Index

ANTITRUST LITIGATION—Cont'd

ACCESSIBILITY

Sherman Act, Section 1—Cont'd Website Accessibility, this index e-commerce activities, government ADVERTISING AND enforcement, § 18:4 to 18:8 **ADVERTISEMENTS** payment cards, above California false advertising law, Sherman Act, Section 2 § 8:27 generally, § 18:9 to 18:14 **AMERICANS WITH** Apple, private litigation, § 18:13 **DISABILITIES ACT (ADA)** Facebook, § 18:11 Website Accessibility, this index Google government enforcement, ANTI-CYBERSOUATTING § 18:12 **CONSUMER PROTECTION** private litigation, § 18:14 **ACT** technology companies and social Generally, § 7:10 media platforms, government Vicarious liability, § 7:11 enforcement ANTITRUST LITIGATION generally, § 18:10 Generally, § 18:1 to 18:14 Facebook, § 18:11 Antitrust law, generally, § 18:2 Google, § 18:12 Apple, § 18:13 Tying arrangements, payment card Conspiracy, payment card litigation, litigation, § 18:7 § 18:6 Vertical restraints, payment card litigation, § 18:8 E-commerce activities, government enforcement, § 18:4 to 18:8 **APPLE** Facebook, § 18:11 Private antitrust litigation, § 18:13 Google. Sherman Act, Section 2, below **ARBITRATION** Increasing scrutiny of technology California Consumer Privacy Act, companies, § 18:1 enforceability of arbitration Payment card litigation clauses, § 9:16 generally, § 18:5 to 18:8 ATTORNEY-CLIENT PRIVILEGE conspiracy, § 18:6 Retail data breaches, § 3:3 tying arrangements, § 18:7 vertical restraints, § 18:8 **BAILMENTS** Private litigation Financial institutions and financial Apple, § 18:13 services companies, § 5:20 Google, § 18:14 **BALTIMORE** Sherman Act, Section 1 generally, § 18:3 to 18:8 Biometrics laws, § 16:30

BANKS

Financial Institutions and Financial Services Companies, this index

BIOMETRICS LAWS

Baltimore, § 16:30 New York City, § 16:31 Portland, Oregon, § 16:32

BIOMETRICS PRIVACY LITIGATION

Generally, § 16:1, 16:26 Illinois Biometric Information Privacy Act Generally, § 16:2 to 16:26 accrual of claim, § 16:17 Article III standing, § 16:22 biometric identifier generally, § 16:3 to 16:8 anonymity, § 16:8 Facebook settlement, § 16:7 health care exception, § 16:4 photographs, § 16:5 scans, § 16:6 data protection requirements, § 16:14 defenses, § 16:18 to 16:25

extraterritoriality, § 16:23
free speech, web scraping and,
§ 20:40
informed consent
prior to collection, § 16:11
release to disclosure, § 16:13

preemption, § 16:24 private right of action, § 16:16 profiting from biometric information, § 16:15

publicly available information, § 16:25

requirements, § 16:9 to 16:15 retention and destruction, § 16:10 standing, § 16:20 to 16:22 statute of limitations, § 16:19 third-party vendors, § 16:26 trade, restriction on, § 16:12

BIOMETRICS PRIVACY LITIGATION—Cont'd

Illinois Biometric Information
Privacy Act—Cont'd
web scraping and free speech,
§ 20:40
Texas laws, § 16:28

Texas laws, § 16:28
Washington laws, § 16:29

BREACH OF CONTRACT

Financial institutions and financial services companies, § 5:9, 5:10

Healthcare data breaches, § 4:23, 4:24

Implied contracts financial institutions ad financial services companies, § 5:10

services companies, § 5:10 healthcare data breaches, § 4:24 Retail Data Breaches, this index Web Scraping, this index

BULLYING

Cyber harassment, stalking and bullying, state laws, **§ App. 7A**

CALIFORNIA

Anti-hacking statute, § 20:35, 20:36
Comprehensive Data Access and
Fraud Act, § 17:28
Consumer Legal Remedies Act,
§ 5:24, 17:29

Consumer Privacy Act generally, § 9:1 to 9:17 arbitration clauses, enforceability, § 9:16

Attorney General enforcement, § 9:6

causes of action, § 9:8 to 9:10
consumer rights and business
obligations, § 9:5
curing violation defense, § 9:14
data breach litigation, § 9:8
defenses, § 9:11 to 9:16
future issues, § 9:17
hybrid claims involving Unfair
Competition Law, § 9:10
legislative history, § 9:2

CALIFORNIA—Cont'd Consumer Privacy Act—Cont'd personal information, defined, § 9:4 tion, § 12:4 personal jurisdiction defense, § 9:12 private rights of action, § 9:7 reasonableness of security measures defense, § 9:15 ACT retroactive application not permitted, § 9:11 20:9 standing defense, § 9:13 threshold for applicability, § 9:3 unauthorized sharing, litigation alleging, § 9:9 venue defense, § 9:12 website accessibility requirements, of, § 11:23 § 19:12 E-mail and Non-sensitive Information Breaches, this index Mens rea, § 11:24 Healthcare Data Breaches, this index Invasion of Privacy Act, § 17:22, 17:16 17:23 Online Tracking Litigation, this index **Unfair Competition Law** Types of claims, § 11:20 e-mail and non-sensitive informa-Web scraping tion breaches, § 8:23 to 8:26 financial information breaches, § 5:23 hybrid claims involving Consumer Privacy Act, § 9:10 misrepresentation prong, § 17:26 standing, § 17:27 unfair conduct prong, § 17:25

CGL POLICIES

Cyberinsurance, this index

unlawful prong, § 17:24

CHILDREN'S ONLINE PRIVACY **PROTECTION ACT**

Generally, § 17:19 to 17:21 Actual knowledge, § 17:20 Ad networks and developers, claims against, § 17:20, 17:21 Reliance on schools as intermediaries, § 17:21

CLASS ACTIONS

Retail Data Breaches, this index Securities litigation, class certifica-

COMMON CARRIERS

Federal Trade Commission, § 21:32

COMPUTER FRAUD AND ABUSE

Generally, § 11:17 to 11:26, 20:5 to

Actual access, § 11:21

Conspiracy liability, third-parties and subsequent employers, § 11:25

Damages, § 11:26, 17:16

Exceeds authorized access, meaning

Loss, defined, § 11:18

Online tracking litigation, § 17:15,

Statute of limitations, § 11:19

Terroristic Breaches, this index

generally, § 20:5 to 20:9

Web Scraping, this index

Without authorization, what constitutes, § 11:22

CONFIDENTIALITY, BREACH OF

Healthcare data breaches, § 4:19

CONNECTICUT

Healthcare data breaches, negligence per se, § 4:14

CONSPIRACY

Antitrust litigation related to payment cards, § 18:6

Computer Fraud and Abuse Act, conspiracy liability of third-parties and subsequent employers, § 11:25

