



Annual Meeting '22: It's a Privilege to Speak with You

Community

Law Department Management



Session 504 Panelists

[Mary Blatch](#), Senior Privacy Counsel, StockX

[Jonathan Jung](#), General Counsel & Corporate Secretary, Innovative Cosmetic Concepts

[Indira Sharma](#), Partner, Saul Ewing

[Franco Spraggins](#), General Counsel & Chief Compliance Counsel, Eversana

Watch the US Supreme Court carefully, because its decision in [In re Grand Jury](#) will impact how courts determine attorney-client privilege in the dual-purpose communications context. Dual-purpose communications uniquely impact in-house counsel because they wear so many hats.

- Currently, there is a split in the US Courts of Appeal on what test should be applied to attorney-client dual-purpose communications: “the primary purpose” test, whereby the legal purpose must be the primary purpose, or “a primary purpose,” in which the legal purpose must be a significant or material purpose.
- While there is confusion over the test that courts will apply, best practices include intentionally employing legal terms in responses to internal clients, training clients to send significant legal concerns in separate emails, developing clear policies that describe certain activities as conducted for the purpose of obtaining legal advice, and limiting the number of people on communications.

Courts will often look below the surface of what the actual issue is when it comes to determining the ultimate goal of the communication, whether legal or business.

Mary Blatch, Senior Counsel, Privacy, StockX

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