



Recent Trends and Developments in Cyber and Data Breach Litigation

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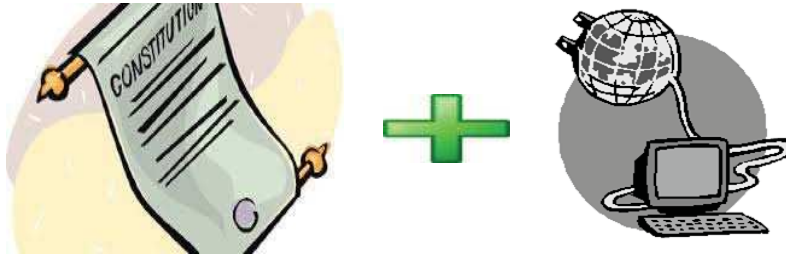
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Recent Trends and Developments in Cyber & Data Breach Litigation

- 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

The screenshot shows the Spokeo search results page for the name "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:

Person	Locations	Relatives	Includes
Donald S Houser, age 48 Don Houser	Clayton, NC Peachtree City, GA Dayton, OH Pickerington, OH Columbus, OH	–	SEE RESULTS
Donald M Houser, age 51 Don Houser	Granbury, TX Ottumwa, IA Overland Park, KS Blue Springs, MO Denver, CO	–	SEE RESULTS
Donald L Houser, age 73	Forest City, NC Mooresboro, NC Ellenboro, NC Rutherfordton, NC Union Mills, NC	Sarah Houser Christy Houser Griffin Houser Donald Houser	SEE RESULTS

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