



State Bar of Michigan IT Law Section
8th Annual Information Technology
Law Seminar

***Privacy and Data Protection –
It's Not Just for Clients***

September 10, 2015
The Inn at St. John's
Plymouth, Michigan



Data Privacy & Security Panel

- Introduction of Panel Members
- Panel Process
 - Short intros to major areas:
 - Your ethical obligations (Vince Polley)
 - Your legal obligations (Keith Cheresko)
 - Cybersecurity vulnerabilities (Jeff Ingalsbe)
 - Brief recap of scenarios found in your printed materials
 - Discussion of scenarios
 - Interactive process: audience questions/input welcomed
- Materials

Moderator and Panelists

Moderator

- Robert R. Rothman, Privacy Associates International LLC

Panelists

- Keith A Cheresko, Privacy Associates International LLC
- Jeffrey A. Ingalsbe, Flexible Plan Investments, Ltd.
- Vincent I. Polley, KnowConnect PLLC

Introduction - Ethics

- ABA Commission on Ethics 20/20
- ABA Model Rules 1.1 (competence), 1.6 (confidentiality), 5 (supervision)
- Opinions/Rulings (ABA, State, Local)
- ABA Cybersecurity Handbook
- Client consultations

Introduction –Legal Obligations

- Federal and State Statutory
- Regulatory
- Contractual
- Standards
- Foreign Laws/rules

Introduction – Cybersecurity Vulnerabilities

Management of IT

- **Who handles technology problems?**
Can't access email, storage device is full, iPhone won't connect
- **Who handles new technology purchases?**
New tablet, new printer, new internet provider
- **Who handles updates?**
Windows 7 Security updates, Adobe updates, iOS updates
- **The “tech savvy lawyer”**
Very small firms only. Requires significant technology experience.
- **A “Managed Service Provider”**
Are you their only customer? How is work prioritized? Patches?

Introduction – Cybersecurity Vulnerabilities

eMail

- Hosted onsite or in the cloud?

How is backup and recovery handled? Turn-around time? Are patches timely? Can you perform discovery? Who has access to your emails?

Mobile Devices

- Android devices have huge problems.

More vulnerabilities than other operating systems; carriers determine update schedule. 1B have been activated.

- iOS devices (Apple) has lost some shine

Several significant vulnerabilities. Within 3 days of release, updates have 90% saturation

- Windows phones

There a too few to see any trends.

Introduction – Cybersecurity Vulnerabilities

Cloud

- Private, Public, or Hybrid

Visibility and control change from one type to another

BYOD

- Corporate and Private data intermingle
- Discovery, recovery, and data loss prevention are extremely difficult
- Policies help, Tools help much more

Scenario Basic Facts

- Medium size Detroit firm
 - Branch in Milano, Italy
 - Wide variety of subject matters
- Centralized hard copy file system, land line phones, wireless access in office
- Each department/attorney maintains own:
 - Client retention procedures and documents
 - Electronic filing systems
 - Connected devices
- No centralized privacy/security policies or dedicated IT management

Scenario Discussion

Situation 1

- M&A Department storing materials in public cloud provider relating to current M&A activity in healthcare and financial services areas, as well as past M&A activity
- Cloud provider breached twice: nine months ago and three weeks ago

Scenario Discussion

Situation 2

- Litigation Department handling case against Italian shoe manufacturer and its American distribution subsidiary
- All information related to case retained on thumb drive, which was lost

Scenario Discussion

Situation 3

- In same case, firm cannot comply with U.S. discovery demands because the Italian attorneys in the same firm will not turn over the personal information of the designers of the shoes in question
- Reasons given:
 - Italian Data Protection Laws
 - Works Council Agreements of Client

Scenario Discussion

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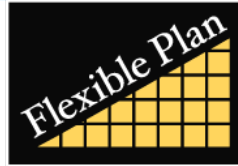
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