



CYBER RISK

Prevention • Coverage • Security Risk Management • Response • Defense

PRACTICE GROUP CHAIRS

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When a data breach occurs, the initial response to it is just the beginning. Beyond managing the crisis, working to determine the scope of the intrusion, and responding to regulatory agencies, corporate victims of a breach must also brace for an onslaught of litigation.

Insurers and reinsurers, on top of their own privacy and security concerns, face a growing body of claims, challenges to policy wording designed to address this particular risk, and the resulting threat of coverage disputes and extracontractual claims.

Goldberg Segalla's Cyber Risk Practice Group helps clients take meaningful steps toward securing their data, preventing data breaches, and minimizing potential liability. But if the unthinkable suddenly becomes all too real, we are equipped and ready to handle the myriad legal and regulatory challenges that erupt the moment a breach is discovered.

Data Breach Prevention, Management, and Litigation

Cyber threats do not end with the initial response to a data breach. Goldberg Segalla is the superior choice for data security-related counseling or crisis management because we bring to each matter a team of verdict-tested trial lawyers with exceptional experience defending high-profile consumer class actions and multidistrict litigation. Our clients learn from our experience, not their own.

As trial lawyers, we understand that every decision made before an incident and during a data breach response — from the first call through closing the incident — can dramatically impact potential liability and the course of future litigation. We manage every aspect of the response to help clients minimize the risks that loom ahead.

We take a global approach to managing our clients' cyber risks by providing a range of vital services:

- **Data security advice and training** — We translate complex legal, technology, security, and information governance issues into plain English and offer practical advice that helps companies avoid risk. We guide businesses through the development of procedures and policies aimed at maximizing their security and minimizing the potential for a data breach. We also help businesses take steps to minimize potential liability related to a hacking attack or virus, a data security breach, cybercrime, or other data-related incident.
- **Data privacy regulatory guidance** — We counsel on compliance with the evolving regulatory requirements placed on companies in various industries to protect their networks and data. These include the Federal Trade Commission's Children's Online Privacy Protection Act (COPPA), the complex new European Union data protection laws, the Gramm-Leach-Bliley and Dodd Frank Acts, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health (HITECH) Act, along with the disclosure guidelines imposed by the Securities and Exchange Commission and multiple state and international insurance

industry regulatory authorities.

- **Policy and contract guidance** — In addition to developing internal and website privacy or security policies, our team can assist with contracts, agreements, indemnification clauses, and other vehicles to protect against liability. We develop and negotiate security agreements to ensure vendors defend and indemnify our clients on privacy and security issues, and we have experience with agreements involving cloud service providers, co-location facilities, outsourced services, and other entities.
- **Breach coaching, response, and crisis management** — We are well equipped to provide coaching and guidance throughout the entire life cycle of data security, from improving internal policy to identifying and responding to a breach. Our team will help clients develop their own computer security incident response teams (CSIRTs), contain the problem while preserving digital evidence, meet the changing and immensely complex notification requirements, and manage public relations to minimize reputational harm and help restore confidence in the company.
- **Breach-related litigation and class action defense** — As a firm founded by trial lawyers, we bring to each matter the savvy and successful track record of our Business and Commercial, Product Liability, Professional Liability, Global Insurance Services, and other litigation teams. Our Class Action Litigation Practice Group has successfully defended Fortune 500 companies as lead counsel in national and state-wide class actions, including high-risk, multimillion-dollar litigation. We also bring extensive experience litigating other matters involving technology, including both prosecuting and defending business-to-business litigation involving website use, data transfer, and data storage issues.
- **Technology use and social media counseling** — We routinely advise companies in various industries, insurers, reinsurers, and professionals on mitigating the risks associated with social media while maximizing social media tools to increase brand awareness and achieve marketing and business development goals. Our Employment and Labor Practice Group is well versed in helping employers navigate the new and unique challenges presented by the usage of electronic devices, cloud computing, e-mail, and social media.
- **Internet of things** — Our Product Liability Practice Group is on the forefront of developing defenses and strategies concerning data security issues related to internet- or wireless-connected products in the emerging field called the internet of things, or IoT.

Cyber Risk Coverage and Bad Faith Defense

Cyber risk coverage is one of the fastest-growing and most-sought-after insurance products. It is a new area to the insurance industry, and with the exponentially increasing number of claims, the market has had to learn a great deal about managing these risks in a very short period of time. As the threats and potential consequences of data breaches continue to rise, insurers face a critical need for new products or to reevaluate their existing products and pricing models.

Goldberg Segalla helps clients navigate this emerging landscape with the unique training and experience of a dedicated cyber risk team integrated with our Global Insurance Services Practice Group — a renowned insurance and reinsurance practice ranked by market leaders and top global publications as one of the world's biggest and best practices serving this market.

Our services for insurers and reinsurers include:

- **Policy wordings and negotiations** — To help minimize the risk of a potentially costly coverage dispute, our team can partner with clients to develop, draft, review, or modify policy language in order to allocate appropriately the risk stemming from data breaches and privacy issues. On behalf of insurers and reinsurers, we regularly negotiate policies and treaties with policyholders and cedents.
- **Underwriting guidelines and coverage counsel** — Our Global Insurance Services team has assisted with the creation of countless sets of underwriting guidelines. Utilizing dual-qualified U.S./U.K. counsel, Goldberg Segalla has provided coverage advice for a market leader with respect to a number of claims, valued at millions of dollars, made under its cyber, privacy, and social media policies. We are well-equipped to develop applications and underwriting guidelines specifically tailored to cyber risk.
- **Reputational risk coverage** — Traditional first-party and third-party policies do not take into account the cost a company incurs protecting and repairing its reputation following a data breach. We are ready to assist insurers with developing products geared specifically toward this crucial component of the data breach landscape. In fact, Goldberg Segalla lawyers worked with insurers to develop some of the first reputational risk policies that address these new and escalating challenges.
- **Coverage dispute defense** — Many of the world's largest insurers and reinsurers trust Goldberg Segalla to defend them in their highest-exposure coverage disputes, whether involving first-party or third-party claims. As recognitions like *Reactions* Law Firm of the Year demonstrate, Goldberg Segalla is a go-to firm globally for complex, high-risk coverage litigation.