Insights: Publications

The Attorney Client Privilege: The Corporate Communication Conundrum - PART TWO

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As anyone faced with discovery requests knows, one of the most important parts of producing documents is determining what documents are subject to attorney-client privilege or work product doctrine and must therefore be redacted or withheld. Failing to conduct an effective privilege review can have dire consequences -- from exposure of highly confidential information to even waiver of the privilege. While identifying an attorney-client communication or attorney work product would seem to be an easy task, marked by clear indicia of confidentiality and when an attorney is providing legal advice, in practice, that is not always the case. Privileged documents are often not marked as such, and it is not always easy to tell who is an attorney or when an attorney is providing legal advice, especially when dealing with communications between a large company's employees and their agents and advisors.

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