

Data Breach Class Action Defense

Data breaches are increasingly leading to class actions with enterprise-threatening consequences. With deep experience advising on high-profile, large-scale data breaches, King & Spalding brings an integrated approach, including incident response, interacting with regulators, managing government investigations and defending varied class action litigation brought by parties such as consumers, small businesses and financial institutions as well as securities class actions. King & Spalding has handled more high-profile, large-scale data breach class action litigation than any other law firm. Our unparalleled experience with the complex issues in this rapidly-evolving legal regime makes us the right team to entrust.

WE ADVISE ON ALL FRONTS

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 immediately after a breach. These often include:

- root cause investigation and incident response (crisis management, public relations, notifications and coordination with vendors)
- coordination with law enforcement and regulators
- congressional inquiries, investigations and litigation brought by a variety of regulators, including multi-state consortiums of attorneys general and other state, federal and international authorities

WE ARE THE LEADING DATA BREACH CLASS ACTION FIRM IN THE COUNTRY, HAVING DEFENDED MANY OF THE LARGEST BREACHES

Our team has led the defense of the most high-profile breaches across the country including: Equifax, Capital One, Delta Air Lines, The Home Depot, Kmart/Sears and various others. Collectively, these matters represented billions of dollars at stake and each included the threat of existential brand damage. We mitigate the exposure 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

Plaintiffs' lawyers are employing novel theories of liability and damages to try and capitalize on a legal landscape lacking a clear framework governing data privacy and security-related claims. We have successfully defeated many of these efforts including:

- In the Equifax data breach MDL:
 - we obtained dismissal of breach of contract and Fair Credit Reporting Act claims that alleged billions of dollars in damages
 - we obtained dismissal of all claims asserted by the small business plaintiffs and the majority of financial institution plaintiffs
- In the Capital One data breach MDL:
 - we obtained dismissal with prejudice of the alleged RICO claims
 - we successfully argued that plaintiffs could not prevail on a damages theory premised on the “inherent value” of personally identifiable information
 - we successfully protected a privileged root cause investigation report

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

LEGAL 500 (2020 - 2021)

“David Balsler . . . 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)

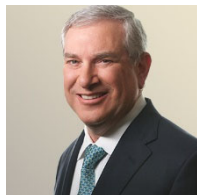
“The team members are virtually unflappable, despite the incredible pressures and novel issues of fact and law with which they are presented. Their calm and their been-there-done-that attitude provides their clientele with tremendous comfort in times of tremendous stress.”

LEGAL 500 (2020 - 2021)

REPRESENTATIVE EXPERIENCE

- Successfully defended **Equifax** as lead counsel in an MDL involving hundreds of consumer, small business and financial institutions class actions filed in the wake of the 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 as well as the claims of states attorneys general and other regulators. The case is currently on appeal to the 11th Circuit. We also represented the company in related state and federal regulatory investigations and enforcement actions, and Congressional inquiries and testimony.
- Defending **Capital One** as lead counsel in over 60 consumer class actions relating to a data security incident that was announced in July 2019 involving approximately 100 million U.S. consumers. The MDL is pending in the challenging jurisdiction of the “rocket docket” in the Eastern District of Virginia. King & Spalding is also representing the company in connection with responding to inquiries from various state Attorneys General offices, banking regulators and Congressional committees and members.
- Representing **SolarWinds, the SolarWinds’ Vice President of Security Architecture, and its former CEO** in a securities class action arising from the supply chain attack discovered in December 2020.
- Successfully represented **Delta Air Lines** in its incident response, regulatory inquiries and defense of a series of consumer class actions 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 across the country as well as the card brand investigations for **Sears Holding Corporation** and **Kmart Corporation** after an announcement of a payment card breach at Kmart in October 2014.
- Favorably resolved the consumer class actions against **The Home Depot** that arose from a criminal intrusion into its payment data system in September 2014.
- Defending **Deloitte** in class actions filed across the country relating to a May 2020 data incident involving various states’ Pandemic Unemployment Assistance (“PUA”) programs pursuant to the 2020 CARES Act.
- Representing **National Western Life Insurance Company** in multiple class action lawsuits stemming from an August 2020 data breach.

FOR MORE INFORMATION, CONTACT



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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.