

1 this point. It was done as a consultant. It is not
2 information that he's relying upon here. Moreover, it's
3 not even information that has been part, it's not even
4 work that has been completed. It's preliminary in
5 nature, and we're asserting the work product privilege.

6 MR. RUCKDESCHEL: Your Honor, the relevant
7 portion of the information is the number. And he's
8 aware of what the range of numbers is I believe, and
9 we'd ask that the court making a ruling.

10 MR. BELL: Your Honor, Henry Bell.

11 JUDGE KLINE: Yes, sir.

12 MR. BELL: If I can add in, we think this
13 information is protected under Rule 1.280. It's in fact
14 work product done under the direction of counsel.

15 We rely on Procter & Gamble Company v. Swiley
16 462 Southern 2nd 1188; and the Leonard Northrop decision
17 of the Supreme Court of 2004, 865, Southern 2nd, 1267,
18 Your Honor.

19 Florida law suggests, I think the plaintiffs'
20 argument here is because Mr. Paustenbach is a testifying
21 expert that somehow the product, the work product
22 privilege is completely waived.

23 That's not true. If he's not relying upon it,
24 it's not waived, and therefore it's protected. The
25 Proctor & Gamble case, Your Honor, by the way, deals