



## *Recent Trends and Developments in Cyber and Data Breach Litigation*

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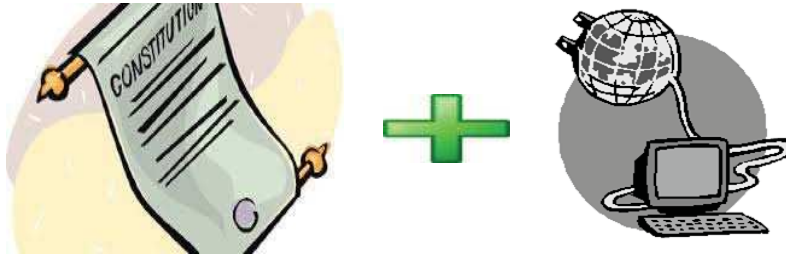
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## Recent Trends and Developments in Cyber & Data Breach Litigation

- 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 search bar at the top contains "Donald Houser" and shows "319 Results found". On the left, there is a map of the United States with orange location pins and a "Browse locations" sidebar listing states like Alabama (4), Alaska (1), Arizona (7), Arkansas (4), and California (37). The main content area displays three search results for "Donald Houser". Each result includes a "Person" section with a name and age (e.g., "Donald S Houser, age 48"), a "Locations" section with a list of cities (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 a green "SEE RESULTS" button. The Spokeo logo is in the top left corner of the page.

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## Title search: Recent Trends and Developments in Cyber and Data Breach Litigation

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