

RSA®Conference2020

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HUMAN
ELEMENT

SESSION ID: LAW-T11

If you can't trust the phone company: —*a mock trial*



Honorable Laurel Beeler

United States Magistrate Judge, United States District Court for the Northern District of California

Lisa M Angelo, *Esquire*

Angelo Law

Hoyt L Kesterson II

Avertium

Lauren X Topelsohn, *Esquire*


Mandelbaum Salsburg

Julie Lewis



Digital Mountain


#RSA
C

Polling




Agenda







FULL AGENDA



AGENDA AT A GLANCE



KEYNOTES



TRADITIONAL SESSIONS

LAW-T11 If You Can't Trust the Phone Company: A Mock Trial

Moscone West 3006 | Intermediate


Polls


and now for something completely different


CLASSIFICATION

Intermediate

PRESENTER(S)

 Lisa Angelo
Participant

 Hon. Laurel Beeler
Participant

 Hoyt Kesterson
Participant

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Agenda for the mock hearing

We lay our scene and Call to Order

Summary Judgment Motion and ruling

Fact & expert witness testimony

Legal Argument

Decision and commentary by Judge Beeler

A tale of three entities



The Phone Company



Evil doers do bad things; lawyers become involved

- Evil doer on custodial staff purloins passphrase and mobile number of Dr. Alicia Feelgood, chief clinician of Healing-R-Us.
- Another evil doer convinces The Phone Company to issue new phone with Dr. Feelgood's number.
- Evil doer logs into We Suck Blood Services, exploits a vulnerability to install ransomware, and extracts the entire test results database.
- WSBS pay \$500K in unmarked bitcoins; evil doer sells database to the National Questioner, which publishes articles using contents.
- Dire medical condition of Californian lam A Titan is revealed, costing millions. He sues Healing-R-Us (not a patient), TPC, and WSBS.
- On 25 February 2020 in the Moscone West Courthouse we find...

Dramatis Personæ

- United States Magistrate Judge Laura Beeler
 - Sitting by appointment
- Lisa M Angelo, *Esquire*
 - Partner, Wolfram & Hart and Retained Counsel for We Suck Blood Services
- Lauren X Topelsohn, *Esquire*
 - Partner, Dewey, Cheatham, & Howe and Counsel for Plaintiff Iam A. Titan
- Julie Lewis
 - Consultant and plaintiff's expert witness
- Hoyt L Kesterson II
 - VP Information Services for WSBS, a fact witness, and the Greek Chorus

Dramatis Personæ Offstage

- Counsel for defendant Healing-R-Us
- Counsel for defendant The Phone Company
- Counsel for defendant We Mop By Night Custodial Service
- Counsel for defendant The National Questioner
- Counsel for defendants Paul Fabrini and Cassie Hartley
 - There are also criminal charges pending

There are cross claims—everybody is suing everybody
Nothing is severed; all claims are being adjudicated
But our play is focused on Titan vs We Suck Blood

Oyez!

Oyez!

Oyez!



Title 1.81.5 California Consumer Privacy Act of 2018

1708.145 (c) (1) This title shall not apply to any of the following

(A)... **protected health information** that is collected by a **covered entity** ... **governed by** the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services ... established pursuant to the **Health Insurance Portability and Accountability Act** of 1996

Poll #1—Summary Judgment ruling recommendation

- LAW-T11
- Do you think the California Consumer Protection Act specifically prohibits this lawsuit?
 - A. Yes
 - B. No
- [Poll](#)

Post hearing discussion with Judge Beeler

- Discussion with the judge's law clerks—what should the decision be?
- Poll
- Judge Beeler's decision

Poll #2 & 3—Who is liable

- #2 Do you think all defendants are liable?
 - A. Yes
 - B. No
 - C. Some, not all
- #3 Which, if any, defendant should be determined to be more responsible?
 - A. We Suck Blood
 - B. Health-R-Us
 - C. The Phone Company
 - Don't respond if you believe all are equally liable
- [Poll](#)

These will be on the final

- Does the California Consumer Privacy Act prohibit a private right of action against an entity governed by HIPAA?
- When multiple entities contribute to a security failure how will fault and damages be apportioned?
- How much can bad physical security affect liability?
- Can the use of SMS for multi-factor authentication create additional liability?
- Should ransomware be treated as a breach?

Your players

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U.S. Magistrate Judge

U.S. District Court for Northern District of California

Laurel_Beeler@cand.uscourts.gov

Lisa Angelo, *Esquire*

Attorney

Angelo Law Firm PLLC

lma@Angelo.Law

Hoyt L. Kesterson II

Senior Security Architect

Avertium

hoyt.kesterson@avertium.com

Lauren X Topelsohn, *Esquire*

Member

Mandelbaum Salsburg P.C.

LTopelsohn@lawfirm.ms

Julie Lewis

President, CEO, and Founder

Digital Mountain

julie.lewis@digitalmountain.com