

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

Donald Houser

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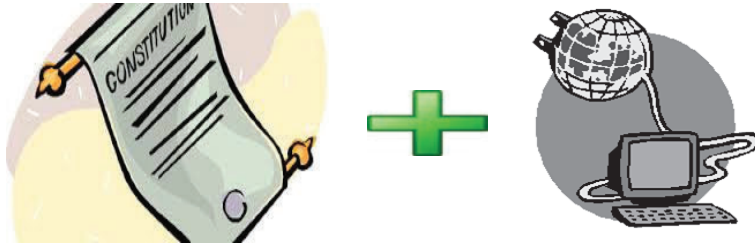
Recent Trends and Developments in Cyber & Data Breach Litigation

- 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

The screenshot shows the Spokeo search results page for the name "Donald Houser". The page displays 319 results found. On the left, there is a "Browse locations" section with a map of the United States and a list of states with the number of results for each: Alabama (4), Alaska (1), Arizona (7), Arkansas (4), California (33), and Florida (17). The main results are listed in a table-like format with columns for Person, Locations, Relatives, and Includes. Each result has a "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 Moorestown, NC Ellenboro, NC Rutherfordton, NC Union Mills, NC	Sarah Houser Christy Houser Griffin Houser Donald Houser	SEE RESULTS

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