

# Cybersecurity and Privacy

## Overview

Our team of certified privacy professionals and former cybercrime prosecutors provide clients across industries with comprehensive counsel on complex, evolving, and multifaceted issues related to information security, data breaches, and privacy. We blend our skills and experiences as litigators and transactional attorneys with a deep understanding of information security, data breach law, privacy laws and regulations, and our clients' particular industries, to meet and anticipate our clients' needs.

Our cybersecurity clients seek our advice at the three phases of cybersecurity legal needs: (i) planning, preparation, and hardening against a cybersecurity event; (ii) as "breach coaches" during a cybersecurity event, including coordination of forensic services and working with law enforcement and regulators, through consumer notification; and (iii) in the litigation, including class actions, that may follow a cybersecurity event.

Our privacy attorneys are trusted counsel to companies of all sizes across industries. From growth-stage companies to large international companies, our team has experience in all manner of privacy compliance and litigation issues.

**Our services include:**

### Cyber Readiness and Data Breach and Incident Response

- Help clients prepare for, and respond to, suspected data breaches and the full range of government investigations and class action litigation they may prompt.
- Provide immediate support and rapid response for clients that learn of a possible data breach and must act immediately to mitigate potential liability and discharge potential obligations stemming from the incident.
- Develop and test comprehensive incident response plans that address internal and external actions to take in the wake of a data security incident.
- Work with companies facing sophisticated attacks by cyber criminals, including malware, phishing campaigns, spoofing attempts, misdirected wires, and suspected email compromises.

### Litigation

- Represent clients in all forms of litigation associated with data breaches and other security incidents. This includes class action defense in federal and state courts across the country, and prosecution and defense of other complex matters.
- Represent clients in privacy litigation, including matters stemming from alleged violations of wiretapping statutes, the Video Privacy Protection Act (VPPA), and the Illinois Biometric Information Privacy Act (“BIPA”).

## Development and Implementation of Compliance Programs

- Build full-scale compliance programs for domestic and international operations, including:
  - Data mapping and risk assessments
  - Data subject access request management policies, procedures, and workflows
  - Negotiating agreements to reflect data privacy and data processing obligations
  - Drafting or updating internal and external privacy policies, notices, procedures, and consents
  - Artificial intelligence governance
- Privacy compliance for new product development, loyalty programs, and digital advertising campaigns
- Update data privacy and information security policies, procedures, and programs for businesses of all sizes with both domestic and international operations.

## Financial Services Compliance

- Assist insurers, broker-dealers, advisors, and agents in privacy and cybersecurity compliance, including compliance with the Gramm-Leach-Bliley Act and associated regulations, California Financial Information Privacy Act, California Consumer Privacy Act, state insurance laws, Fair Credit Reporting Act, Telephone Consumer Protection Act of 1991, and others.
- Draft applicable policies, notices, disclosures, and consents, such as privacy policies, notice of information practices, website notices, and incident response plans.
- Advise clients on automated underwriting issues, cyber risk management, and marketing and customer engagement initiatives.

- Negotiate data processing agreements and assist in development of mobile applications and platforms.
- Represented 35 of 45 insurance companies on the *Fortune 500* list in privacy, litigation, or regulatory matters.

## International Privacy Regulations and Global Policies

- Counsel clients on compliance with international privacy laws, such as the GDPR, Brazil's Lei Geral de Proteção de Dados (General Data Protection Law - LGPD), Canada's Personal Information Protection and Electronic Documents Act (PIPEDA), and others, including drafting requisite notices, processing privacy requests, and negotiating data processing agreements, including those involving cross-border data transfers.
- Counsel clients on compliance with International Standards of Organization (ISO), the internationally recognized best practices for personal data use, transmission, and storage.

## Employee Privacy Issues

- Advise employers on a wide range of privacy areas, including employee privacy notices and rights, such as those implicated by pre-employment background checks, post-hire investigations, employee monitoring, and employee biometrics.
- Counsel businesses on privacy issues related to work-from-home and BYOD policies.