Terroristic breaches, civil conspiracy claims, § 7:16

CONSTITUTIONAL CHALLENGES

Driver's Privacy Protection Act Litigation, this index

CONSUMER PRIVACY ACT

California, this index

CONSUMER PROTECTION CLAIMS

E-mail and Non-sensitive Information Breaches, this index
Hackability claims, § 10:4
Video Privacy Litigation, this index

CONVERSION

Healthcare data breaches, § 4:20

COPYRIGHT

Web Scraping, this index

CRYPTOCURRENCY BREACHES

Generally, § 5:32

CYBER HARASSMENT, STALKING AND BULLYING

State laws, § App. 7A

CYBERINSURANCE

Generally, § 13:1 to 13:12 Commercial general liability (CGL) policies

generally, § 13:1 to 13:7

personal and advertising liability provisions

generally, § 13:5

publications under provisions, § 13:6

property damage provisions

generally, § 13:2 to 13:4

coverage limited to insured's loss, § 13:4

whether loss constitutes property, § 13:3

third-party actions, § 13:7

Crime and fidelity policies

generally, § 13:9 to 13:11

directness, § 13:11

more than general fraud, § 13:10

CYBERINSURANCE—Cont'd

Dedicated cyber polices, coverage for data breaches, § 13:12

Director and officer policies, coverage for cybersecurity events, § 13:8

Personal and advertising provisions. CGL policies, above

Property damage. CGL policies, above

Third-party actions, CGL policies, § 13:7

CYBERSQUATTING

Anti-cybersquatting Consumer Protection Act, this index

DAMAGES

Computer Fraud and Abuse Act, § 11:26

Financial institutions and financial services companies, negligence claim, § 5:16

Healthcare Data Breaches, this index Retail Data Breaches, this index Web scraping, trespass to chattels, § 20:12

Website accessibility litigation, § 19:23

DATA BREACH LITIGATION

Generally, § 1:1 et seq.

Biometrics Privacy Litigation, this index

Computer Fraud and Abuse Act, this index

Cyberinsurance, this index

Defense of Trade Secrets Act, this index

E-mail and Non-sensitive Information Breaches, this index

Employee breaches

Computer Fraud and Abuse Act, this index

Defense of Trade Secrets Act, this index

theft of company proprietary, confidential or trade secret

DATA BREACH LITIGATION

DATA BREACH LITIGATION

—Cont'd —Cont'd Employee breaches—Cont'd Reasonable security measures information, § 11:1 —Cont'd reasonableness standard, § 2:1 Fair and Accurate Credit Transaction Act violations, post-Spokeo regulatory enforcement, failure to standing, **§ 1:12** maintain, § 2:7 Fair Credit Reporting Act violations, responsible individual, designatpost-Spokeo standing, § 1:11 ing, § 2:11 to 2:17 Financial Institutions and Financial retail data breaches, § 3:9 Services Companies, this index senior corporate management, FTC enforcement. Federal Trade including, § 2:17 Commission, this index service providers, exercise of dili-Hackability Claims, this index gence and oversight, § 2:14 Healthcare Data Breaches, this index standardized controls, § 2:6 Illinois Biometric Privacy Act violastate statutes and regulations, § 2:4 tions, post-Spokeo standing, training and preparation of § 1:13, 1:14 employees for incidents, Insurance. Cyberinsurance, this index § 2:15 Privacy rights, federal statutes Retail Data Breaches, this index involving, § App. 1A Securities and Derivative Litigation. Reasonable security measures this index generally, § 2:1 to 2:17 Security measures. Reasonable secuappropriate controls, implementrity measures, above ing, § 2:13 Standing board of directors, including, generally, § 1:1 to 1:14 § 2:17 Article III standing, § 1:1, 1:2 complying with reasonable secudelayed or inadequate notification, rity measures standard, § 2:10 § 1:6 to 2:17 early holdings, § 1:3 to 1:6 designating responsible individual, Fair and Accurate Credit Transac-§ 2:11 to 2:17 tion Act violations, postdiligence and oversight of service Spokeo standing, § 1:12 providers, § 2:14 Fair Credit Reporting Act violaemployee training and preparation tions, post-Spokeo standing, for incidents, § 2:15 § 1:11 evaluation of effectiveness, § 2:16 Illinois Biometric Privacy Act federal agency guidance, § 2:5 violations, post-Spokeo standfederal statutes and regulations, ing, § 1:13, 1:14 § 2:3 privacy rights, federal statutes initial and annual risk assessments, involving, § App. 1A § 2:12 remedial and mitigation costs, international actions, § 2:9 § 1:5, 1:9 judicial actions, failure to risk of future harm maintain, § 2:8 early holdings, § 1:3, 1:4 legal framework for reasonableness, § 2:2 to 2:6 post-Clapper, § 1:4

DATA BREACH LITIGATION —Cont'd

Standing—Cont'd
risk of future harm—Cont'd
post-Spokeo, § 1:9
Spokeo v. Robins
generally, § 1:7
increased risk of future harm,
§ 1:9
mitigation costs, § 1:9
other potential statutory claims,
§ 1:10 to 1:14
post-Spokeo standing, § 1:8 to
1:14

Terroristic Breaches, this index Trade secrets. Defense of Trade Secrets Act, this index

DATA PRIVACY LITIGATION

Generally, **§ 14:1 et seq.**Children's Online Privacy Protection
Act, this index

Driver's Privacy Protection Act Litigation, this index

Online Tracking Litigation, this index Video Privacy Litigation, this index

DECEPTIVE ACTS OR PRACTICES

Federal Trade Commission, this index

DEFAMATION

Terroristic breaches, state claims, § 7:12, 7:13

DEFENSE OF TRADE SECRETS ACT

Generally, § 11:2 to 11:16

Acquired from, or derived through, person under duty to maintain secrecy, § 11:12

Defenses

generally, § 11:13 to 11:15 insufficient particularity, § 11:14 reasonable measures, plaintiff did not employ, § 11:15

Definition of trade secret, § 11:6

DEFENSE OF TRADE SECRETS ACT—Cont'd

Effective date, § 11:3

Improper means to acquire knowledge, § 11:11

Inevitable disclosure doctrine, § 11:4 Insufficient particularity defense, § 11:14

