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"Ninth Circuit's Reversal of Evidence Exclusion in Broadcom Case Does Not Alter Lessons Learned Regarding *Upjohn* Warnings" by Shari Brandt and James Walker

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In *United States v. Ruehle*, Slip. Op. (9th Cir. Sept. 30, 2009), the Ninth Circuit reversed the suppression order issued in *United States v. Nicholas*, 606 F.Supp.2d 1109 (C.D.Ca. Apr. 2009) based on the lower court's application of the wrong privilege standard, but left intact that portion of the *Nicholas* opinion suggesting that attorneys need to provide and document complete *Upjohn* warnings and avoid dual representations absent a written conflict waiver. Shari Brandt and James Walker have written a short memorandum examining the important distinction drawn in *Ruehle* between application of federal and state privilege rules, and the Ninth Circuit's reinforcement of the lessons learned from *Nicholas*.

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