## Health Privacy and Genetic Information

- Represent providers in incident response, regulatory investigations, and litigations regarding data breaches and privacy allegations.
- Develop and implement incident management response for data breaches relating to electronic personal health information.
- Manage security risk assessments to meet HIPAA, HITECH, and state health information privacy and security requirements.
- Develop and implement full suite of policies and procedures necessary for compliance with HIPAA's privacy and security rules.

- Create compliance programs to accommodate biometric data and genetic privacy laws.

## Privacy and Cybersecurity Trainings

- Provide off-the-shelf and white-label privacy training options to accommodate businesses of all sizes in privacy readiness and compliance, including trainings to meet compliance requirements for the CCPA, GDPR, LGPD, and HIPAA.
- Plan and conduct tabletop exercises with companies to simulate a breach event, targeting to the company's particular risk profile, and often in partnership with forensic experts and media relations professionals.

## Website and Digital Business Issues

- Advise clients regarding website technologies, including compliance and steps for mitigating the latest class action litigation related to the same.
- Draft privacy policies, social media policies, terms of use, and community policies, and develop internal legal management programs for emerging online issues.
- Assist clients with the wide-ranging issues that arise as a result of social media use and an internet presence.
- Provide privacy and security advice in connection with adtech solutions and digital monetization business lines.
- Work with clients on deploying robust online signature processes, terms and conditions, and, when appropriate, arbitration agreements and class action waivers, for web-facing business.

Learn more about our [Digital and E-Commerce Engagement and Innovation](#) practice.

## Due Diligence and Other Transactional Support

- Provide cybersecurity and privacy due diligence advice in connection with mergers and acquisitions, private equity investments, and other transactions.
- Represent private equity firms and other pooled-capital entities as standby counsel for their investigations into potential acquisitions, including of SaaS companies as well as more traditional brick-and-mortar companies for which cybersecurity is a concern, both at the term sheet level and pre-closing.

**Our attorneys are active and hold leadership positions in data privacy and cybersecurity organizations, such as:**

- International Association of Privacy Professionals (IAPP)
- International Security Management Association
- InfraGard
- U.S. Secret Service Cyber Fraud Task Force
- Florida Bar Association - Cyber and Privacy Committee
- ISSA (Information Systems Security Association)
- SANS (SysAdmin, Audit, Network, and Security)
- GIAC (Global Information Assurance Certification)

**Industries supported by our practice include:**

- Advertising
- Artificial intelligence
- Construction and real estate
- Consumer brands
- Data analytics
- E-commerce
- Education (K-12 and universities) and education technology (edtech)
- Electronic gaming and esports
- Financial services
- Healthcare
- Insurance
- Media and entertainment
- Private equity

- Professional services
- Retail
- Software
- Software as a service
- Technology
- Telecommunications
- Title insurance

## Experience

### Financial Services

- Assisted registered investment advisers with SEC cyber exams.
- Advised various financial institutions including insurers, producers, broker-dealers, and investment advisors regarding:
  - Notices and consents needed when seeking information about consumers from third parties or seeking to share consumers information with third parties for transactional or marketing purposes.
  - Handling of consumer data subject requests to know, correct, delete, or limit sharing.
  - Responding to, and preparing for, examinations regarding cybersecurity and privacy practices.
- Advised large financial entities regarding contractual privacy provisions, privacy compliance, and cybersecurity insurance coverage.

### Health Care

- Defended data breach class actions, including (i) a hospital system after the alleged theft of personal health and financial data of hospital patients; and (ii) a multi-office medical practice that was the victim of a ransomware attack. In such cases, we have won at the motion to dismiss phase and class certification phases, and we have, in consultation with our clients and their insurance carriers, arranged for favorable resolutions at mediation.
- Drafted comprehensive HIPAA compliance program for HIPAA-covered entity, including drafting associated policies and procedures.

- Managed breach response for various HIPAA entities, including covered entities and business associates, throughout breach investigation, required reporting and notifications, and any associated litigation.
- Advised business associate regarding compliance with the CCPA, including drafting necessary privacy notices and establishing procedures for processing associated privacy requests.

