Second Circuit Clarifies At-Issue Waiver of the Attorney-Client Privilege

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On October 14, 2008, the United States Court of Appeals for the Second Circuit addressed an important question of attorney-client privilege -- the concept of "at-issue" waiver. The attorney-client privilege, which generally protects communications between client and counsel, can be deemed waived if a party puts privileged communication at issue in a case. After *In re Erie*, a finding of at-issue waiver requires that the privileged communication be *relied upon* in asserting a claim or defense.

Attorney

- Charles A. Gilman