

privacy, which promise to have a lasting impact on litigation in this area. It is imperative that companies and their counsel are prepared for these major changes regarding data privacy & information security. Speakers will address the key issues currently in play and make sense of it all, including:

The implementation of the Federal Trade Commission's (FTC) "Red Flags Rule"

- Preparing for the June 1, 2010 compliance deadline with insights on FTC enforcement and intent
- How the Red Flags Rule will affect regulatory enforcement and litigation
- The scope of the Rule, including who will be considered a "financial institution" or "creditor" and what "accounts" are covered

Significant, New, and Pending State Data Security Laws & Regulations and Their Litigation Implications

- Massachusetts' Data Security Regulations:
  - determining the impact of these extensive regulations, and the effects on any company doing business in Massachusetts
  - the interplay with other states' data security regulations
  - the impact on plaintiffs' claims for damages in private consumer cases based on data breaches
  - the impact on multi-state employers and the potential for litigation
- Considering the impact of Nevada's Payment Card Industry (PCI) and encryption transmission requirements and enforcement trends
- New and pending state information security legislation

Federal Data Protection Legislation

- The possibility of a uniform federal statute preempting state data security regulations
- The HITECH Act and the impact of HIPAA's security breach regulations on HIPAA covered entities and their vendors

Employee Privacy


- Analyzing major cases and their possible impact on employee privacy, including *Quon v. Arch Wireless*, *Krottner v. Starbucks*, and *Stengart v. Loving Care Agency*
- Understanding the liability issues arising from the monitoring of employees' company and private emails, texting, and social networking

10:50 Morning Coffee Break ☕

11:00 Emerging State Enforcement Activities and Investigations and the Growing Authority of the State Attorney Generals

**Esther Chavez**  
Assistant Attorney General  
Texas Attorney General's Office (Austin, TX)

**Shannon Choy-Seymour**  
Assistant Attorney General  
Consumer Protection Division  
Massachusetts Attorney General's Office (Boston, MA)


 **Divonne Smoyer**  
Partner  
Dickstein Shapiro LLP (Washington, DC)

 **Ashley L. Taylor**  
Partner  
Troutman Sanders LLP (Richmond, VA)

- Recent state Attorney General actions involving notification under state breach notification laws
- Actions based on other grounds, including:
  - Improper storage of personal data
  - Illegal collection of protected information
- Effectively communicating with state Attorney Generals
- Handling multi-state investigations and enforcement actions when a breach spans multiple states
- Attorney General trends in remediation, including credit monitoring even when not statutorily required
- When notice of a breach must be given to an Attorney General, and whether it is in your best interest to disclose if not statutorily required
- Settlement strategies – how to work with state AGs without sacrificing your position

12:15 Emerging Trends in Federal Trade Commission Enforcement and Litigation


**Katrina Blodgett**  
Attorney  
Division of Privacy and Identity Protection  
Federal Trade Commission (Washington, DC)

 **Emilio W. Cividanes**  
Partner  
Venable LLP (Washington, DC)

- Recent FTC investigations, enforcement actions, and settlements stemming from data privacy breaches
- Examining the continued emphasis on enforcement under §5 of the FTCA prohibiting unfair or deceptive trade practices, and why these claims have been successful
- Updates on other FTC data privacy actions, including:
  - The Gramm-Leach-Bliley Act
  - The Fair Credit Reporting Act (FCRA) and the FACTA amendments

1:05 Networking Luncheon for Speakers and Delegates

2:15 Consumer Class Action Litigation and Procedure in the Context of Data Privacy & Information Security

 **Anthony Rollo**  
Member  
McGlinchey Stafford  
(New Orleans & Baton Rouge, LA)

 **Andrew B. Serwin**  
Founding Chair of Foley & Lardner's Privacy, Security and Information Management Practice  
Foley & Lardner LLP (San Diego, CA)

 **William L. Stern**  
Partner  
Morrison & Foerster LLP (San Francisco, CA)

*The private information of individuals is collected and stored by companies of all types at an ever increasing rate. Thus, the chance for a data breach is great. Through just one stolen laptop, a lost PDA, or a determined computer hacker, the personal information of millions of consumers can fall into the wrong hands, leading to identity theft concerns and other privacy related issues. Almost always, this results in the speedy filing of class actions from consumers alleging numerous types of injuries. Data breaches deliver devastating financial blows to a business in the form of endless litigation fees, settlement costs, and state and federal investigations and fines. Speakers will shed light on the state of the law and predict where claims are headed, including:*