Interstate commerce requirement, § 11:3

Misappropriation of trade secret generally, § 11:8

unlawful acquisition as form of misappropriation, § 11:9

Proper plaintiff, identifying in complaint, § 11:5

Reasonable measures

keeping information secret, § 11:7 plaintiff did not employ defense, § 11:15

Remedies, § 11:16

Unlawful acquisition as form of misappropriation, § 11:9

Unlawful use or disclosure

generally, § 11:10 to 11:12

acquired from, or derived through, person under duty to maintain secrecy, § 11:12

improper means to acquire knowledge, § 11:11

DERIVATIVE LITIGATION

Securities and Derivative Litigation, this index

DIGITAL MILLENNIUM COPYRIGHT ACT

Web Scraping, this index

DIGITAL RIGHTS CLAIMS

Generally, **§ 18:1 et seq.**Antitrust Litigation, this index
Web Scraping, this index
Website Accessibility, this index

DISTRICT OF COLUMBIA

Healthcare data breaches, negligence and duty to safeguard information, § 4:10

DRIVER'S PRIVACY E-MAIL AND NON-SENSITIVE PROTECTION ACT INFORMATION BREACHES LITIGATION —Cont'd California Generally, § 15:1 to 15:15 Consumer Records Act, § 8:42 Anti-commandeering, constitutional challenge, § 15:11 Customer Records Act, actual damages required for delay in Civil cause of action, § 15:13 reporting, § 8:41 Constitutional challenges deceit by concealment, below anti-commandeering, § 15:11 false advertising law, § 8:27 Tenth and Eleventh Amendment, Legal Remedies Act. Consumer § 15:12 protection claims, below Duty of reasonable care, § 15:6 unfair competition law. Consumer Enumerated exceptions, § 15:4 protection claims, below Improper uses, § 15:9 Causation where multiple breaches, Legal solicitation, § 15:9 § 8:12 Mixed use cases, § 15:7 Common law claims, state, § 8:10 to Permissible use 8:21 generally, § 15:3 to 15:8 Concealment. Deceit by concealment in California, below duty of reasonable care, § 15:6 Consumer protection claims enumerated exceptions, § 15:4 generally, § 8:22 to 8:39 mixed use cases, § 15:7 California false advertising law, not affirmative defense, § 15:8 § 8:27 resale or redisclosure, § 15:5, 15:6 California Legal Remedies Act Qualified immunity, § 15:10 generally, § 8:28 to 8:30 Remedies, § 15:15 continued use after learning of Resale or redisclosure breach, § 8:29 generally, § 15:5 software as good or service, duty of reasonable care, § 15:6 § 8:30 Standing, § 15:14 California unfair competition law Statutory history, § 15:2 generally, § 8:23 to 8:26 Tagging and marketing, § 15:9 fraudulent omissions as to data Tenth and Eleventh Amendment chalsecurity, § 8:25 lenges, § 15:12 misrepresentations as to data security, § 8:24 **DUE PROCESS** restitution damages, § 8:26 Website accessibility litigation, Florida Deceptive and Unfair § 19:21 Trade Practices Act, § 8:31 E-MAIL AND NON-SENSITIVE Maryland Consumer Protection INFORMATION BREACHES Act claims, § 8:32 Generally, § 8:1 to 8:43 Michigan Consumer Protection Act Advertising, false, California law, generally, § 8:33 § 8:27 reliance, § 8:34 Breach of contract and limitation of Missouri Merchandising Practices

liability provisions, § 8:20

Act, § 8:35

E-MAIL AND NON-SENSITIVE E-MAIL AND NON-SENSITIVE INFORMATION BREACHES INFORMATION BREACHES -Cont'd -Cont'd Consumer protection claims—Cont'd Multiple breaches and causation, New Hampshire Consumer Protec-§ 8:12 tion Act, § 8:36 Negligence New York duty to safeguard data, § 8:10 Deceptive Practices Act, § 8:38 economic loss doctrine, § 8:13, 8:14 General Business Law, § 8:37 negligence per se in Georgia, Texas Deceptive Trade Practices Act, § 8:39 § 8:11 Continued use after learning of Notification laws, state data breach breach, California Legal Remegenerally, § 8:40 to 8:43 dies Act, § 8:29 California Consumer Records Act. Damages § 8:42 California unfair competition law, California Customer Records Act, restitution damages, § 8:26 actual damages required for deceit by concealment in Califordelay in reporting, § 8:41 nia, § 8:17 Maryland Personal Information punitive damages, § 8:21 Privacy Act claims, § 8:43 Deceit by concealment in California Passwords as sensitive, evolving recognition, § 8:2 generally, § 8:15 to 8:17 Punitive damages, § 8:21 damages, § 8:17 Restitution damages, California reliance where plaintiffs fails to unfair competition law, § 8:26 discontinue use of service, § 8:16 Software as good or service, California Legal Remedies Act, § 8:30 Deceptive or unfair trade practice Special relationship between users acts. Consumer protection and online service providers, claims, above § 8:14 Delay in reporting as actual harm, § 8:7 Standing in data breach cases generally, § 8:3 to 8:9 Duty to safeguard data, § 8:10 Economic loss doctrine benefit of bargain, § 8:8 delay in reporting as actual harm, generally, § 8:13 § 8:7 special relationship between users and online service providers, identity theft, fear of, § 8:4, 8:9 § 8:14 loss of time as actual harm, § 8:5 Evolving recognition, e-mails and loss of value of personal data, passwords as sensitive, § 8:2 § 8:6 False advertising law, California, Unfair or deceptive trade practice § 8:27 acts. Consumer protection

claims, above

Unjust enrichment

generally, § 8:18

§ 8:19

express contract, existence of,

Identity theft, fear of, § 8:4, 8:9

§ 8:20

Limitation of liability provisions,

Loss of time as actual harm, § 8:5

Loss of value of personal data, § 8:6

EMOTIONAL DISTRESS

Healthcare data breaches, common law damages, § **4:29**

EMPLOYEE BREACHES

Generally, § 11:1 to 11:26

Computer Fraud and Abuse Act, this index

Defense of Trade Secrets Act, this index

Theft of proprietary, confidential or trade secret information, § 11:1

ERISA BREACHES

Generally, § 6:1 to 6:19

Breach of fiduciary duty claims generally, § 6:10 to 6:13 plan sponsor liability, § 6:12 record keeper liability, § 6:13 third-party plan administrator and

custodian liability, § 6:11

Cybersecurity. Retirement plan cybersecurity, below

Denial of benefits claims, § 6:14

Fiduciary duties and responsibilities generally, § 6:4 to 6:13

breach of duty claims, above cybersecurity responsibilities, § 6:5

ERISA fiduciary, defined, § 6:3 participant data, duty to protect and manage, § 6:6

third-party service providers, duty to manage, § 6:9

Fraud and deceptive practices, state law claim against third-party record keeper, ERISA preemption, § 6:15

