

Privacy, data breaches and the fight for your identity

By Mike Arias



The Facebook data breach was shocking and headline grabbing. News outlets across the country detailed the scope of the problem. The repercussions ran all the way to the White House. A recent study found that more than 540 million records containing Facebook user data was exposed on Amazon's cloud computing service.

In the last few months, two of the largest and best known corporations in the financial sector suffered data hacks that caused yet another ripple effect for consumers throughout the country. The details differ in each, but the overall message is clear: Silicon Valley and Wall Street, each of which possess extremely intimate details of our lives, are doing next to nothing to protect the personal information of their own customers.

California responded with the California Consumer Privacy Act, which goes into effect Jan. 1. CAOC has fought hard to enact the toughest consumer privacy protections in the nation, and thanks to the hard work of our legislative advocates on privacy, Nancy Drabble and Saveena Takhar, California is leading the way to beat back the assault on data privacy. In 2018, CAOC played an instrumental role in the fight to help pass the California Consumer Privacy Act, which affords California citizens a number of new rights, including a private right of action for data breaches with statutory damages and the right to know what kinds of personal data a company has collected. It also allows consumers to request the deletion of personal information to opt out of the sale of personal information and more.

The bill was heralded by national media as the strongest in the country, and the new rules would likely benefit consumers in other states as well because many tech companies made or will make changes that apply to the entire nation.

Meanwhile, the ripple effects of data breaches in other industries continue to ruin people's finances, credit scores and more.

The Capital One data breach exposed credit card application data for anyone who applied for a card between 2005 and 2019. That's fourteen years' worth of social security numbers, reported income, bank information and more. The bank estimates around 100 million individuals in the U.S. and another 6 million in Canada had their information exposed.

The huge Equifax data breach impacted over 147 million people before it was discovered in 2017. Equifax made even bigger headlines as it continued to damage its own credibility and the personal privacy of consumers. The corporation agreed to a \$700 million settlement, though further review of the settlement exposed serious flaws. The Federal Trade Commission initially reported the settlement included \$425 million to help those affected by the breach, but the dollar amount was actually closer to \$31 million in payouts to consumers.

These are only two of the most recent data breaches, and surely there are more to come, making it all the more urgent for CAOC to continue protecting the data breach private right of action as well as fighting back against tech companies, financial institutions and others that take consumer data and then fail to protect that information.

While the California Consumer Privacy Act was a huge victory, this fight is far from over, as tech companies continue to try to erase the gains CAOC has made, both in Sacramento and in our nation's capital. This year in Sacramento over a dozen bills were introduced to amend the CCPA, the majority aimed at weakening the act. All sorts of industries rushed in

with their bills seeking exemptions before the act takes effect Jan. 1. CAOC worked with the privacy groups to successfully beat back attempts to weaken the law.

In Washington D.C., the tech industry is pushing Congress to pass federal legislation that would set a weaker nationwide standard, potentially preempting our strong California law. As the only state with a data breach protection law, CAOC has been partnering with other trial lawyer associations, such as the American Association for Justice, to combat these efforts.

CAOC also played a key role in supporting Attorney General sponsored AB 1130, which expands the data breach private right of action to include protection for government IDs such as passports and biometric data. CAOC defeated efforts by the California Chamber of Commerce and a number of large tech companies to water down the bill.

Our legislative staff and leadership pushed our elected officials hard to get the bill to Gov. Gavin Newsom's desk for his signature.

All of this is another example of why we must keep up this fight. Trial attorneys throughout the state need to get engaged, support CAOC, and promote candidates who will be champions for the consumers we represent in all of our practices. In November 2020, we all hope to see a change in the White House, but we need that change to also happen in the U.S. Senate and at the state level as well. CAOC needs your energy, your time and your financial commitment if we are going to make a lasting change. ■

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