

# New York Court of Appeals Limits Availability of Common Interest Privilege

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On June 9, 2016, New York's highest court issued an important decision on the "common interest doctrine," limiting the circumstances in which parties with common legal interests may share information protected by the attorney-client privilege without waiving the privilege. In a 4-2 decision in *Ambac Assurance Corp. v. Countrywide Home Loans, Inc.*, the New York Court of Appeals reversed a 2014 ruling by the Appellate Division, First Department, and held that the common interest doctrine applies to communications between parties that share a common legal interest *only if* those communications relate to pending or reasonably anticipated litigation. The Court of Appeals' opinion, which departs from the approach taken in Delaware, Massachusetts, and many federal courts, will have implications for parties' exchange of documents and other information in a range of transactional, regulatory and other non-litigation contexts.

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