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Solving the “‘Privilege Log’ Problem”: Proposed Changes to Federal Rules of Civil Procedure 16 & 26

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Changes to Federal Rules of Civil Procedure 16(b) and 26(f) are projected to come into effect in December 2025. These changes, should they come in to effect, have been promulgated to address what proponents refer to as the “‘privilege log’ problem.” The proposed amendments essentially seek to bring compliance with Rule 26(b)(5)(A) to the parties’ attention at the beginning of the litigation process to avoid privilege-related disputes near the end of discovery. Compliance with Rule 26(b)(5)(A) concerns the manner in which a party describes the documents it has determined to withhold from production due to privilege.

Related People



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