

# Data Breach Class Action Defense

Data breaches are increasingly leading to class actions with enterprise-threatening consequences. With over 20 litigators on our best-in-class Data Breach Class Action team, King & Spalding has handled more high-profile, large-scale data breach class action litigation than any other law firm. Our deep experience in navigating a rapidly-evolving legal regime makes us the right team to entrust.

## WE ARE THE LEADING DATA BREACH CLASS ACTION LITIGATION FIRM IN THE COUNTRY HAVING DEFENDED MANY OF THE LARGEST DATA BREACHES IN U.S. HISTORY.

Our team has led the defense of the most notable breaches in recent history: Equifax, Capital One, Delta Air Lines, The Home Depot, Kmart, Sears, Target and Yale University. Collectively, these matters represented billions at stake for the companies and all included the threat of existential brand damage. We mitigated the damages for our clients in these matters through a combination of successful motion practice and creative resolution strategies.

## WE ARE WINNING UNCHARTED LEGAL BATTLES IN THIS SPACE.

Unlike garden-variety class actions, plaintiff's lawyers are employing novel theories of liability and damages to navigate a landscape lacking a clear standard governing data security. We have successfully defeated several of these efforts including:

- In the Equifax data breach MDL
  - we obtained dismissal of novel breach of contract and Fair Credit Reporting Act claims which alleged billions of dollars in damages
  - we obtained dismissal of all claims asserted by the financial institution and business plaintiffs, nearly all of which were premised on the novel theories of damages and injuries
- In the Capital One MDL
  - we obtained dismissal with prejudice of novel RICO claims
  - we successfully argued that plaintiffs could not prevail on a damages theory premised on the "inherent value" of personal information

## WE ADVISE ON ALL FRONTS.

In any large-scale data breach, the company will typically face a barrage of class action litigation, investigations, and enforcement actions. Our team includes Data, Privacy and Security and Government Investigations lawyers who collectively work to strategize, manage and anticipate the complex legal issues and workflows arising. These often include (as they did in the Equifax case):

- root cause investigation and incident response
- congressional inquiries
- investigations and litigation brought by a variety of regulators, including multi-state consortiums of attorneys general and other state and federal authorities

*"Great knowledge of the substantive law and adept at maneuvering complicated issues and offering creative solutions."*

LEGAL 500 (2020)

*"David Balsler, a partner in Atlanta, is a prominent expert in cybersecurity: He represented Equifax Inc. in 250 lawsuits and government regulatory actions brought over a 2017 breach[.]"*

LAW.COM (2019)

*"The team members are virtually unflappable, despite the incredible pressures and novel issues of fact and law with which they are presented. Their calm and their been-there-done-that attitude provides their clientele with tremendous comfort in times of tremendous stress."*

LEGAL 500 (2020)

## REPRESENTATIVE EXPERIENCE

- Successfully defended **Equifax** as lead counsel in the MDL involving hundreds of consumer and financial institutions class actions filed in the wake of a high-profile 2017 data breach. After more than a year and a half of contentious litigation, we negotiated a class action settlement to resolve the claims of approximately 147 million U.S. consumers. The case is currently on appeal to the 11<sup>th</sup> Circuit.
- Defending **Capital One** in over 60 consumer class actions relating to the data security incident that was announced in July 2019.
- Successfully defended **Delta Air Lines** in a series of consumer class actions that were filed following the 2018 announcement of a cybersecurity incident involving a third-party vendor. Two of the cases were dismissed with prejudice and the plaintiff in the third case discontinued the lawsuit.
- Favorably resolved the financial institutions class actions filed against **Sears Holding Corporation** and **Kmart Corporation** across the country after an announcement of a payment card breach at Kmart in October 2014.
- Defended **Yale University** in a consumer class action involving a data security incident announced in July 2018 which was settled favorably.
- Favorably resolved the consumer class action against **The Home Depot** that arose from the criminal intrusion into its payment data system in September 2014.

Please contact [David Balsler](#), Head of King & Spalding's Class Action Practice, to learn more.

### About King & Spalding.

Celebrating more than 130 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 1,200 lawyers in 22 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients.