

Privacy and Cybersecurity Litigation and Investigations

Wiley's team combines deep substantive experience in data privacy and cybersecurity with extensive litigation and government investigations capabilities. We use creative legal strategies to help clients succeed, and have unique experience handling litigation that arises out of or is closely related to regulatory or enforcement actions.

We successfully represent companies facing inquiries from government agencies including the Federal Trade Commission (FTC), Federal Communications Commission (FCC), Consumer Financial Protection Bureau (CFPB), U.S. Department of Justice, U.S. Securities and Exchange Commission, State Attorneys General, and other agencies. We handle matters arising under a range of federal and state laws including the FTC Act, Video Privacy Protection Act (VPPA), Computer Fraud and Abuse Act (CFAA), Electronic Communications Privacy Act (ECPA), Wiretap Act Stored Communications Act, Fair Credit Reporting Act (FCRA), Telephone Consumer Protection Act (TCPA), the California Invasion of Privacy Act (CIPA), state unfair and deceptive practices (UDAP), and consumer protection laws.

We also have extensive familiarity advising on state privacy laws, including comprehensive privacy laws, health data laws, and data broker laws, as well as state artificial intelligence (AI) laws.

Wiley's team is experienced in successfully handling complex, high-stakes litigation, including class actions and multi-district litigation. We also advocate for clients challenging abusive litigation tactics on the appellate and policy level.

Our privacy and cybersecurity investigation experience includes:

- Successfully persuading the FTC to close numerous privacy-related investigations without bringing an enforcement action, including inquiries involving AI, privacy and data security representations, and sensitive data sharing.
- Advocating before and negotiating settlements with the FTC, including on matters related to location data collection and sharing practices.
- Handling investigations related to data breaches and cybersecurity before various agencies.
- Responding to agency requests, including Civil Investigate Demands (CIDs) and subpoenas.

Our litigation experience includes:

- Successfully defending companies in privacy-related litigation, including cases involving regulatory investigations.
- Evaluating and responding to demand letters and potential claims, assessing liability risks (including as part of transactions), and crafting responses and strategies under a range of federal and state privacy laws and regulations.
- Reaching favorable resolutions by obtaining dismissals and summary judgment, defeating class certification, negotiating favorable settlements, and litigating cases through trial and appeal.
- Bringing legal challenges and advocating in regulatory proceedings that affect companies' data privacy and cybersecurity practices.

Representative matters include:

- Won dismissal of state law class action lawsuit based on privacy-related claims involving data sharing.
- Won dismissal of lawsuits alleging Racketeer Influenced and Corrupt Organizations Act (RICO) violations and torts related to the collection of personal data.
- Obtained dismissal with prejudice of a class action lawsuit filed against one of the world's largest government contractors under the TCPA. On appeal, the lower court's dismissal was affirmed by the U.S. Court of Appeals for the Fourth Circuit.
- Successfully defended a mobile marketing firm alleged to have violated the TCPA.
- Successfully resolved alleged class action under California Invasion of Privacy Act (CIPA) regarding use of website technology.
- Representing a company in connection with an investigation by the Commerce Departments' BIS and the FBI related to potential cyber intrusion, phishing attempt, and attempt to acquire and send products to an embargoed country.
- Representing clients in domain name litigation affecting critical internet and cybersecurity infrastructure.
- Represented a national trade association as an *amicus curiae* to successfully narrow the scope of an SEC subpoena issued against a law firm that fell victim to a cyberattack.
- Representing a national trade association as an *amicus curiae* to challenge eight-figure forfeiture order against telecommunications company.
- Representing several national trade associations as *amici curiae* to advocate for dismissal of a privacy class action based on a company's use of website analytics tools.