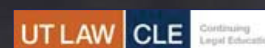


# CIVIL LITIGATION AND REGULATORY UPDATE

**Mark Krotoski**  
**July 25, 2018**

2018 Essential Cybersecurity Law  
UT Law Conference



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## **Presenter: Mark Krotoski**



- Litigation Partner, Privacy and Cybersecurity and Antitrust practices
- More than 20 years' experience handling cybersecurity cases and issues
- Advises clients on mitigating and addressing cyber risks, developing cybersecurity protection plans, responding to a data breach or misappropriation of trade secrets, conducting confidential cybersecurity investigations, responding to regulatory investigations, and coordinating with law enforcement on cybercrime issues.
- Experience handling a variety of complex and novel cyber investigations
  - At DOJ, prosecuted and investigated nearly every type of international and domestic computer intrusion, cybercrime, economic espionage, and criminal intellectual property cases.
  - Served as the national coordinator for the Computer Hacking and Intellectual Property (CHIP) Program in the DOJ's Criminal Division, in addition to other DOJ leadership positions, and as a cybercrime prosecutor in Silicon Valley.

## Note

- Comments during this presentation are based upon publicly available information and on general observations and experience and not on any particular facts or specific cases.
- The views expressed during this presentation are those of the speaker, and not necessarily those of Morgan Lewis or any firm clients.

## Topics

- Overview of Key Trends, Issues and Themes
- Highlighted Decisions
- Article III Standing
- Selected Class Action Settlement Agreements
- Recent Enforcement Actions
- Cybersecurity Legislative and Regulatory Landscape

# OVERVIEW OF KEY TRENDS, ISSUES AND THEMES

## Key Trends and Issues

- Determining injury and damages
- Notification
- New laws and standards
  - Proliferating changes
  - Disparate standards
- What is “reasonable cybersecurity”?

# HIGHLIGHTED DECISIONS

## Highlighted Decisions

- *Curry v. Schletter* (WDNC)
  - Data disclosure or breach?
- *LabMD v. FTC* (June 6, 2018)
  - Scope of authority of Section 5
- *In re Premera Blue Cross Customer Data Sec. Breach Litig.*, (D. Or.)
  - Scope of privilege

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