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## Inadvertent Disclosure: Are Clawbacks Allowed? Avoiding Privilege Waiver in E-Discovery

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May 28, 2013

American Bar Association Section of Litigation and Center for Professional Development

Are you doing everything you can to protect your clients' secrets? In this electronic age of litigation, unintentional disclosure of privileged information and documents is increasingly becoming the norm. Courts around the country are responding by increasingly finding a waiver of the privilege, unless the disclosing lawyer can show that "reasonable precautions" were taken. This practical tips interactive program will focus on the best practices to avoid that waiver finding. Among other things, we will discuss how to conduct a search and electronically produce documents that will ultimately be protected, the need for speed when you discover a privileged document was produced, what to do to avoid disqualification when you are on the receiving end of a privileged document, and how to inoculate against waiver through the mitigating use of clawback agreements.

### **Program Faculty:**

- Abbe F. Fletman, Shareholder, Flaster Greenberg PC, Philadelphia, PA
- Taa Grays, Assistant General Counsel and Chief of Staff, MetLife, New York, NY
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**Date:** Tuesday, May 28, 2013

**Format:** Live Webinar and Teleconference

**Duration:** 75 minutes

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