



Recent Trends and Developments in Cyber and Data Breach Litigation

Donald Houser & Daniel Felz

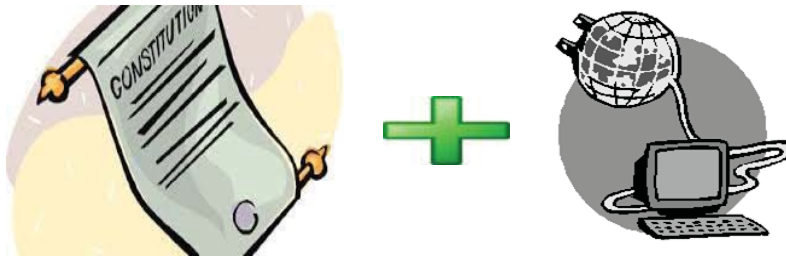
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Recent Trends and Developments in Cyber & Data Breach Litigation

- Article III: Where do we stand?
 - *Spokeo*
 - *Clapper*
- Financial Institution Plaintiffs' Bar
- Developments in Negligence Claims
- The Economic Loss Rule
- ECPA and TCPA
- Privileged Investigations
- Offers of Judgment Post-*Gomez* & Settlements
- Looking Beyond the U.S.: Cybersecurity and Privacy Risks in the E.U.

Article III: Where do we stand?

Constitutional “case or controversy”
requirement + new technology = Article III
Renaissance?



Article III: Where do we stand?

- Three Requirements
 - Injury in fact;
 - That is fairly traceable to the challenged conduct of a defendant; and
 - That is likely to be redressed by a favorable judicial decision



Article III: Where do we stand?/ Spokeo

- Background

- Spokeo is a search engine operator
- Allegedly published inaccurate information about plaintiff
- Plaintiff filed FCRA class action lawsuit, seeking maximum statutory damages
- Theory of harm: Speculated that information would affect employment, ability to obtain insurance



Article III: Where do we stand?/ Spokeo

A screenshot of the Spokeo website showing search results for "Donald Houser". The page features a search bar at the top with the query "Donald Houser" and a search icon. Below the search bar, it indicates "319 Results found" and displays the name "Donald Houser" with a checkmark icon. To the left, there is a map of the United States with orange location pins. Below the map is a "Browse locations" section with a list of states and their corresponding result counts: Alabama (4), Alaska (1), Arizona (7), Arkansas (4), California (37), and Colorado (7). The main content area is divided into three rows, each representing a different individual with the name "Donald Houser". Each row includes a "Person" section with the name and age (e.g., "Donald S Houser, age 48"), a "Locations" section with a list of cities and states (e.g., Clayton, NC; Peachtree City, GA; Dayton, OH; Pickerington, OH; Columbus, OH), a "Relatives" section with a list of names (e.g., Sarah Houser, Christy Houser, Griffin Houser, Donald Houser), and an "Includes" section with icons for a house, a person, and a document, along with a green "SEE RESULTS" button.

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First appeared as part of the conference materials for the
2017 Essential Cybersecurity Law session
"Civil Litigation Update"