Healthcare data, ERISA preemption, § **4:49**

Overview of ERISA, § 6:2

Participant data

fiduciary duty to protect and manage, § 6:6

plan asset, data as, § 6:7, 6:8 Plan sponsor liability, § 6:12

ERISA BREACHES—Cont'd

Preemption

healthcare data breaches, § 4:49 state law claims of fraud and deceptive practices, § 6:15

Record keeper liability

generally, § 6:13

state law claims of fraud and deceptive practices, ERISA preemption, § 6:15

Retirement plan cybersecurity fiduciary responsibilities, § 6:5 legislative guidance, § 6:16 regulatory guidance, § 6:17 regulatory initiatives, § 6:19 regulatory investigations, § 6:18

Third-party plan administrator and custodian liability, **§ 6:11**Third-party service providers fidu

Third-party service providers, fiduciary duty to manage, § 6:9

EUROPEAN UNION

General Data Protection Regulation, this index

FACEBOOK

Internet tracking litigation, § 17:33
Settlement under Illinois Biometric
Information Privacy Act, § 16:7
Sherman Act Section 2, § 18:11

FAIR AND ACCURATE CREDIT TRANSACTION ACT

Post-Spokeo standing, § 1:12

FAIR CREDIT REPORTING ACT

Financial institutions and financial services companies, § 5:5, 5:6 FTC, data security authority, § 21:27 Post-Spokeo standing, § 1:11

FEDERAL TRADE COMMISSION (FTC)

Generally, § 21:1 to 21:32 APA rulemaking, § 21:31 Civil penalty authority, § 21:30 Common carriers, § 21:32

FEDERAL TRADE COMMISSION (FTC)—Cont'd Consent orders, unfair or deceptive practices, § 21:8 Data breaches, FTC enforcement	FEDERAL TRADE COMMISSION (FTC)—Cont'd Gramm-Leach-Bliley Act, data security authority, § 21:26 Health breach notification rule, data
generally, § 21:12 to 21:21 data minimization, § 21:13 employees, § 21:16	security authority, § 21:28 Nonprofits, § 21:32 Rulemaking
encryption, § 21:19 escalating security issues, § 21:21 risk assessments, § 21:15	APA rulemaking, § 21:31 unfair or deceptive practices, § 21:6 Structure of FTC, § 21:2
secure development and deployment, § 21:14 secure disposal, § 21:20	Unfair or deceptive practices, FTC authority generally, § 21:3 to 21:10
technical security measures, § 21:18 third party oversight, § 21:17 Data security authority	consent orders, § 21:8 deceptive acts or practices, § 21:4 enforcement
generally, § 21:25 to 21:28 Fair Credit Reporting Act, § 21:27 Gramm-Leach-Bliley Act, § 21:26 health breach notification rule, § 21:28	generally, § 21:7 consent orders, § 21:8 procedures, § 21:9 remedies, § 21:10 remedies, § 21:10
Data security enforcement history, \$ 21:11	rulemaking, § 21:6 unfair acts or practices, § 21:5
Deceptive practices. Unfair or deceptive practices, FTC authority,	FIDUCIARY DUTIES ERISA Breaches, this index
below Enforcement challenges	FINANCIAL INSTITUTIONS AND FINANCIAL SERVICES COMPANIES
generally, § 21:22 to 21:24 LabMD, § 21:24 Wyndham Worldwide Corpora-	Generally, § 5:1 to 5:32 Bailment claim, § 5:20 Breach of confidence claim, § 5:19
tion, § 21:23 data breaches, FTC enforcement,	Breach of contract generally, § 5:9 implied contracts, § 5:10
data security enforcement history, § 21:11 unfair or deceptive practices,	California statutes Consumer Legal Remedies Act,
below Expansion of FTC authority, § 21:29	§ 5:24 Unfair Competition Law, § 5:23 Causation, negligence claim, § 5:14
Fair Credit Reporting Act, data security authority, § 21:27	Common law claims, state, § 5:9 to 5:20
GDPR violations, FTC remedies, § 22:36	Consumer protection claims, state, duty to disclose, § 5:22

FINANCIAL INSTITUTIONS AND FINANCIAL INSTITUTIONS AND FINANCIAL SERVICES FINANCIAL SERVICES COMPANIES—Cont'd COMPANIES—Cont'd Cryptocurrency breaches, § 5:32 Unfair and deceptive acts and practices, state laws-Cont'd Damages, negligence claim, § 5:16 Florida, § 5:27 Duty to disclose, state consumer protection claims, § 5:22 Georgia, § 5:26 Duty to safeguard personal informa-New York, § 5:28 tion, § 5:13 Texas, § 5:29 Economic loss rule, § 5:18 Washington, § 5:30 Extraterritoriality, unfair and decep-Unjust enrichment, § 5:11 tive acts and practices statutes, **FINGERPRINTS** § 5:31 Browser fingerprint technology, Fair Credit Reporting Act § 17:3 generally, § 5:5 biographical data not a consumer **FLORIDA** report, § 5:6 Healthcare Data Breaches, this index Gramm Leach Bliley Act, § 5:7 Unfair and deceptive acts and prac-Independent intervening cause, tices, § 5:27, 8:31 negligence claim, § 5:15 **FRAUD** Negligence California Comprehensive Data generally, § 5:12 to 5:17 Access and Fraud Act, § 17:28 causation, § 5:14 Computer Fraud and Abuse Act, this damages, § 5:16 index duty to safeguard personal infor-Data security, fraudulent omissions, mation, § 5:13 California unfair competition independent intervening cause, law, § 8:25 § 5:15 ERISA preemption, state law claim negligence per se, § 5:17 against third-party record Notification statutes, state, violations keeper, § 6:15 of, § 5:21 Healthcare data breaches, § 4:21 Personal information, duty to FREE SPEECH safeguard, § 5:13 Securities laws, federal, § 5:8 Web Scraping, this index Standing, § 5:2 GENERAL DATA PROTECTION Statutory claims REGULATION (GDPR) federal claims, § 5:3 to 5:8 Generally, § 22:1 to 22:37 state claims, § 5:21 to 5:32 Collective action lawsuits, § 22:2, Stored Communications Act 22:3 generally, § 5:3 Fines and orders by EU supervisory scienter, § 5:4 authorities Unfair and deceptive acts and pracgenerally, § 22:4 to 22:22 tices, state laws access, right of (Article 15), generally, § 5:25 to 5:31 § 22:13 California, § 5:23 conditions for consent (Article 7), extraterritoriality, § 5:31 § 22:8

