Attorney-Client Privilege


This flowchart does not address the attorney work product privilege.

Start

From a Client

Was the asserted holder of the privilege a client of the attorney?

Yes

To an Attorney or Subordinate Thereof

Was the communication made to a person who is an attorney (i.e., a member of the bar of a court) or to a person who is a subordinate of the attorney?

No

Yes

Acting as a Lawyer

Was the attorney acting as a lawyer in connection with this communication?

No

Yes

Confidential Communication

Did the communication relate to a fact of which the attorney was informed by his/her client and without the presence of strangers?

No

Yes

For Legal Advice

Was the communication for the purpose of securing primarily (a) an opinion on law, (b) legal services, or (c) assistance in some legal proceeding?

No

Yes

Illegal Activity

Did the communication relate to a fact of which the attorney was informed for the purpose of committing a crime or tort?

No

Yes

Privileged Claimed

Has the privilege been claimed by the holder of the privilege?

No

Waived

Has the privilege been waived by the holder of the privilege?

Yes

Privilege Applies

The attorney-client privilege applies to the communication.

Prospective Client

Did the asserted holder of the privilege seek to become a client of the attorney?

No

Yes

The attorney-client privilege does not apply to the communication.

Privilege Does Not Apply