

Recent Trends and Developments in Cyber and Data Breach Litigation & Regulator Update

Donald Houser

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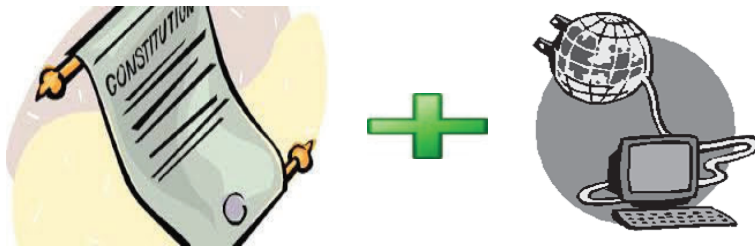
Recent Trends and Developments in Cyber & Data Breach Litigation

- Article III: Where do we stand?
 - *Spokeo*
 - *Clapper*
- Financial Institution Plaintiffs' Bar
- Developments in Negligence Claims
- The Economic Loss Rule
- Illinois Biometric Privacy Act ("BIPA")
- California Consumer Privacy Act ("CCPA")
- Regulator Update
- Privileged Investigations
- Offers of Judgment Post-Gomez & Settlements

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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



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Article III: Where do we stand?/ Spokeo

A screenshot of the Spokeo website showing search results for 'Donald Houser'. The page has a blue header with the Spokeo logo and a search bar containing 'Donald Houser'. On the left, there is a map of the United States with orange location pins and a 'Browse locations' sidebar listing states with counts: Alabama (4), Alaska (1), Arizona (7), Arkansas (4), California (33), and Colorado (7). The main content area shows '319 Results found' for 'Donald Houser'. Below this, there are three result cards. Each card displays a person's name and age, their locations, relatives, and an 'Includes' section with icons for a house, a car, and a person. The first card is for 'Donald S Houser, age 48' with locations in NC, GA, OH, and MO. The second card is for 'Donald M Houser, age 51' with locations in TX, IA, KS, and CO. The third card is for 'Donald L Houser, age 73' with locations in NC and a list of relatives including Sarah Houser, Christy Houser, Griffin Houser, and Donald Houser. Each card has a green 'SEE RESULTS' button.

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