

Privacy Litigation & Compliance

The privacy landscape is dynamic. Class action litigation increasingly centers on consumer privacy issues. Our team of skilled litigators represents businesses in privacy-based class actions and government enforcement proceedings, including cases that implicate cutting edge technology and novel theories regarding consumer communications and the capture, use, protection, and disclosure of personal data. We work closely with our clients to help them see around the corner to anticipate the next waves of privacy litigation. We are at the forefront of advising businesses on potential privacy traps for practices being devised and implemented in connection with the COVID-19 pandemic.

Our team has extensive experience where privacy intersects with consumer protection litigation and enforcement. We have an outstanding record of success shutting down threatened or filed claims early, navigating and limiting discovery, prevailing on the merits, and opposing class certification. Our deep knowledge of the nuances of federal and state privacy laws and our extensive experience strategically defending these actions in jurisdictions across the country have made our team the “go to” lawyers for leading companies in privacy actions — particularly in the California state and federal courts.

We work hand-in-hand with our clients to devise and implement compliance measures related to the California Consumer Privacy Act (CCPA), which became effective on January 1, 2020. We work with the firm's nationally preeminent State AG Practice Group and the firm's government relations firm Cozen O'Connor Public Strategies to ensure our clients are getting up-to-date guidance in this ever-changing area.

In the privacy arena, consumer-facing disclosures are increasingly important. We have significant experience crafting and revising terms and conditions, arbitration agreements and class action waivers, retail signage, website and mobile app disclosures, and privacy policies — and then invoking and enforcing them in court proceedings.

Our team advocates on behalf of leading industry groups before the courts and the government on privacy-related issues. We also work closely with business associations to address reform of privacy laws, curtail class actions abuse and support consumer arbitration programs.

PRIVACY LITIGATION AND ENFORCEMENT: WHEN THE STAKES ARE HIGH

We are thoughtful and effective litigators who know the playbook of the plaintiffs' class action bar in the privacy space. We are called upon when the stakes are high and claims touch upon practices integral to our clients' businesses and their use of modern technology. We have deep experience addressing — and defeating — claims asserted under state and federal privacy laws, including:

- Telephone Consumer Protection Act (TCPA)
- Video Privacy Protection Act (VPPA)
- California Invasion of Privacy Act (CIPA)
- Cable Communications Policy Act (Cable Act)
- Children's Online Privacy Protection Act (COPPA)
- Biometric Information Privacy Act (BIPA)
- Fair Credit Reporting Act (FCRA)
- Fair and Accurate Credit Reporting Act (FACTA)
- Song-Beverly Credit Card Act
- Shine the Light Law



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- CAN-SPAM Act
- Wiretap Act
- California Online Privacy Protection Act (CalOPPA)
- Computer Fraud and Abuse Act (CFAA)
- State Consumer Protection Laws
- Driver's Privacy Protection Act

Compliance: Meaningful Partnerships With Our Clients

Our approach to compliance is practical and accessible. We work closely to identify and address issues while minimizing disruption to the business. Our clients consistently compliment the way we tailor our compliance advice and differentiate our approach.

We draft, review and modify our clients' terms, consumer disclosures, corporate policies and practices, employee training materials, vendor contracts, and indemnification provisions. We advise on an array of areas that implicate privacy issues including:

- Online data collection
- Cookies
- Text messaging
- Telephone call campaigns
- Faxing
- E-mail campaigns
- Digital marketing
- Lead generation
- Behavioral advertising
- Data collection, retention and dissemination
- Data sharing and analytics
- Data security
- Visual search and product recognition
- Asset protection
- Social media
- E-commerce
- Customer loyalty programs
- Tracking technology
- Temperature and health monitoring and tracing
- Biometrics (facial recognition, fingerprinting, eye scans)
- Artificial intelligence
- Augmented and virtual reality

As the U.S. privacy landscape continues to take shape, our cross-practice team is out front engaging with regulators, advising businesses, collaborating with technology vendors, and speaking to industry leaders. Our lawyers are sought after to write articles and authoritative white papers and to present at leading conferences on privacy litigation and compliance. We are frequently called upon to help develop robust privacy programs, collaborate with internal stakeholders, and assess existing measures.

Data Breach: Collaboration Across Groups

We work closely with our Technology, Privacy & Data Security group to ensure that emergency preparedness plans are thorough and up-to-date, advise on risk mitigation, investigate and address incidents if they occur, and defend against related data breach class actions and multi-district litigation.

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Related Practice Areas

- Class Actions
- Technology, Privacy & Data Security