GENERAL DATA PROTECTION GENERAL DATA PROTECTION REGULATION (GDPR) REGULATION (GDPR) -Cont'd -Cont'd Fines and orders by EU supervisory Judgments for taxes, fines and penalties in U.S. courts, § 22:25 authorities-Cont'd data protection by design (Article Personal jurisdiction. U.S. courts, enforceability of judgments by 25), **§ 22:16** data protection impact assessment data subjects, below Standing. U.S. courts, enforceability (Article 35), § 22:20 data protection officer, designation of judgments by data subjects, below of (Article 37), § 22:21 U.S. courts, enforceability of GDPR erasure, right to (Article 17), supervisory authority orders § 22:14 generally, § 22:23 to 22:25 lawfulness of processing (Article injunctive relief, § 22:24 6), § 22:7 judgments for taxes, fines and notable fines, § 22:5 penalties, § 22:25 object, right to (Article 21), legal framework, § 22:23 § 22:15 U.S. courts, enforceability of judgpersonal breach notification ments by data subjects (Article 33), § 22:19 generally, § 22:26 to 22:37 principles of processing (Article agency theory, jurisdiction based 5), § **22:6** on, § 22:30 privacy notices applicable law, § 22:28 personal data collected from civil claims seeking recognition of data subject (Article 13), GDPR judgments, § 22:26 to § 22:11 22:35 personal data not collected from data subject (Article 14), data subject rights under EU-U.S. privacy shield, § 22:37 § 22:12 FTC remedies for GDPR violaprocessor (Article 28), § 22:17 tions, § 22:36 regulatory enforcement powers, personal jurisdiction § 22:4 generally, § 22:27 to 22:30 security of processing (Article 32), § 22:18 agency theory, jurisdiction based on, § 22:30 special categories of personal data, processing of (Article 9), applicable law, § 22:28 § 22:9 GDPR Article 3, jurisdiction based on, § 22:29 supervisory authority powers (Article 58), § 22:22 public policy, federal or state, repugnancy to, § 22:31 transparency (Article 12), § 22:10 standing under Article III U.S. courts, enforceability in, generally, § 22:33 to 22:35 below individual actions, § 22:34 FTC remedies for GDPR violations, § 22:36 representative body claims, § 22:35 Injunctive relief in U.S. courts,

subject matter jurisdiction, § 22:32

§ 22:24

GEOLOCATION CLAIMS

Online tracking litigation, § 17:40

GEORGIA

E-mail and non-sensitive information breaches negligence per se, § 8:11

Healthcare data breaches, privacy protection acts, § 4:35

Unfair and deceptive acts and practices, § 5:26

GOOD FAITH AND FAIR **DEALING**

Healthcare data, breach of duty, § 4:25

GOOGLE

Sherman Act Section 2, § 18:12, 18:14

GRAMM LEACH BLILEY ACT

Financial institutions and financial services companies, § 5:7 FTC, data security authority, § 21:26

HACKABILITY CLAIMS

Generally, § 10:1 to 10:8

Article III standing defenses, § 10:5 Benefit of bargain defense, § 10:8 Causes of action, § 10:2 to 10:4

Consumer protection claims, § 10:4 Contract and quasi-contractual

claims, § 10:3 Defenses, § 10:5 to 10:8

Diminution in value defense, § 10:6

Overpayment defense, § 10:6

Overview, § 10:1

Risk of future hacking defense, § 10:7

Tort claims, § 10:2

HARASSMENT

State cyber harassment laws, § App. **7A**

HEALTHCARE DATA BREACHES

Generally, § 4:1 to 4:50

HEALTHCARE DATA BREACHES

—Cont'd

Benefit of bargain

common law damages, § 4:30

standing, § 4:5

Breach of contract

express contracts, § 4:23

implied contracts, § 4:24

Breach of notification statutes.

§ 4:44, 21:28

California

Confidentiality of Medical Information Act

generally, § 4:40

actual viewing of access, § 4:41

statutory damages, § 4:42

Consumer Rights Act, § 4:43

negligence per se, § 4:13

special relationship, negligence and duty to safeguard information, § 4:8

Common law claims (state), § 4:6 et

Confidentiality, breach of, § 4:19

Connecticut, negligence per se, § 4:14

Conversion, § 4:20

Damages

generally, § 4:27 to 4:31

benefit of bargain, § 4:30

California Confidentiality of Medical Information Act, § 4:42

emotional distress, § 4:29

identity theft, § 4:28

inherent value of protected health information, § 4:31

District of Columbia, negligence and duty to safeguard information, § 4:10

Emotional distress, common law damages, § 4:29

Equitable relief under common law, § 4:32

ERISA preemption, § 4:49

Florida

negligence per se, § 4:15

HEALTHCARE DATA BREACHES HEALTHCARE DATA BREACHES —Cont'd -Cont'd Florida—Cont'd Office of Civil Rights enforcement, special relationship, negligence § 4:2 and duty to safeguard infor-Ohio, negligence per se, § 4:16 mation, § 4:9 Preemption Fraud ERISA, § 4:49 generally, § 4:21 HIPAA, § 4:48 misrepresentations in privacy poli-Privacy cies, § 4:22 invasion of privacy, above Georgia, privacy protection acts, misrepresentation of privacy poli-§ 4:35 cies, § 4:22 Good faith and fair dealing, breach of state privacy protection acts, duty, § 4:25 § 4:34 to 4:43 **HIPAA** Publicity, § **4:18** generally, § 4:45 Standing preemption, § 4:48 generally, § 4:3 standard used in negligence claims, benefit of bargain theory, § 4:5 § 4:47 future identity theft, fear of, § 4:4 tortious interference, violation as Statutory claims basis for, § 4:46 federal, § 4:45 et seq. Identity theft, common law damages, Stored Communications Act, § 4:50 § 4:28 Tortious interference, HIPAA viola-Illinois, negligence and duty to tion as basis for, § 4:46 safeguard information, § 4:11 Unjust enrichment, § 4:26 Inherent value of protected health information, common law dam-**HIPAA** ages, § 4:31 Healthcare Data Breaches, this index Invasion of privacy **IDENTITY THEFT** generally, § 4:17 E-mail and non-sensitive information publicity, § 4:18 breaches, § 8:4, 8:9 Misrepresentations in privacy poli-Healthcare data breaches, common cies, § 4:22 law damages, § 4:28 Negligence and duty to safeguard information **ILLINOIS** Biometrics Privacy Litigation, this generally, § 4:6 index HIPAA, standard used in negligence claims, § 4:47 Healthcare data breaches, negligence and duty to safeguard informaspecial relationship, § 4:7 to 4:11 tion, § 4:11 Negligence per se, special relationship, § 4:12 to 4:16 INSURANCE New Jersey, privacy protection acts, Cyberinsurance, this index § 4:36, 4:37 INVASION OF PRIVACY North Carolina, privacy protection acts, § 4:38, 4:39 Privacy, this index

