



To whom and for what purpose drives the analysis of attorney-client communication?, InsideCounsel

In the corporate context there are three chief concerns to be addressed if communications are to be protected by the attorney-client privilege

*By Anne R. Myers and Eileen M. Ficaró
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The oldest protection from disclosure for communications, the attorney-client privilege, is sacrosanct in its purpose “to encourage clients to make full disclosure to their attorneys.” For corporate counsel, whether a communication is protected by the attorney-client privilege is complicated by the fact that a corporation is an artificial creature of the law, and not an individual. As a result, in the corporate context there are three chief concerns to be addressed if communications are to be protected by the attorney-client privilege: between whom are communications protected; whether the communication is the type to which the privilege could apply; and whether the communication is made in confidence.

Between whom are communications protected, in federal proceedings, was answered by the Supreme Court in Upjohn Co. v. United States, where the Court held that the attorney-client privilege ...