



## FERNANDO M. PINGUELO, PARTNER

CHAIR, CYBER SECURITY & DATA PROTECTION  
CO-CHAIR, CRISIS & RISK MANAGEMENT  
COMPLEX LITIGATION | LABOR & EMPLOYMENT  
INTELLECTUAL PROPERTY | MEDIA LAW  
ELECTRONIC DISCOVERY | INTERNATIONAL LAW

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### BIOGRAPHY

Fernando M. Pinguelo, a trial attorney and Chair of the firm's Cyber Security & Data Protection and E-Discovery groups, devotes his practice to complex litigation with an emphasis on cyber security, data privacy, media and employment matters.

A former prosecutor, Fernando's experience addresses all facets of litigation (trial, mediation, arbitration, appellate) in both federal and state courts and he regularly handles "crisis litigation," including emergency applications with the courts. Most recently, the leading global information services company retained him to address a data breach incident reportedly involving the theft of 15 million customers' sensitive data.

He serves on state and federal committees, including appointments by the Chief Judge of the District of New Jersey to serve on the Merit Selection Panel for federal magistrate judgeship selection and reappointment, and Chief Justice of the Supreme Court of New Jersey to serve on the Evidence Rules Committee. Fernando handles a broad spectrum of national and international disputes including those involving business torts, data breaches, misappropriation of trade secrets, copyright/trademark infringement, and breach of contract and non-compete covenants. Fernando earned accreditation as an information privacy professional (CIPP/US) from the International Association of Privacy Professionals.

A leader in the emerging areas of cyber law and electronic discovery, Fernando works closely with clients to develop strategies for managing business and legal issues relating to electronic data. He focuses client attention on preventing claims and pursuing strategies that enhance a client's ability to manage data-essential precautions because of the financial and public relations fallout that often results from high-profile data breaches. When a rapidly evolving crisis or emergency hits, Fernando mobilizes his interdisciplinary team of professionals and implements a response strategy to mitigate damages. Fernando's global network of highly skilled lawyers and other professionals from across the U.S. and more than 70 other countries enables him to provide clients with quality services outside our jurisdictions.

Recently, Fernando provided commentary on proposed federal legislation concerning cyber security, and received a Fulbright Specialist appointment in Brazil for his work on technology's impact on the law. Notably, Fernando was involved in New Jersey's first case addressing its new electronic discovery rule amendments; designed one of the first state-of-the-art electronic

discovery law courses in the country, which he teaches at Seton Hall University School of Law; and created the ABA Journal award-winning *eLessons Learned*, an educational blog about how technology impacts lawsuits. Moreover, the President of the New Jersey State Bar Association appointed him Chair of the Privacy Law Committee. Fernando lectures for state and federal judicial colleges, including the New Jersey Judicial College and Escola Paulista da Magistratura (São Paulo), both of which provide judges with academic programs to keep abreast of legal developments. He also clerked for the Honorable Edwin H. Stern, Superior Court of New Jersey - Appellate Division.

Within the media and entertainment industries, Fernando represents television personalities including Emmy Award-winning talent, performers, and writers on a variety of legal issues, including cyber security/privacy issues concerning their Internet reputations.

Fernando's numerous published articles and speaking engagements in his areas of practice reflect the depth of his knowledge and understanding of the issues that his clients face, including his chapter authorships for the leading treatise on electronic discovery for in-house counsel, *eDiscovery for Corporate Counsel* (Chapter 17 - Electronic Data, Cyber Security & Crisis Management) (Thomson-West 2013-present), and *New Jersey Federal Civil Procedure* (Chapter 10 - eDiscovery) (ALM 2011-present). He has appeared on television as a legal commentator on high-profile trials, and has been quoted and cited in numerous media reports covering cases he has handled.

Notably, Fernando earned Martindale-Hubbell's AV Preeminent rating since 2011, its highest lawyer rating, which serves as an objective indicator of a lawyer's high ethical standards and legal knowledge. Chambers & Partners identified him as a **Recognized Practitioner** in its *Chambers USA 2017, 2014 Guides* for Nationwide Privacy & Data Security experienced lawyers. Furthermore, Fernando has been recognized by publications that identify professionals who have made an outstanding impact in helping clients succeed, including *National Law Journal* who recognized him as a 2015 Cyber Security Trailblazer; *The New York Enterprise Report* who awarded him its Technology Lawyer of the Year award; *Law Technology News* who recognized him in its October 2012 magazine issue as one of only a handful of U.S.-based lawyers with notable experience in handling cyber security and data privacy matters; and PenTest who in 2012 profiled him as **the new breed of lawyer – The CYBER LAWYER, who is knowledgeable of both the legal and technical side of the cyber world.**

## EDUCATION

- Boston College Law School (JD, 1997)
- Boston College, *magna cum laude* (BA, 1994)
- Certified Information Privacy Professional (CIPP)

## BAR ADMISSIONS

- NEW JERSEY
- NEW YORK
- PENNSYLVANIA
- DISTRICT OF COLUMBIA
- U.S. SUPREME COURT
- U.S. DISTRICT COURT
  - DISTRICT OF NEW JERSEY
  - SOUTHERN, EASTERN AND WESTERN DISTRICTS OF NEW YORK
  - EASTERN DISTRICT OF PENNSYLVANIA
- U.S. COURT OF APPEALS
  - SECOND, THIRD, ELEVENTH, AND FEDERAL CIRCUITS

