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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

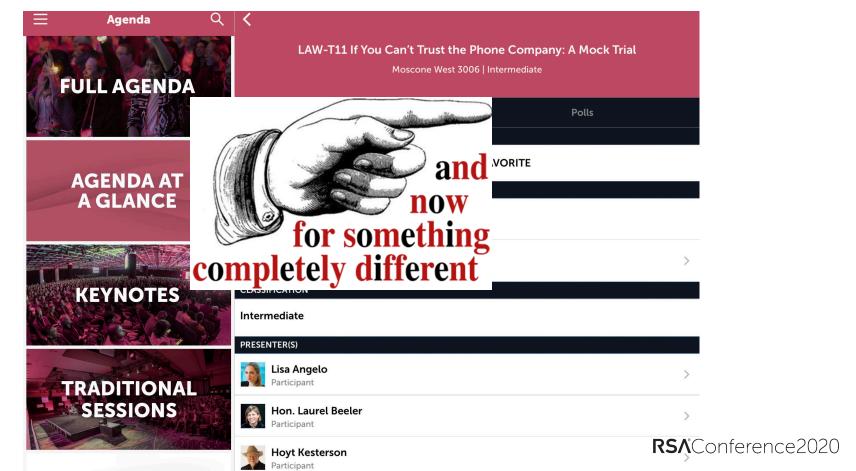
Lauren X Topelsohn, Esquire

Mandelbaum Salsburg

Julie Lewis

Digital Mountain

Polling



Agenda for the mock hearing

We lay our scene and Call to Order

Summary Judgmer Poll gument and ruling

Fact & expert witness testimony

Legal ¿ Poll nent

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 Iam 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



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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