



Mealey's Data Privacy Law Report follows the latest litigation in federal and state courts involving online privacy and data protection. The Report also covers federal and state regulatory and legislative developments, as well as rulings by administrative agencies tasked with enforcing laws that impact data privacy.

Litigation Snapshot

From high profile data breaches at government agencies and major retailers, to lawsuits over whether the federal government is permitted to retain and search citizens' personal information, data privacy is a new and developing area of litigation. Legislation and case law continue to evolve in privacy concerns related to social networks, targeted advertising, health information, drones, biometrics and many other areas.

Areas of Coverage

- » 4th Amendment
- » Stored Communications Act
- » Health Insurance Portability and Accountability Act
- » Children's Online Privacy Protection Act
- » Electronic Communications Act
- » Video Privacy Protection Act
- » Gramm-Leach-Bliley Act
- » Plus issues such as liability for: data breaches, computer fraud, e-discovery, telematics, workplace email monitoring, data sharing, identity theft, geolocational privacy and more.

Who Needs to Know

- » Privacy and data security attorneys
- » Corporate counsel
- » Corporate compliance officers
- » Government regulators and enforcement officials
- » Trade associations and advocacy groups
- » Public policy attorneys

How Lexis Legal News Can Help

Mealey's Data Privacy Law Report on Lexis Legal News and via email delivery features unbiased news stories, case summaries, attorney listings, and the PDF of court and agency documents and regulations. Subscribers also receive expert commentary articles and email bulletins of breaking news. This valuable insight into current news and litigation trends helps subscribers to advise clients, prepare for trial, draft pleadings and briefs, develop case strategies, formulate arguments and build compelling cases.

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Subject: Mealey's Data Privacy Law Report, October 2015, Volume 1, Issue 6

SECTION HEADER
Links to the topical section
of Lexis Legal News.

Lexis® Legal News
MEALEY'S DATA PRIVACY
Data Aggregation
U.S. Government To Join High Court Arguments Over Fair Credit Report Act Standing
WASHINGTON, D.C. — In its Oct. 5 order list, the U.S. Supreme Court granted a motion by U.S. Solicitor General Donald B. Verrilli Jr., representing the federal government, to participate in upcoming oral arguments in a case addressing whether a plaintiff sufficiently alleged injury under the Fair Credit Reporting Act (FCRA) in a class complaint over a data aggregator's purported online publication of false information about him (Spokeo, Inc. v. Thomas Robins, et al., No. 13-1339, U.S. Sup.).
Warrants
Microsoft To 2nd Circuit: European Ruling Supports Vacating Email Subpoena
NEW YORK — In an Oct. 6 notice filed in the Second Circuit U.S. Court of Appeals, Microsoft Corp. says that a ruling that same day by the European Court of Justice (ECJ), which was critical of U.S. extraterritorial data acquisition via warrants, supports its quest to vacate a subpoena served on it by the U.S. government requiring search and disclosure of the emails from an Irish-based Microsoft data center (In the Matter of a Warrant to Search a Certain E-Mail Account Controlled and Maintained by Microsoft Corp., No. 14-2985, 2nd Cir.).
High Court Told That Warrantless Cell Site Data Order Violated 4th Amendment