## PROFESSIONAL AFFILIATIONS

- THE FULBRIGHT INTERNATIONAL EXCHANGE PROGRAM - FULBRIGHT SPECIALIST
- INTERNATIONAL ASSOCIATION OF PRIVACY PROFESSIONALS
- NEW JERSEY SUPREME COURT COMMITTEE ON EVIDENCE
- FOUNDER/FORMER CO-CHAIR, MERITAS GLOBAL CYBER SECURITY & DATA PROTECTION ALLIANCE
- THIRD CIRCUIT BAR ASSOCIATION
- NEW JERSEY STATE BAR ASSOCIATION – PRIVACY LAW COMMITTEE, CHAIR
- ASSOCIATION OF THE FEDERAL BAR OF NEW JERSEY, TRUSTEE – SENATE JUDICIAL COMMITTEE
- HISPANIC NATIONAL BAR ASSOCIATION – TECHNOLOGY COMMITTEE
- NATIONAL ACADEMY OF TELEVISION ARTS & SCIENCES

## REPRESENTATIVE CLIENT MATTERS

### CYBER SECURITY & DATA PROTECTION

- Special Data Privacy Counsel for global financial services firm with 50,000 employees and operations in North America, Asia, Europe, and Latin America
- Represent world's leading global information services company concerning hacker theft of personal data of mobile communications company's 15 million customers; and on fewer than twenty-four hours' notice, filed an expedited complaint, served a subpoena, and received documents within seven days of filing, and facilitated New Jersey-based response efforts in connection with investigation and crisis response efforts
- Represent leading online retailer of nutritional supplement products concerning data breach of its websites whereby hackers injected malicious computer script into source code that caused data to be copied and transmitted to an unauthorized, Russian-based IP address, including efforts to remediate and mitigate data breach, and facilitate notification efforts with authorities in several U.S. States and Territories, and with affected customers in all 50 states and several territories

- Represent non-profit concerning incident whereby hackers socially engineered access to client's online payroll account and diverted salary payments to unauthorized banks, including efforts to remediate and mitigate data breach, and coordinate notification efforts with authorities and affected employees in various U.S. States
- Represent cloud services provider in response to media reports disclosing white hat hacker firm's, Kromtech Security, discovery that sensitive files of 150,000+ patients, including names and medical diagnoses were disclosed in a misconfigured AWS S3 bucket and left accessible and unprotected
- Represent Brazil-based international recruitment company in connection with unlawful access to its computer systems by a competitor in violation of Brazilian and U.S. laws, and application seeking electronic discovery for use in foreign tribunal
- Represented Brazil-based law firm in connection with unlawful access to its computer systems that resulted in the disclosure of sensitive client information and an investigation by Brazilian banking regulators
- Represent TV news anchors and reporters, including Emmy Award-winning talent who broadcast out of stations in Boston, Chicago, Los Angeles, and New York, regarding cyber security and privacy issues concerning their Internet reputations.

### COMPLEX BUSINESS DISPUTES & eDISCOVERY

- Retained ten days before jury selection and successfully defended against fraudulent transfer claims filed by South African mining company seeking to recover \$200 million judgment against principals of insolvent precious metals refining company
- Successfully obtain TROs and preliminary injunctions in federal/state courts for international bank against former financial services broker employees in connection with breaches of restrictive covenants and thefts of trade secrets in aid of FINRA arbitration.
- Successfully appealed, on an interlocutory basis, adverse trial court ruling compelling production of sensitive information
- Successfully defended against TRO/preliminary injunction application in trademark case filed by Delta Airlines that implicated unsettled law concerning whether use of search engine advertising keywords (e.g., Google AdWords) constitutes infringement
- In New Jersey's first state case implicating its new eDiscovery rule amendments, successfully defended client in legal malpractice action over the course of a twenty-day trial
- Filed action for breach of contract on behalf of national media and entertainment company against auto dealership owned by former NFL/Super Bowl champion, Brad Benson, which resulted in judgments being entered against defendants and an involuntary bankruptcy proceeding
- Defended financial adviser of NFL/Super Bowl champion, Dwight Freeney, against claims of breach of contract and fraud in connection with parallel federal criminal complaint alleging wire fraud and fraudulent transfers of millions of dollars
- Successfully prosecuted breach of contract claims on behalf of renowned scientist against 5th largest US generics pharmaceutical company concerning R&D product pipeline of a diversified range of products
- Successfully prosecuted breach of contract and related claims for prominent music manager against pop music star Taylor Swift and her parents

- Successfully opposed, on fewer than 48 hours' notice to appear in court, emergency application seeking TRO and Writ of Attachment on client's equipment and receivables on an alleged \$1.1 million claim; coordinated recovery of deleted emails and phone records; and uncovered conduct that supported client's counterclaims for violations of New Jersey's Trade Secrets Act and related computer-based claims, which amounted to more than \$3 million in counterclaim damages.

#### *LABOR & EMPLOYMENT*

- Litigated and appealed to the Third Circuit an employment claim under the Uniformed Services Employment and Reemployment Rights Act (USERRA), which outcome influenced U.S. Congress' decision to amend USERRA through the enactment of Veterans' Benefits Improvement Act of 2008.
- Successfully led national magazine publisher's response to a New York DOL investigation and audit of its freelance writers, coordinating the response with the publisher's offices in New York, Los Angeles, and Chicago, which resulted in subsequent withdraw of investigation without penalty.
- Coordinated and led internal investigation into employee theft of company inventory that resulted in \$.5M in monthly losses
- Negotiated favorable video distribution transaction for an International Master of Chess.