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NEWS RELEASE

Release: Immediate
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STATEMENT OF ALFRED P. CARLTON JR., PRESIDENT, AMERICAN BAR ASSOCIATION, ON ABA LAWSUIT TO END APPLICATION OF GRAMM-LEACH-BLILEY TO LAWYERS

Wednesday, September 25, 2002

Today, the American Bar Association requested a federal court to end the Federal Trade Commission's requirement that lawyers, including thousands of our members, send out notices" to their clients. In a lawsuit filed with the U.S. District Court for the District of Columbia, ABA asked that the court declare the regulation unlawful.

The basis for the request is that the law itself did not impose the requirement. In addition, the privacy protections of the Gramm-Leach-Bliley Act on the legal profession has caused harm for clients across the country and could undermine trust in the legal profession.

For more than 200 years, the lawyer ethics rules of the states have protected the privacy and confidentiality of information clients share with their lawyers, with good results. State lawyer-client confidentiality is a cornerstone of the legal profession and promotes the integrity of the legal system.

But now this federal statute that was intended to regulate banks is being used to muddy the waters with respect to the simple rules governing attorney-client confidentiality--rules which everybody understands. The Gramm-Leach-Bliley Act, as interpreted by a federal agency, requires lawyers to send out complicated "privacy notices" with opt-out provisions to clients. Banks have to do this. However, clients of lawyers in all 50 states and the District of Columbia enjoy more protection under state law and regulation of lawyers than under the regulation that is the subject of the lawsuit.

The Gramm-Leach-Bliley Act does not and should not cover lawyers. It covers banks and banks closely related to banks, and is designed to facilitate their sale of private information about their customers. Lawyers have always been precluded by state law and ethics regulations from disclosing, much less selling, confidential client information to anyone without client consent.

Neither Congress nor federal agencies have identified any criticism of that structure. Therefore, nothing is broken here that needs to be fixed.

Additionally, we welcome introduction today by Congresswomen Judy Biggert of Illinois Maloney of New York of a bill to return the duty to protect client confidences to the state recognition that the application of Gramm-Leach-Bliley to lawyers addresses a problem exist.

Note: Copies of the complaint are available from Nancy Slonim, the listed contact above ABA's Website at: www.abanet.org/poladv/glbfactsheet/complaint.pdf.

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