Mealey's Data Privacy
FBI Agent's Deposition In Leaked, Collected Email Partly Limited By Judge
WASHINGTON, D.C. — A CHIEF OF COURAGE TO GOAL code at Facebook is part of a motion for a protective order in the U.S. government lawsuit to unilaterally replicate a Facebook Backup of investigation report in a Privacy Act case related to emails that were leaked to the media, while also directing the FBI to provide responses to previously government deposition questions and further discovery requests (Spokeo, Inc. v. Thomas Robins, et al., No. 13-1339, U.S. Sup.).
Final Settlement Approved For Class Action Over Store's Information Collection
CHICAGO, ILL. — A California federal judge on Oct. 7 granted the approval of the settlement in a class action brought to court and who argued that a company's store video program violated their personal information in violation with state and federal laws (California Consumer Privacy Act, et al. v. Charming Shiloh U.S. et al., No. 2:14-cv-01071-EJD-CAL, 2015 U.S. Dist. LEXIS 146896).
2nd Circuit Denies ACLU's Injunction Motion During Data Collection Transition
NEW YORK — A nationally-represented federal judge on Oct. 7 denied the motion of the ACLU and the newly enacted USA Freedom Act of 2015 to prevent a transition period between the obsolete telephone data collection program of the Second Circuit U.S. Court of Appeals and the new program of the National Security Agency (NSA) to help provide certain types of the government's data collection activities during that transition (Clayton Koppelman, et al. v. James W. Clapper, et al., No. 14-242, 2d Cir., 2015 U.S. App. LEXIS 18982).
High Court Hears Arguments On Standing To Sue Under The Fair Credit Reporting Act
WASHINGTON, D.C. — The U.S. Supreme Court on Oct. 5 heard oral arguments in a dispute over what constitutes sufficient injury to support a claim under the Fair Credit Reporting Act (FCRA), pertaining to a class complaint over a data aggregator's allegedly inaccurate credit reports of a plaintiff's personal information (Spokeo, Inc. v. Thomas Robins, et al., No. 13-1339, U.S. Sup.).
U.S. Senate Passes Cybersecurity Information Sharing Act
WASHINGTON, D.C. — On Oct. 6, the U.S. Senate on Oct. 17 passed the Cybersecurity Information Sharing Act (CISA) of 2015, which has the intent of improving cybersecurity in the United States through enhanced sharing of information about cybersecurity threats to government and private entities (Cybersecurity Information Sharing Act, No. S. 754, U.S. Sen.).
\$15 Billion Class Action Over Facebook's Internet Tracking Activities Dismissed
NEW YORK, N.Y. — A federal judge on Oct. 22 dismissed a class action lawsuit against Facebook Inc. in which the plaintiffs sought an amount of \$15 billion for the social network's reported tracking of their phone numbers on its Facebook internet tracking system (No. 13-cv-00224, N.D. Cal., 2015 U.S. Dist. LEXIS 145142).
Nationwide Tells 3rd Circuit Data Breach Class Claims Fail For Lack Of Injury
CHICAGO, ILL. — A federal judge in March, Ill., where the case was originally filed, on Oct. 16, the 3rd Circuit U.S. Court of Appeals in an Oct. 22 appellate ruling that the nationwide class claims brought against the nation's largest credit reporting agency failed because the plaintiffs failed to allege any violation of the Act with the theft of their personal identification information (PII) in the data breach that was attributed to the report (Spokeo, Inc. v. Thomas Robins, et al., No. 14-2985, 3rd Cir., 2015 U.S. App. LEXIS 18933).
Wikimedia's Complaint Over NSA Surveillance Dismissed In Maryland Federal Court
BALTIMORE — A federal judge on Oct. 22 granted the U.S. government's motion to dismiss constitutional claims against a request to the National Security Agency's "XKeyscore" surveillance program. Among the Wikimedia Foundation and eight other plaintiffs, the judge ruled that the U.S. Constitution, which has a right of privacy, does not apply to the NSA's surveillance program (Wikimedia Foundation, et al. v. National Security Agency, et al., No. 13-cv-01042, D. Md., 2015 U.S. Dist. LEXIS 146339).
Insurer Tells High Court That Even After ACA, Vermont Law Violates ERISA
CHICAGO, ILL. — A nationally-represented federal judge on Oct. 7 denied the motion of the Electronic Frontier Foundation (EFF) to prevent a transition period between the obsolete telephone data collection program of the Second Circuit U.S. Court of Appeals and the new program of the National Security Agency (NSA) to help provide certain types of the government's data collection activities during that transition (Clayton Koppelman, et al. v. James W. Clapper, et al., No. 14-242, 2d Cir., 2015 U.S. App. LEXIS 18982).
New York Federal Judge Tosses Disney Video Privacy Class Complaint
NEW YORK — A federal judge on Oct. 7 dismissed a class complaint of an accused Disney (Disney) of violating the Video Privacy Protection Act (VPPA) by unlawfully disclosing personal information collected via a Disney app, after determining that the information disclosed did not include the personal information (Disney, et al. v. Disney Interactive, Inc., No. 14-cv-01042, S.D.N.Y., 2015 U.S. Dist. LEXIS 142485).
Apple Says Order Compelling Unlocking Of Device Would Be Burdensome, Infeasible
SAN FRANCISCO, CALIF. — In an Oct. 16 oral argument in response to a New York federal judge's order, Apple Inc. said that an order to compel the federal government that would require it to unlock a specific iPhone would be burdensome to a number of other iPhone users (Apple Inc. v. United States, et al., No. 14-cv-00011, S.D.N.Y., 2015 U.S. Dist. LEXIS 142485).

ARTICLE HEADLINE
Links to the full article, related stories, related documents and comments section.

High Court Told That Warrantless Cell Site Data Order Violated 4th Amendment

Mealey's (October 21, 2015, 11:08 AM ET) -- WASHINGTON, D.C. — In an Oct. 19 reply brief supporting his petition for certiorari to the U.S. Supreme Court, a Florida man argues that his rights under the Fourth Amendment to the U.S. Constitution were violated when a trial court ordered production of cellular site information records, which were used to convict him, under the Stored Communications Act (SCA) rather than via a search warrant issued with a showing of probable cause (Quartavious Davis v. United States of America, No. 15-146, U.S. Sup.).

(Reply brief available. Document #97-151022-051B.)
Indictment And Conviction

Quartavious Davis committed seven armed robberies in South Florida from August to October 2010. He was indicted by a grand jury in the U.S. District Court for the Southern District of Florida in February 2011.

During discovery, the government sought to obtain records from third-party telephone company MetroPCS. The records contained historical cell tower location information that the

- Printable Version
Documents
Reply brief
Petition for certiorari
Supplemental brief
Opposition brief
11th Circuit en banc opinion
June 2014 panel opinion
Amicus brief of the Florida Association of Criminal Defense Lawyers
Amicus brief of The Reporters Committee for Freedom of the Press
Amicus brief of Electronic Frontier Foundation, et al.
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Sections
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