## **Litigation**

- Represented numerous defendants across industries in data breach class actions and demands alleging privacy violations.
- Defended clients under investigation by federal and/or state government agencies after complaints of privacy violations or data breaches. We frequently help clients, for example, that are subject to HIPAA privacy and security regulations respond to investigations by the U.S. Department of Health and Human Services' Office for Civil Rights.

## **Cybersecurity**

- Served as breach coach and notifications counsel for law firms responding to extortionate ransomware attacks.
- Helped dozens of corporate clients that have experienced data breaches due to theft (e.g., stolen laptops and servers), social engineering fraud (phishing, misdirected wires), hacking (stolen passwords, brute force attacks), malware (e.g., ransomware), and accident (e.g., natural disasters, lost backup tapes).
- Served as incident response counsel for numerous private schools.
- Served as breach coach and notifications counsel in responding to an extortionate ransomware attack on a B2B company with international operations, coordinating forensic response, threat actor engagement, coordination with law enforcement, and public and business-partner communications.
- Assisted in M&A due diligence of payments companies and cyber surveillance companies.
- Served as the outside general counsel to education clients on privacy and cybersecurity legal issues, including advice on remote learning, interpretation of FERPA, issues related to sexting and cyberbullying, and incident response. Our clients include colleges and universities, as well as some of the country's top private K-12 schools, school districts, and charter schools.

## **Privacy Compliance**

- Created privacy policies and website terms of use.

- Drafted and negotiated data processing agreements and contractual provisions for vendor management.
- Drafted internal privacy and cybersecurity policies and procedures, including breach response, data retention/destruction, and others.
- Scaled privacy compliance programs as outside counsel from startup to IPO.
- Helped clients understand privacy compliance steps needed to expand current uses of consumer information.
- Assisted and represent clients with creation and implementation of vendor management programs, including policies and procedures related to vendor risk assessment, vendor due diligence, vendor supervision, and vendor contract negotiation and management.
- Helped clients implement companywide privacy and security policies to ensure protection of sensitive data.
- Helped clients design beginning-to-end privacy compliance programs for new products, means of advertising, or other uses of consumer data, including drafting and strategic placement of all necessary notices and authorizations, as well as negotiating associated contracts.
- Developed and implement GDPR compliance programs for international social media software as a service platform.
- Advised multiple *Fortune* 500 companies regarding adjustments needed to comply with new state privacy laws.
- Advised regarding privacy and cybersecurity risk management, including key contractual provisions and policy best practices.
- Designed and implemented privacy program for large U.S.-based retailer.

## Emerging Technology

- Advised businesses of varying sizes regarding use of artificial intelligence, including analysis of risks, required policies and procedures, contract negotiations, and required disclosures and rights associated with the same.
- Counseled businesses across industries regarding use of various technologies and methods for increasing digital engagement, including use of various advertising technologies.
- Advised regarding launch and maintenance of mobile applications.

## Insights



05.16.2024

4 Tips for Health Tech Apps After the FTC's Revised Breach Notification Rule

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05.09.2024

Cybersecurity and AI Certification

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Current Standings of AI Guidance and Requirements by State

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Racing Ahead: Privacy, Cybersecurity, and AI Heats for the Life Insurance Industry

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No Password Required: LIVE From Sunshine Cyber Con

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HHS Announces Final Rule on Reproductive Health Care Privacy

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HHS Warns Health Care Sector of AI-Driven Phishing, Social Engineering Attacks on IT Help Desks

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10 Tips for Navigating Privacy, Cybersecurity, and AI in the Workplace

*Westlaw Today*

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No Password Required: President at Constellation Cyber, Former FBI Translator, and Finder of Non-Magical Mushrooms

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Change Healthcare Cyberattack Emphasizes Importance of Cybersecurity Readiness; Considerations for Hardening Your Cybersecurity Program

