

# Legal Connections

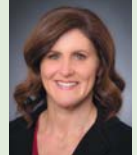


LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

APRIL 17, 2020

Find the perfect mediator to help resolve your legal issue in our Legal Resource Guide: [cbalaw.org](http://cbalaw.org)

Jill Snitcher  
McQuain, Esq.  
Executive Director  
[jill@cbalaw.org](mailto:jill@cbalaw.org)



## HOW CAN I HELP MY CLIENT RESPOND TO A DATA INCIDENT

Terms like “ransomware” and “phishing” can be scary, but you and your clients do not have to be afraid - be prepared.

Data protection is increasingly top of mind for businesses. Many clients are afraid of data breaches, but not all incidents are breaches. Understanding the difference and having a plan can help both you and your clients through the otherwise challenging times that often arise when an incident occurs.

As a client’s trusted advisor, what do you do when your client calls, likely stressed out and concerned, because their customers’, employees’ or other personal data may be compromised?

While referring the client to a privacy professional is often the right thing to do to help mitigate harm and appropriately



KATJA GARVEY  
Kegler Brown Hill + Ritter

address obligations, below are five steps to help your client focus, gather relevant facts and manage the initial incident response, while demonstrating, once again, that you add value in all areas of their business.

### 1. Identify, Verify and Document the Incident

As lawyers, we all know getting a grip on what has happened is essential to resolving an issue.

So, as an initial step, the team should find out what occurred. For example, was it an internal or external disclosure, from an inside or outside actor, an accident or a malicious attack and what type of data is at risk.

### 2. Contain and Mitigate

This step occurs simultaneously with step one. It should be obvious, but it is occasionally overlooked: stop the incident and prevent further compromise.

### 3. Implement or Create an Incident Response Plan + Assemble Incident Response Team

If your client has an incident response plan (IRP), initiate the first steps in accordance with the plan. If no IRP exists, assemble an appropriate internal and external incident response team. The internal team often consists of professionals on the executive, operations, IT, HR, finance and marketing teams, as needed. The team often includes an external privacy attorney and other experts, like forensic specialists.

The next steps are also critical and require very nuanced knowledge of federal and state law, as well as applicable global privacy laws, such as the EU General Data Protection Regulation.

### 4. Analyze Legal Obligations + Consider Whether and When to Notify Law Enforcement, Regulatory Authorities and

### Affected Individuals

The applicable laws and obligations may vary based not only on the organization, but also details related to the affected individuals and information.

### 5. Prepare + Execute a Notification Plan

Consider both the client’s legal and contractual obligations, as well as the client’s culture and reputation.

During this unprecedented pandemic, while working remotely, you may now have time to prepare. If you, or your clients, do not have an IRP, now may be a good time to get ready for the day the phone rings – the day you receive a client call with the urgent news of a data incident. Getting started may be as simple as preparing an outline for your reference. You could even reach out to clients to discuss putting together a specific IRP tailored to their needs, if appropriate. ■

NEED TO FINISH YOUR CLE CREDITS? CHECK OUT SOME UPCOMING WEBINARS AT THE CBA TODAY: [CBALAW.ORG](http://CBALAW.ORG)

## FIVE THINGS EVERY EMPLOYER SHOULD DO IN RESPONSE TO COVID-19

Every business has now felt some impact from the COVID-19 pandemic. Many businesses have been forced to close or drastically reduce hours, and the number of unemployment claims is higher than it has been in decades. In response, local, state and federal authorities have issued a variety of new laws, executive orders and guidance aimed at both limiting the spread of COVID-19 and tampering its effects on businesses and workers. Out of these measures are several new obligations and considerations for employers. We’ve included our top five below:

**1. Follow Ohio’s Stay-at-Home Order.** On March 22, Governor DeWine issued a stay-at-home order closing all non-essential businesses. That Order has been extended to May 1. Employers should review the Order, determine whether their business is essential or



CATHERINE BURGETT & STEVE TOLBERT  
Frost Brown Todd LLC

non-essential, and take all appropriate measures to close or cease operations as instructed.

### 2. Display Personal Hygiene Posters.

For those businesses still in operation, employers should take appropriate measures to prevent or mitigate the spread of COVID-19 in the workplace. One easy way is by displaying CDC-recommended posters and employee notices. For additional guidance,

the Occupational Safety and Health Administration has published its “Guidance on Preparing Workplaces for COVID-19,” which provides additional practical recommendations.

**3. Determine if the FFCRA Applies to Your Business.** The Families First Coronavirus Response Act went into effect nationwide on April 1. Among other things, the Act requires employee be paid sick and family leave for certain qualifying conditions related to COVID-19. The Act generally applies to any business with less than 500 employees and any public agency. Covered employers must also display the mandatory poster.

**4. Evaluate the CARES Act.** The Coronavirus Aid, Relief, and Economic Security Act, also referred to as the largest economic relief bill in U.S. history, was signed into law on March 27. The Act provides small

business loans, tax credits, expands unemployment benefits (including for self-employed workers) and includes myriad other provisions that may impact your business and employees. Familiarize yourself with the Act’s provisions and what benefits may be allocated to your business.

**5. Be Flexible.** As the COVID-19 crisis progresses, businesses and employees will continue to be faced with tough choices and competing interests, such as balancing childcare and employment. Where possible, employers should be flexible and creative in their employment practices, such as allowing employees to work from home and providing alternative schedules. Those businesses that thoughtfully handle this crisis and treat their employees well can expect continued loyalty when the crisis finally abates. ■



THE COLUMBUS BAR  
KNOWS COLUMBUS  
LAWYERS

### We'll help you find the right lawyer for your legal issue

In these unprecedented times, businesses must comply with constantly evolving laws and government orders. For over 70 years, we've been helping central Ohioans find the right lawyer—and today is no exception. Contact the Columbus Bar Association Lawyer Referral Service at (614) 221-0754 or visit [directory.cbalaw.org](http://directory.cbalaw.org).



FIND A LAWYER:

[directory.cbalaw.org](http://directory.cbalaw.org)

(614) 221-0754