Index

JOHN DOE COMPLAINTS

Terroristic breaches, § 7:4

JURISDICTION

Foreign Sovereign Immunities Act, jurisdictional challenges, § 7:5 Personal Jurisdiction, this index Securities and Derivative Litigation, this index

LIMITATION OF LIABILITY

E-mail and non-sensitive information breaches, § 8:20

MARYLAND

Consumer Protection Act claims, § 8:32

Personal Information Privacy Act claims, § 8:43

MENS REA

Computer Fraud and Abuse Act, § 11:24

MICHIGAN

Consumer Protection Act, § 8:33, 8:34

Video Privacy Litigation, this index

MISREPRESENTATION

California unfair competition law, § 8:24, 17:26

Healthcare, misrepresentations in privacy policies, § 4:22

MISSOURI

Merchandising Practices Act, § 8:35

MOOTNESS

Website accessibility litigation, remediation and mootness, § 19:18

NEGLIGENCE

Financial Institutions and Financial Services Companies, this index Healthcare Data Breaches, this index Retail Data Breaches, this index

NEW HAMPSHIRE

Consumer Protection Act, § 8:36

NEW JERSEY

Healthcare data breaches, privacy protection acts, § 4:36, 4:37

NEW YORK

Anti-hacking statute, § 20:37 General Business Law, § 8:37, 17:30 Online tracking, § 17:30 Unfair and deceptive acts and practices, § 5:28, 8:38

NEW YORK CITY

Biometrics laws. § 16:31

NONPROFITS

Federal Trade Commission, § 21:32

NONSENSITIVE PERSONAL INFORMATION

E-mail and Non-sensitive Information Breaches, this index

NORTH CAROLINA

Healthcare data breaches, privacy protection acts, § 4:38, 4:39

NOTIFICATION

E-mail and Non-sensitive Information Breaches, this index

Financial institutions and financial services companies, violations of state notification statutes, § 5:21

Healthcare data breaches, breach of notification statutes, § 4:44

Retail data breaches, delayed or inadequate notification, § 3:20

Standing, delayed or inadequate notification, § 1:6

OHIO

Healthcare data breaches, negligence per se, § 4:16

ONLINE TRACKING LITIGATION

Generally, § 17:1 to 17:41

Browser fingerprint technology, § 17:3

California common law claims generally, § 17:31 to 17:41

ONLINE TRACKING LITIGATION ONLINE TRACKING LITIGATION —Cont'd —Cont'd California common law claims Seclusion. Intrusion upon seclusion, -Cont'd above invasion of privacy, state Stored Communications Act constitutional violation, generally, § 17:4 to 17:7 § 17:41 electronic storage, meaning of, trespass to chattels, below § 17:7 California Comprehensive Data facility, meaning of, § 17:6 Access and Fraud Act, § 17:28 standing, § 17:5 California Consumer Legal Remedies Trespass to chattels Act, § 17:29 Facebook litigation, impact of, California Invasion of Privacy Act § 17:33 eavesdropping liability for access unjust enrichment theory of damto e-mails, § 17:2 ages, § 17:32 Video Privacy Protection Act similarity to Wiretap Act, § 17:22 generally, § 17:17 California unfair competition law personal identifiable information, generally, § 17:24 to 17:27 § 17:18 misrepresentation prong, § 17:26 Wiretap Act standing, § 17:27 generally, § 17:8 to 17:14 unfair competition prong, § 17:25 civil remedies, § 17:9 unlawful prong, § 17:24 content, meaning of, § 17:11 Children's Online Privacy Protection intercept, meaning of, § 17:13 Act, this index ordinary course of business, Computer Fraud and Abuse Act § 17:14 generally, § 17:15 party exception, § 17:12 damages requirement, § 17:16 standing, § 17:10 Cookies, what are, § 17:2 PAYMENT CARDS Geolocation claims, § 17:40 Antitrust Litigation, this index Intrusion upon seclusion Retail Data Breaches, this index generally, § 17:34 to 17:40 geolocation claims, § 17:40 PERSONAL JURISDICTION highly offensive intrusion, § 17:38 California Consumer Privacy Act, § 9:12 reasonable expectation of privacy, what data creates General Data Protection Regulation, generally, § 17:35 this index Terroristic breaches, § 7:6 IP addresses, § 17:36 URLs, § 17:37 **PLEADING** surreptitious tracking, § 17:39 Securities and Derivative Litigation, Invasion of privacy, California this index constitutional violation, § 17:41 Terroristic Breaches, this index New York General Business Law, Video Privacy Protection Act, § 14:4 § 17:30

PORTLAND, OREGON

Biometrics laws, § 16:32

Reasonable expectation of privacy.

Intrusion upon seclusion, above

PREEMPTION

ERISA, this index HIPAA, § 4:48 Illinois Biometric Information Privacy Act, § 16:24

PRIVACY

Biometrics Privacy Litigation, this index

Children's Online Privacy Protection Act, this index

Driver's Privacy Protection Act Litigation, this index

Healthcare Data Breaches, this index Invasion of privacy as violation of California Constitution, § 17:41

Retail data breaches, invasion of privacy claims, § 3:12
Video Privacy Litigation, this index

PUNITIVE DAMAGES

E-mail and non-sensitive information breaches, § 8:21

OUALIFIED IMMUNITY

Driver's Privacy Protection Act litigation, § 15:10

REASONABLE SECURITY MEASURES

California Consumer Privacy Act, § 9:15

Data Breach Litigation, this index Retail data breaches, § 3:9

REGULATORY ENFORCEMENT

Generally, § 21:1 et seq.

