

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

	:	
RICHARD P. GLUNK,	:	
	:	
Plaintiff,	:	No. 2:25-CV-03058-JFM
	:	
v.	:	
	:	
WILLISTOWN TOWNSHIP, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

**DEFENDANTS’ RESPONSE TO PLAINTIFF’S MOTION TO COMPEL  
COMPLIANCE WITH SUBPOENA FOR PRODUCTION OF DOCUMENTS  
DIRECTED TO HERBERT, ROWLAND, AND GRUBIC, INC. AND  
JAMES POWELL**

Defendants note that the instant Motion (ECF Doc. 47) is not directed at them. Rather, it seeks an Order directing third-parties Herbert, Rowland, and Grubic, Inc. (“HRG”) and James Powell, PE to produce documents in response to Plaintiff’s Subpoena dated November 24, 2025. Mr. Powell is the Township’s appointed Stormwater Engineer, and his employer is HRG.

**A. Attorney-Client Privilege**

The primary reason the Defendants could not concur with the instant Motion is that Plaintiff includes in the body of the Motion that he does not believe communications between Mr. Powell and the Township Solicitor are privileged and claims to “need” these communications. (ECF Doc. 47 at p. 4-5). The attorney-client privilege was asserted by the Defendants in response to Plaintiff’s First Request for Production of Documents addressed to the Defendants, **not** by HRG or Mr. Powell in response to the Subpoena. See February 23, 2026 Township Privilege Log, attached hereto as Exhibit A.

Yet Plaintiff does not include in his prayer for relief or Proposed Order a request that the Defendants' assertions of privilege be stricken nor does he provide support for granting such relief.

Regardless:

The attorney-client privilege shields from discovery “(1) communication[s] (2) made between privileged persons (3) in confidence (4) for the purpose of obtaining or providing legal assistance for the client.” “Privileged persons’ include the client, the attorney(s), and any of their agents that help facilitate attorney-client communications or the legal representation.”

*Ogontz Fire Co. v. Cheltenham Twp.*, 2026 WL 963724 at \*4 (E.D. Pa. 2026) (internal citations omitted). The Township’s Stormwater Engineer clearly falls under the Township’s municipal corporate umbrella and, given the subject matter of the Spring Road culvert replacement, was integral to facilitating attorney-client communications or legal representation by the Township Solicitor to the Township.

#### **B. Service of Subpoena**

The Defendants also could not concur with the instant Motion because they have no knowledge that the Subpoena was ever properly served on HRG or Mr. Powell pursuant to Fed. R. Civ. P. 45(b). Neither Defendants nor their counsel were part of the February 26, 2026 communication between Plaintiff and counsel for HRG and Mr. Powell wherein service of the Subpoena was allegedly accepted. (ECF Doc. 47 at p. 1). Seemingly recognizing the Subpoena was never served, Plaintiff sent a Notice of Issuance and Service of Third-Party Subpoena to Defendants’ counsel on May 19, 2026, which included the original November 24, 2025 Subpoena. *See* May 19, 2026 Notice of Issuance and Service of Third-Party Subpoena, attached hereto as Exhibit B. And on May 22, 2026, counsel for HRG confirmed he never previously accepted service of the Subpoena, but is accepting service of the Subpoena attached to the May 19, 2026 Notice. *See* May 22, 2026 Correspondence, attached hereto as Exhibit C.

### C. Conclusion

In the event the Court is inclined to grant Plaintiff's Motion to Compel Compliance with Subpoena for Production of Documents Directed to Herbert, Rowland, and Grubic, Inc. and James Powell, the Defendants respectfully request that the Court uphold their assertions of attorney-client privilege for the communications between the Township Solicitor and Stormwater Engineer as identified on their Privilege Log or, at the very least, require Plaintiff to specifically file a motion to strike those claims of privilege.

### SIANA LAW

By: /s/ Robert T. Sing  
Robert T. Sing, Esquire, I.D. #327571  
Attorney for Defendants, *Willistown Township,*  
*Shanna Lodge, Robert T. Lange, Molly H.B. Perrin,*  
*William R. Shoemaker, and Bill Hagan*  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425  
(P): 610.321.5500 (F): 610.321.0505  
rtsing@sianalaw.com

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WILLISTOWN TOWNSHIP, <i>et al.</i> ,	:	
	:	
Defendants.	:	
_____	:	

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that on this day a true and correct copy of the foregoing *Response to Plaintiff's Motion to Compel Compliance with Subpoena for Production of Documents Directed to Herbert, Rowland, and Grubic, Inc. and James Powell* was served via ECF, addressed as indicated:

Richard P. Glunk, M.D.  
209 Spring Road  
Malvern, PA 19355

**SIANA LAW**

Date: May 22, 2026

By: /s/ Robert T. Sing  
Robert T. Sing, Esquire, I.D. #327571  
Attorney for Defendants, *Willistown Township, Shanna Lodge, Robert T. Lange, Molly H.B. Perrin, William R. Shoemaker, and Bill Hagan*  
941 Pottstown Pike, Suite 200  
Chester Springs, PA 19425  
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