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No Password Required: Security Analyst at Rice University, WiCys Global Book Club Host, and No Password Required's Poet Laureate

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No Password Required: American University's Vice Provost for Research and Innovation and a Tracker of (Cyber) Unicorns

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Lawsuits Alleging Violations of Illinois' GIPA Are Piling Into Court Like Clowns Out of a Circus Car

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Preparing for 2024: Encore to 2023's Cyber and Privacy Extravaganza

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No Password Required: Executive Director at National Cybersecurity Alliance, a People-First Leader, and a Cyber Satirist

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No Password Required: Chief Adversarial Officer at Secure Yeti, a DEF CON Groups Global Ambassador, and a World-Class Awkward Hugger

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11.20.2023

No Password Required: CEO and Founder of AnzenSage, Defender of the Food Sector, and Friend to Primates

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10.25.2023

No Password Required: Founder and Commissioner of the US Cyber Games, CEO of the Cyber Marketing Firm Katzcy, and Someone Who Values Perseverance Over Perfection

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12 Tips to Help Your Business Address Generative AI Risks

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NAIC Privacy Working Group Goes All-in on New Draft Privacy Model

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SEC Deals New Cybersecurity Disclosure Requirements to Public Companies

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No Password Required: Threat Intelligence Analyst at Recorded Future, the Ransomware Sommelier, and a Guy With a Mildly Exciting Expense Account

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Verizon False Claims Act Settlement Signals DOJ's Sustained Focus on Cybersecurity-Related Violations

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No Password Required: CEO of Paragon Cyber Solutions, Family-Night Game Champion, and Calculated-Risk Taker

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Four Points for Your Artificial Intelligence Acceptable Use Policy

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No Password Required: Founder of Cyber Security Unity, Member of the Order of the British Empire, and Appreciator of '80s Soap Operas

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Four Key Cybersecurity and Privacy Considerations for Organizations Using Generative AI

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No Password Required: Threat Researcher at Cisco Talos and a Veteran of the Highest-Profile Cyber Incidents Who Roasts His Own Coffee Beans

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Florida Passes New Privacy Law: What It Means for Businesses

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NAIC's New Privacy Protections Recipe

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SEC Stirs Its Pot of Cybersecurity Preparedness and Response Proposals

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It's 3 AM: Do You Know What Your Website Is Doing? Tips for Reducing Regulatory and Litigation Risk Stemming From Website Technologies

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It's 3 AM: Do You Know What Your Website Is Doing? Tips for Reducing Regulatory and Litigation Risk Stemming From Website Technologies

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No Password Required: Gautam "Gotham" Sharma, a Cybersecurity Consultant and Comedian Who Injects Fun Into Infosec

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Website Tech Fueling Privacy Litigation: How to Reduce Your Risk

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No Password Required: The Teenage CEO of Girls Who Hack and Secure Open Vote, Who Is as Comfortable Behind a Mic as She Is Behind a Keyboard.

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March Madness Begins: NAIC's New Draft Privacy Model

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No Password Required: A Security Engineer and Budding Surfer Who Took PentesterLab From Side Hustle to Global Success

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New Year, New Privacy Shakedowns: Six Resolutions for Keeping Warm

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A New Draft Privacy Model Blooms From the NAIC Privacy Working Group

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No Password Required: A Developer Advocate With Auth0 and an "Accordion Guy" With Rockstar Aspirations

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Website Data Practices Fueling Privacy Class Actions: Six Tips for Reducing Risk

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FINRA Issues 2023 Report on Examination and Risk Monitoring Program

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No Password Required: Former Commander, United States Central Command, Executive Director of Cyber Florida and an Appreciator of Battlefield Beef Enchiladas

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No Password Required: An FBI Special Agent's Journey from Submarines to Anti-Corruption to Cybersecurity

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No Password Required: A Senior Product Manager at GitLab With an Instagram Alter Ego That Puts Her in Privacy Superhero Territory

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SEC Plants New Cybersecurity Regulations; Time Will Tell What Will Bloom

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Regulation S-ID: Financial Institutions Take Note

