
First Department: Common Interest Privilege Does Not Require Pending Litigation or Reasonable Anticipation of Litigation

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In *Ambac Assurance Corp. v. Countrywide Home Loans, Inc.*, the Appellate Division, First Department of New York's Supreme Court held that "pending or reasonably anticipated litigation is not a necessary element of the common-interest privilege." The common-interest privilege "is an exception to the rule that the presence of a third party at a communication between counsel and client will render the communication non-confidential" and not privileged. The decision is precedential for litigation pending in New York's First Department, which covers New York and Bronx counties.

Attorney

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