counsel's letter dated September 8, 2008, for an order compelling defendants to identify all documents supporting defendants' denial of 19 allegedly libelous statements in the complaint is denied; these interrogatories exceed the scope of what is permitted under the Court's local rules.

3. By letter dated September 11, 2008, plaintiff seeks to compel the production by defendants of documents relating to the "development and editing of Blonde Ambition." Defendant Hachette Book Group USA, Inc. ("Hachette") apparently objected initially on a broad basis because it had conducted a joint editorial and legal review process, thus arguing that the


documents were protected by the attorney-client privilege. Hachette represents that thereafter the parties resolved this dispute, at least in part, as it produced "most of the editors' communications with the authors [sic] and lawyer." Hachette represents that the only materials redacted were those that revealed "specific attorney advice or work product."

I believe that Hachette's response is reasonable. It acknowledges that the involvement of lawyers, in and of itself, does not render all the communications privileged. The copying of a communication to a lawyer does not automatically render it privileged. On the other hand, specific attorney advice obviously is privileged. Communications made during the course of the editing process are not privileged merely because counsel was present or listening on the telephone; they are privileged only if counsel was actually giving legal advice, and only to the extent the communications pertained directly to the legal advice being rendered. Defendants are to be guided by the above concepts; to the extent any responsive editorial documents have been or will be withheld or redacted, they shall be submitted to the Court forthwith for in camera review.

4. Plaintiff's request that Hachette pay attorneys' fees and costs relating to the additional depositions of the Hachette editors is denied.

SO ORDERED.

Dated: New York, New York  
September 23, 2008

  
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DENNY CHIM  
United States District Judge