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Learn From Lemonade's Privacy Lemon: Sweeten Compliance to Lessen Litigation Bitterness

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No Password Required: The Bob Ross of Infosec, Whose Secretive Job at KnowBe4 Solves Cybersecurity's Most-Urgent Issues

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Technical Controls That Protect Data When in Use and Prevent Misuse

*Journal of Data Protection & Privacy*

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No Password Required: The Sailing CTO of Sylint Group Who Routinely Defends Against Nation-State Attacks on Critical Infrastructure

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No Password Required: The Former NSA Director, an Elite Storyteller Whose Life Resembles a Grisham Novel

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No Password Required: A Cybersecurity Education Specialist, Whose Passions Include the Forest, DIY, and Deviled Eggs

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NAIC's Privacy Protections Working Group Plans Extended Growing Season for Fall 2023 Harvest

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Action-Packed Spring for NAIC Special Committee on Race and Insurance

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NAIC's New Cybersecurity Working Group Prepares for Planting

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Seeking Clarity on Medical Privacy in Fla. Class Actions

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DOJ's First Cyber-Fraud Settlement Places Emphasis on Cybersecurity Shortfalls

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The SEC Has Proposed a New Cyber Disclosures Rule for Public Companies

*ABA Securities Litigation Practice Points*

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Four Takeaways From the SEC's Proposed Cyber Rule for Public Companies

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Regulators Forecast Storm of Cybersecurity Activity

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When Congress Freezes Up, the NAIC's Privacy Protections Working Group Lights a Fire

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AI Insurance Company Faces Class Action for Use of Biometric Data

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FTC Sharpens Its Cyber Enforcement Tool by Amending and Expanding the Safeguards Rule

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The Missing Piece: Engaging Employees in Building Zero-Trust Environments

***CISO MAG***

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DOJ's New Enforcement Team May Intensify Push to Recover Cyberattack Payments

***Connecticut Employment Law Letter***

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DOJ Unveils New Initiative to Pursue Cybersecurity-Related Fraud by Government Contractors and Grant Recipients

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New DOJ Enforcement Team Suggests DOJ May Take Additional Efforts to Recover Cyberattack Ransoms

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New Cybersecurity Enforcement Through DOJ's Civil Cyber-Fraud Initiative and the False Claims Act

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Top Considerations for Businesses Under Jamaica's Data Protection Act, Effective 2022

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Diving Into IoT Data? Here Are Some Privacy Considerations

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Credential Stuffing: Where Passwords Go When They Are Stolen and Some Strategies for Defense and Incident Response

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Bracing for 2023: 10 Steps to Prepare for a New Era in U.S. Privacy

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Get Your House in Order: Four Steps to Take Now to Prepare for Ransomware

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Ransomware Attacks and Class Action Litigation: A Two-Headed Monster

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Spring Is Hot for State Privacy Legislation

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Cast Into the Deep: Questions for Charting New Privacy Waters

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Florida's New Privacy Bill Promises Big Changes

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Data Privacy Day: New York and Washington State Legislatures on the Move With New Privacy Bills – CA Privacy Law Web Event

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Health Care Providers Are Under Attack. Are You Ready for 2021?

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Ledgers and Law: Real-World Planning for Cyber Attacks

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California Privacy Rights Act: Compliance Objectives for 2021

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Eleventh Circuit Decisions May Chill Future Data Breach Class Actions

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Not If, But When: Applying the ADA's Accessibility Requirements to Mobile Apps

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The Realities and Legalities of Ransomware and Incident Response  
*Digital Hands Cybersecurity Roundtable*

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California Privacy Rights Act Passes in California: What You Need to Know Now

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Brazil's LGPD: What You Need to Know Before 2021

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October Surprise: California Attorney General Releases Further Modifications to CCPA Regulations

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EU Data Protection Authority Levies Its First Fine for Violations of the GDPR

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The Impending Cookie "Crackdown": Irish Data Protection Commission Expected To Start Enforcement of Its Cookie Guidance This Fall

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Genetic and COVID-19 Testing Companies Set To Be Regulated in California

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California Bill Extending Employment and B2B Compliance Obligations for CCPA Heads to Governor Newsom's Desk

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AI Challenges for Securities Firms: Key Summer Reading From FINRA

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Guidance Released From German Data Protection Authority: Time to Review EU Data Transfer Mechanisms

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The California Consumer Privacy Act: Are You Ready?

