



Recent Trends and Developments in Cyber and Data Breach Litigation

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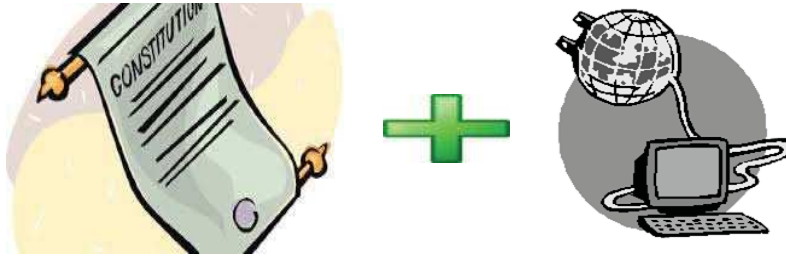
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Recent Trends and Developments in Cyber & Data Breach Litigation

- 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, Alaska, Arizona, Arkansas, and California. The main content area displays three search results for individuals with the name "Donald Houser". Each result includes a "Person" field with a name and age, a "Locations" field with a list of cities, a "Relatives" field with a list of names, and an "Includes" field with icons for a home, a person, and a document, along with a green "SEE RESULTS" button.

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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