


NEW ORLEANS
BAR ASSOCIATION
BOARD OF DIRECTORS
April 18, 2006

Resolution in Support of the Attorney-Client Privilege

WHEREAS, the attorney-client privilege is an important rule of evidence that protects the confidentiality of communications between the attorney and client;

WHEREAS, the State of Louisiana recognizes the significance of the attorney-client privilege, having codified it in the Louisiana Code of Evidence; thereby relieving clients and their counsel from compelled disclosure of protected communications;

WHEREAS, the underlying purpose of the attorney-client privilege is to encourage individuals – as well as companies and other organizations – to communicate candidly during consultations with their lawyers, free from fear of recrimination, thereby enhancing the quality of their representation;

WHEREAS, recent United States Department of Justice policy, evidenced by the 1999 “Holder Memorandum,” the 2003 “Thompson Memorandum” and the Sentencing Commission’s 2004 Amendments to Section 88C2.5 of the Federal Sentencing Guidelines, encourages federal prosecutors to require companies and other entities to waive the attorney-client privilege as a condition for receiving cooperation credit during investigations;

WHEREAS, such policy weakens the attorney-client privilege, a fundamental bedrock of the American justice system;

WHEREAS, such policy further discourages candid communications among clients and their lawyers, thereby impeding the lawyer’s ability to effectively counsel compliance with the law;

WHEREAS, such policy erodes the relationship of trust and confidence existing between lawyers and their clients, which is a hallmark of our profession;

NOW, THEREFORE, BE IT RESOLVED THAT the New Orleans Bar Association recognizes the sacrosanct relationship between the client and attorney, and the necessity that a client and counsel be allowed to communicate freely with each other in order to assure effective representation. The New Orleans Bar Association hereby disapproves of any policy, practice, or procedure by the United States Department of Justice, or anyone else, that encourages the waiver of the attorney-client privilege.

This 18th day of April, 2006.

Respectfully submitted,

A handwritten signature in black ink, reading "Carmelite M. Bertaut". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Carmelite M. Bertaut
President