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The Final CCPA Regulations May Be Ready, But Is Your Business?

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Final CCPA Regulations Submitted, but Compliance Burden Could Increase

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HIPAA Compliance for Work-From-Home or Telehealth Programs: Five Frequently Overlooked Considerations

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U.S. Supreme Court to Weigh in on Computer Fraud and Abuse Act (CFAA) for the First Time

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10 Privacy Recommendations for Health App Developers From the AMA's Latest Privacy Principles

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NAIC Restarts Its Work Revising Its Model Privacy Provisions

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Five Steps to Prepare for Telehealth Data Breach Litigation

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10 Steps for Responding to a Telehealth Data Breach

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Six Steps to Protect Against Increased Telehealth Cybersecurity Dangers

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OCIE Continues Relentless Cybersecurity Focus

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Privacy and Security Tips for Educators

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Privacy and Cybersecurity Perils in Hastily Signed Work-From-Home Vendor Contracts

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Compliance Tips for Distance Learning at Independent and Public Schools

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COVID-19 and Cybersecurity: Best Practices in an Uncertain Landscape

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Canna We Talk Cannabis? Cybersecurity Risks Bring Growing Pains to Cannabis Businesses

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Here Are Seven Phrases That Can Help Your Business Avert Cybersecurity Attacks

*Miami Herald*

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The CCPA for the Land Title Industry: Who Does the CCPA Apply To?

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Florida's Legislature to Consider Consumer Data Privacy Bill Akin to California's CCPA

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Recent Cases Indicate Viability of False Claims Act Liability Connected to Federal Cybersecurity Standards

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When Google Meets HIPAA: Some Privacy and Regulatory Issues as Silicon Valley Enters the Health Care Space

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California Consumer Privacy Act: A Reference Guide for Compliance

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Carlton Fields Rolls Out Blockchain, Crypto, and Virtual Currency State Legislation Tracker

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The Imitation Game: How the CCPA Is Inspiring Other States to Regulate Consumer Data and Online Privacy

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Applying the CCPA to Health Care: The HIPAA Exemption, Exercise Apps, and Marketing Data

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Are Banks and Other Lenders Subject to the CCPA?

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Fortnite Suit Highlights Game Cos.' Need For Privacy Vigilance

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The CCPA's Impact on Businesses Processing Personal Data of Minors and Children

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## Related Capabilities

### Practices

- AdTech
- Aviation
- Banking, Commercial, and Consumer Finance
- Blockchain and Digital Currency
- Business Transactions
- Class Actions
- Construction
- Consumer Finance

### Industries

- Banking, Commercial, and Consumer Finance
- Construction
- Health Care
- Life, Annuity, and Retirement Solutions
- Life, Annuity, and Retirement Solutions
- Property & Casualty Insurance
- Real Estate
- Securities & Investment Companies

- Corporate Law and Governance
  - Cyber Insurance Coverage Disputes
  - Digital and E-Commerce Engagement and Innovation
  - Discrimination
  - Education
  - Energy and Utilities
  - Esports and Electronic Gaming
  - Global Anti-Corruption
  - Government Law & Consulting
  - Health Care
  - Intellectual Property
  - Intellectual Property Litigation
  - Internal Investigations
  - International Privacy Compliance
  - Labor & Employment
  - Life, Annuity, and Retirement Solutions
  - Litigation and Trials
  - Media, Entertainment, Music & Sports
  - Private Equity and Venture Capital
  - Real Estate
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  - Technology
  - Telecommunications
  - Telecom: Transactions
  - Telecom: Litigation and Arbitration
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