Federal Trade Commission, this index

General Data Protection Regulation, this index

RETAIL DATA BREACHES

Generally, § 3:1 to 3:23
Actual costs, § 3:18
Attorney-client privilege, § 3:3
Benefit of bargain, § 3:19
Breach of contract
generally, § 3:10

RETAIL DATA BREACHES

—Cont'd

Breach of contract—Cont'd financial institutions, breach of contract claims, § 3:13 to 3:15

Causation, negligence and negligence per se, § 3:8

Class actions

certification issues, § 3:22 settlement issues, § 3:23

Common law claims, § 3:6 et seq.

Damages

generally, § 3:16 to 3:20

actual costs, § 3:18

benefit of bargain, § 3:19

notification, delayed or inadequate, § 3:20

risk of future harm, § 3:17

Derivative actions, payment card industry data security standards, § 3:15

Economic loss rule, negligence and negligence per se, § 3:7

Financial institutions, breach of contract claims, § 3:13 to 3:15

Invasion of privacy claims, § 3:12

Negligence and negligence per se

generally, § 3:6 to 3:9

causation, § 3:8

economic loss rule, § 3:7

payment card industry data security standards, § 3:15

reasonable security measures, § 3:9

Notification, delayed or inadequate, § 3:20

Payment card industry data security standards

generally, § 3:4

claims by financial institutions, PCIDSS and breach of contract

generally, § 3:13 to 3:15 derivative actions, § 3:14 negligence, § 3:15

RETAIL DATA BREACHES

—Cont'd

Payment card industry data security standards—Cont'd

state statutes, § 3:5

Reasonable security measures, negligence and negligence per se, § 3:9

Risk of future harm, § 3:17

Standing, § 3:2

State statutory claims, § 3:21

Unjust enrichment, § 3:11

Work product privilege, § 3:3

RHODE ISLAND

Video privacy litigation, § 14:21

SCIENTER

Securities and derivative litigation, § 12:9

Stored Communications Act, § 5:4

SECURITIES AND DERIVATIVE **LITIGATION**

Generally, § 12:1 to 12:14

Class certification, § 12:4

Derivative litigation

board's duties as to cybersecurity, § 12:11

Delaware pleading standard, § 12:13

demand futility, stating claim, § 12:14

jurisdiction, § 12:12

Disclosing data breaches, SEC guidance, § 12:2

False statements

identifying, § 12:6

knowingly false statements, examples, § 12:8

Financial institutions and financial services companies, § 5:8

Forward looking statements, § 12:7 Jurisdiction

derivative litigation, § 12:12

securities cases, § 12:3

SECURITIES AND DERIVATIVE LITIGATION—Cont'd

Knowingly false statements, examples, § 12:8

Loss causation, § 12:10

Pleading

Delaware standard, § 12:13

heightened standards, § 12:5

scienter, § 12:9

Scienter, § 12:9

SEC guidance on disclosing data breaches, § 12:2

SHERMAN ACT

Antitrust Litigation, this index

SOVEREIGN IMMUNITY

Foreign Sovereign Immunities Act, jurisdictional challenges, § 7:5

STALKING

Cyber harassment, stalking and bullying, state laws, § App. 7A

STANDING

California Consumer Privacy Act, § 9:12

Data Breach Litigation, this index Driver's Privacy Protection Act litigation, § 15:10

E-mail and Non-sensitive Information Breaches, this index

Financial institutions and financial services companies, § 5:2

General Data Protection Regulation, this index

Hackability claims, Article III standing defenses, § 10:5

Healthcare Data Breaches, this index Illinois Biometric Information

Privacy Act, § 16:20 to 16:22

Retail data breaches, § 3:2

Stored Communications Act, § 17:5

Terroristic breaches, third-party standing, § 7:19

Unfair Competition Law (California), § 17:27

Index

STANDING—Cont'd TERRORISTIC BREACHES Video Privacy Protection Act, -Cont'd § 14:13 Pleading issues—Cont'd Website accessibility litigation, personal jurisdiction, § 7:6 § 19:19 Standing, third-party data breach liti-Wiretap Act, § 17:10 gation, § 7:19 State claims, § 7:12 to 7:17 STATUTE OF LIMITATIONS Third-parties, data breach litigation Computer Fraud and Abuse Act, generally, § 7:18 § 11:19 standing, § 7:19 Illinois Biometric Information Tortious interference, § 7:14, 7:15 Privacy Act, § 16:19 Vicarious liability Video Privacy Protection Act, Anti-cybersquatting Consumer § 14:14 Protection Act. § 7:11 STORED COMMUNICATIONS Computer Fraud and Abuse Act. **ACT** § 7:9 Financial institutions and financial defamation, § 7:13 services companies, § 5:3, 5:4 tortious interference, § 7:15 Healthcare data breaches, § 4:50 Zoombombing, § 7:17 Online Tracking Litigation, this index **TEXAS** TERRORISTIC BREACHES Biometrics laws, § 16:28 Generally, § 7:1 to 7:19 Unfair and deceptive acts and prac-Anti-cybersquatting Consumer tices, § 5:29, 8:39 Protection Act TORTIOUS INTERFERENCE generally, § 7:10 HIPAA violation as basis for, § 4:46 vicarious liability, § 7:11 Terroristic breaches, state claims, Civil conspiracy, § 7:16 § 7:14, 7:15 Computer Fraud and Abuse Act Web scraping, § 20:32, 20:33 generally, § 7:7 to 7:9 **TRACKING** exceeds authorization, § 7:8 Online Tracking Litigation, this index vicarious liability, § 7:9 Defamation, § 7:12, 7:13 TRADE SECRETS Federal claims, § 7:7 to 7:11 Defense of Trade Secrets Act, this Foreign Sovereign Immunities Act, index jurisdictional challenges, § 7:5 Employee theft, § 11:1 Identifying perpetrator, § 7:3, 7:4 Web Scraping, this index John Doe complaints, § 7:4 TRESPASS TO CHATTELS Personal jurisdiction, § 7:6 Online Tracking Litigation, this index Pleading issues Web Scraping, this index generally, § 7:2 to 7:6 Foreign Sovereign Immunities Act, UNFAIR ACTS OR PRACTICES jurisdictional challenges, California Unfair Competition Law.

