

AMERICAN BAR ASSOCIATION

SECTION OF LITIGATION

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March 21, 2008

The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
Washington DC 20515

The Honorable Lamar S. Smith  
Ranking Member  
Committee on the Judiciary  
United States House of Representatives  
Washington DC 20515

**Re: S. 2450 - Proposed Federal Rule of Evidence 502**

Dear Chairman Conyers and Ranking Member Smith:

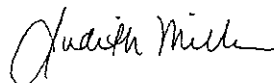
As you may know, the American Bar Association strongly supports legislation that would adopt proposed Federal Rule of Evidence 502 (FRE 502), which recently passed the Senate as S. 2450. As Chair of the ABA Section of Litigation, I am writing this separate letter to supplement the March 21, 2008 letter sent by Denise A. Cardman, Acting Director of the ABA Governmental Affairs Office, to emphasize how important this issue is to the Section.

The ABA Section of Litigation, whose members know first hand how the current maze of conflicting rules and case law adversely impacts practitioners and the administration of justice, has taken the lead in crafting the ABA position. Recognizing the importance to practitioners of having consistent rules providing for protections against waiver of the attorney-client privilege and work product immunity, in August 2006 the ABA adopted a Resolution sponsored by the Section of Litigation to articulate consistent principles on these subjects. Since that time, the ABA has been actively involved in commenting upon the drafts developed by the Judicial Conference Rules Committee.

In February 2007 the Chair of the Section of Litigation, on behalf of the ABA, submitted comments to the Judicial Conference with respect to the working draft of FRE 502, and the final proposed rule as contained in S. 2450 has substantially met those concerns. As a result, the ABA strongly supports the current proposal. Since we believe the proposed legislation will greatly improve the practice for those facing conflicting rules, we urge the speedy adoption of this legislation without further amendment.

We appreciate the opportunity to provide our comments and we thank you for considering them.

Very truly yours,



Judith A. Miller  
Chair, ABA Section of Litigation

cc: Members of the House Judiciary Committee

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