

AUTHOR'S INTRODUCTION TO THE 2025 EDITION

Cyber Litigation: Data Breach, Data Privacy & Digital Rights was written to provide litigators, in-house counsel, academics and researchers with a comprehensive overview of developments in the emerging area of data privacy, data breach and digital rights litigation. This is a dynamic and evolving area of law, the contours of which are being shaped by emerging technologies and a rapidly changing regulatory environment.

This 2025 Edition of *Cyber Litigation* focuses on key legal issues in breach and privacy litigation, such as standing, the meaning of reasonable data security, the many species of data breach litigation—retail, healthcare, financial loss, email, derivative, securities and hackability claims—as well claims relating to online tracking, biometrics, website accessibility, and webscraping. The book continues to track FTC consent decrees.

The 2025 Edition includes the following highlights in addition to case law and statute/regulation updates throughout the treatise:

- Discussion of developing case law surrounding the use of Meta Pixel, which have given rise to litigation under the Video Privacy Protection Act, and state and federal wiretap laws.
- Continued discussion of the 2021 amendment to the FTC “Safeguards Rule” listing nine elements that must be included in covered entities’ information security programs (§ 2:3)
- Additional discussion of the U.S. Supreme Court’s seminal opinion in *TransUnion LLC v. Ramirez*, clarifying that although the risk of harm can be sufficient to confer standing in an injunctive suit, it is not sufficient for a suit for damages (§ 3:17)
- Discussion of potential expansion of definition of “provider of health care” under the Confidentiality of Medical Information Act (§ 4:40)
- Additional discussion of the U.S. Supreme Court decision in *U.S. v. Van Buren*, resolving the Circuit split on whether Computer Fraud and Abuse Act claims turn on whether the perpetrator exceeds authorization or acts without authorization (§ § 7:8, 11:23)

- Updates to states that have enacted video rental privacy statutes (§ § 14:17 to 14:19)
- Additional discussion of Illinois Biometric Information Privacy Act provision that may prevent private entities from profiting in any form from biometric identifiers (§ 16:15)
- Expanded discussion of actions under the Illinois Biometric Information Privacy Act (§ § 16:16 to 16:26)
- A new section on the Washington My Health My Data Act (§ 16:30)
- Additional discussion of biometrics laws in other states (§ § 16:27 to 16:32)
- New sections on the meaning of “video tape service provider,” “subscriber” and “knowing disclosure” under the Video Privacy Protection Act (§ § 17:19 to 17:21)
- A new section on the meaning of “consent” under the California Invasion of Privacy Act (§ 17:26)
- Additional discussion of aiding and abetting liability for third party interception under the California Invasion of Privacy Act (§ 17:27)
- New discussion of the Pennsylvania Wiretapping and Electronic Surveillance Control Act (§ § 17:36 to 17:38)
- A new section on the proposed DOJ regulations implementing Title II of the Americans with Disabilities Act (§ 19:7)
- Updates to discussion of Supreme Court review of Circuit split over meaning of “exceeds authorized access” in CFAA (§ 20:8)

We track developments in this area very closely, and hope to become the primary resource for litigators who are prosecuting and defending data breach, data privacy and digital rights claims. Please do not hesitate to send us any feedback you may have on emerging causes of action, cases, or litigation trends. Should you have any questions regarding this product, please do not hesitate to contact the Editor through Customer Service at 1-800-328-4880. The Publisher’s staff and I hope you find *Cyber Litigation* useful in your practice.

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