§ 7:5

identifying perpetrator, § 7:3, 7:4

John Doe complaints, § 7:4

California, this index

Federal Trade Commission, this

index

UNFAIR ACTS OR PRACTICES —Cont'd

Financial Institutions and Financial Services Companies, this index

UNJUST ENRICHMENT

E-mail and Non-sensitive Information Breaches, this index
Financial institutions and financial services companies, § 5:11
Healthcare data breaches, § 4:26
Online tracking litigation, § 17:32
Retail data breaches, § 3:11

VENUE

California Consumer Privacy Act, § 9:12

VICARIOUS LIABILITY

Terroristic Breaches, this index

VIDEO PRIVACY LITIGATION

Generally, § 14:1 to 14:22
Cable and satellite providers, § 14:22
Federal claims under Video Privacy
Protection Act
generally, § 14:2 to 14:16
civil proceedings, disclosure based
on compelling need, § 14:12
civil remedies, § 14:16
consent exception to
nondisclosure, § 14:11
consumer, who is, § 14:7

defendants, proper, § 14:15 failure to destroy consumer information, no private right of

action, § 14:5 knowing disclosure, what is,

§ 14:9 legislative history, § 14:3

ordinary course of business,
disclosure within or outside,
§ 14:10

personally identifiable information, what is, § 14:8, 17:18
pleading requirements, § 14:4
remedies, civil, § 14:16
service provider, who is, § 14:6

VIDEO PRIVACY LITIGATION —Cont'd

Federal claims under Video Privacy
Protection Act—Cont'd
standing, § 14:13
statute of limitations, § 14:14
Michigan statute
generally, § 14:18 to 14:20
limitation on civil damages,
§ 14:20
magazine publishers, application
to, § 14:19

Online tracking litigation, § 17:17, 17:18

Rhode Island statute, § 14:21 Satellite and cable providers, § 14:22 State statutes, video rental privacy, § 14:17 to 14:21

WASHINGTON

Biometrics laws, § 16:29 Unfair and deceptive acts and practices, § 5:30

WEB SCRAPING

Generally, § 20:1 to 20:40

Affirmative defenses, Digital Millennium Copyright Act, § 20:24

Anti-hacking statutes (state)

generally, § 20:34

California, § 20:35, 20:36

New York, § 20:37

Breach of contract

generally, § 20:29 to 20:31

browsewrap agreements, § 20:31

clickwrap agreements, § 20:30

Browsewrap agreements, breach of contract, § 20:31

California anti-hacking statute, § 20:35, 20:36

Causes of action

generally, § 20:5 to 20:40

Computer Fraud and Abuse Act, below

trespass to chattels, below

Chattels. Trespass to chattels, below

WEB SCRAPING—Cont'd	WEB SCRAPING—Cont'd
Clickwrap agreements, breach of	Free speech—Cont'd
contract, § 20:30	time, place, and manner restric-
Computer Fraud and Abuse Act	tions, § 20:39
generally, § 20:5 to 20:9	Intentional interference with contractual relations, § 20:32,
circuit split, meaning of "exceeds authorized access"	20:33
generally, § 20:7	Misappropriation. Trade secret mis-
Supreme Court review, § 20:8	appropriation, below
current trends, § 20:9	New York anti-hacking statute,
legislative history, § 20:6	§ 20:37 Practice of seroning § 20:2
Contractual relations, intentional/	Practice of scraping, § 20:2 Prevention tactics and responses,
tortious interference, § 20:32,	§ 20:4
20:33	Tortious interference with contractual
Copyright	relations, § 20:32, 20:33
generally, § 20:13 to 20:19	Trade secret misappropriation
burden of proof, § 20:16	generally, § 20:25 to 20:28
copying, meaning of, § 20:14	bots, use of, § 20:28
Digital Millennium Copyright Act,	elements, § 20:26
below	misappropriation, defined, § 20:27
factual works, limitations for,	Trespass to chattels
§ 20:17	generally, § 20:10 to 20:12
fair use, § 20:18	damages, § 20:12
improper appropriation, meaning	unauthorized interference, § 20:11
of, § 20:15 remedies, § 20:19	Who and what, § 20:3
	WEBSITE ACCESSIBILITY
unoriginal arrangements, limitations for, § 20:17	Generally, § 19:1 to 19:29
Damages, trespass to chattels, § 20:12	Americans with Disabilities Act (ADA)
Defined, § 20:1	generally, § 19:2 to 19:11
Digital Millennium Copyright Act,	accessibility of website informa-
anti-circumvention protections	tion, § 19:5
generally, § 20:20 to 20:24	causes of action for violations of
affirmative defenses, § 20:24	Title III
section 1201(a)(1) claim, elements	generally, § 19:13
of, § 20:21	pendent civil rights claims, § 19:15
section 1201(a)(2) claim, elements	circuit split on applicability of Title
of, § 20:22	III
section 1201(b)(1) claim, elements	generally, § 19:9
of, § 20:23	nexus vs. no nexus requirement,
Free speech	§ 19:10, 19:11
generally, § 20:38	DOJ regulations implementing
Illinois Biometric Information	Title III
Privacy Act, § 20:40	generally, § 19:4

WEBSITE ACCESSIBILITY WEBSITE ACCESSIBILITY —Cont'd -Cont'd Americans with Disabilities Act Eleventh Circuit litigation, § 19:25 (ADA)—Cont'd Impacted industries, § 19:28 DOJ regulations implementing Litigation Title III—Cont'd generally, § 19:24 to 19:29 accessibility of website informadefenses, above tion, § 19:5 Eleventh Circuit, § 19:25 inactive regulations, § 19:6 impacted industries, § 19:28 public accommodations under Title Ninth Circuit, § 19:26 III, § 19:3 regulatory risk trends, § 19:29 web content accessibility Second Circuit, § 19:27 guidelines Nexus to physical location, defenses, generally, § 19:7 § 19:22 DOJ implementation and Ninth Circuit litigation, § 19:26 enforcement, § 19:8 Public accommodations under ADA California Consumer Privacy Act, Title III, § 19:3 requirements under, § 19:12 Regulatory risk trends, litigation and, Causes of action § 19:29 ADA Title III violations, § 19:13, Remediation and mootness, § 19:18 19:15 Second Circuit litigation, § 19:27 pendant civil rights claims, § 19:15 Standing, § 19:19 pendant Section 504 claims, Statutory defenses, § 19:17 § 19:14 Third-party host and information Damages, § 19:23 content provider, defenses, Defenses § 19:20 generally, § 19:16 to 19:22 **WIRETAP ACT** due process, § 19:21 Online Tracking Litigation, this index nexus to physical location, § 19:22 remediation and mootness, § 19:18 WORK PRODUCT PRIVILEGE standing, § 19:19 Retail data breaches, § 3:3 statutory defenses, § 19:17 **ZOOMBOMBING** third-party host and information content provider, § 19:20 Terroristic breaches, state claims,

§ 7:17

Due process defense, § 19:21