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December 10, 2007

The Honorable John Conyers  
Chairman  
Committee on the Judiciary  
United States House of Representatives  
2426 Rayburn House Office Building  
Washington, DC 20515

The Honorable Lamar Smith  
Ranking Member  
Committee on the Judiciary  
United States House of Representatives  
2409 Rayburn House Office Building  
Washington, DC 20510

Re: Support for Legislation Adopting Federal Rule of Evidence 502

Dear Chairman Conyers and Ranking Member Smith:

On behalf of the Association of Corporate Counsel ("ACC"), I write in strong support of legislation that would enact Proposed Federal Rule of Evidence 502 concerning limited waiver protections for organizational entities against third party discovery of attorney-client privilege and work product protected documents and communications.

Our members appreciate your leadership on this issue and your support of legislation that will help resolve many of the complex and frustrating problems associated with privilege waiver in the era of electronic discovery. The business and corporate legal community, including particularly members of the in-house bar who ACC represents, have an intense interest in this issue.

ACC is the in-house bar association, with more than 23,000 members worldwide who practice inside the legal departments of over 9,000 corporations and other organizations in the private sector (public, private and non-for-profit). ACC members offer the Committee the perspective of in-house counsel who supervise the vast majority of complex business litigation in the US, and who advise corporate clients on virtually every conceivable matter of law, compliance, and legal policy, including on issues of how clients should engage in the discovery process and the management of related attorney-client privileged communications that are may become the subject of contention in litigation. ACC commends to you the work that has gone into crafting this Rule by the United States Judicial Conference and its rulemaking Committees that accounts for its support by a wide spectrum of judges, litigants, academics, and lawyers. Of course, because Rule 502 is a Rule governing waiver of an evidentiary privilege, it must be enacted into law by legislation passed by Congress and signed by the President.

ACC strongly supports legislation enacting Rule 502 into law and urges you to seek its early consideration and passage in order to prevent further erosion of attorney-client privilege and work product protections so vital to the proper and fair administration of justice. Thank you for considering our views.

Sincerely,

A handwritten signature in black ink that reads 'Susan Hackett'.

Susan Hackett  
Senior Vice President and General Counsel

cc: Alberto Gonzalez-Pita, Chairman, ACC's Board Advocacy Committee  
Frederick J. Krebs, President, ACC