



Brian H. Myers

Of Counsel

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Brian Myers is an experienced litigator and breach counsel focused on data privacy, cybersecurity, and technology. Brian provides clients with practical, results-oriented legal advice with the goal of achieving efficient, successful resolutions of their matters.

Cybersecurity & Data Breach Class Actions

Brian has successfully defended data breach class actions, including obtaining the dismissal of a class action arising from a data security incident involving the protected health information of more than 1.2 million individuals. As an experienced litigator and incident response counsel, Brian offers clients the legal and technical expertise essential to navigate the path to a successful outcome.

Class Action Defense

Brian has successfully defended clients across a wide range of class action litigation. His experience includes handling data privacy actions under the Illinois Biometric Information Privacy Act (BIPA), as well as claims involving online tracking technologies arising under state and federal wiretap laws and the Video Privacy Protection Act (VPPA). Brian's experience extends to consumer protection statutes such as the Telephone Consumer Protection Act (TCPA) and the Fair Debt Collection Practices Act (FDCPA), as well as civil rights litigation, including website accessibility litigation under the Americans with Disabilities Act (ADA) and housing discrimination claims under the Fair Housing Act (FHA). Drawing on his broad background, Brian leverages the unique strategies available in class action litigation to achieve successful outcomes for the firm's clients.

Technology Litigation

Brian represents clients in technology-centered disputes. He has litigated and resolved multiple commercial disputes involving software development projects, where his clients have included both software developers and customers who hired developers. He also has litigated commercial disputes arising from cybersecurity incidents, representing both

Services

- Cybersecurity & Data Privacy
- Class Action
- Data Use & AI Governance

technology vendors accused of contributing to them and customers pursuing cost-recovery claims against their technology vendors. Brian draws on his experience in litigating both sides of these disputes to place the firm's clients in the strongest possible position.

Incident Response

Brian represents clients who have been victims of actual or suspected cybersecurity incidents. He supports clients facing a broad range of risks, including advanced persistent threats, ransomware, business email compromises, and employee misconduct. Brian has experience counseling clients in various industry sectors, including health care, insurance, professional and financial services, education, and defense contractors. He advises clients on their legal obligations under U.S. and international data privacy and breach notification laws, and supports them during law enforcement and regulatory investigations.

Education

- DePaul College of Law (J.D., *cum laude*, 2011)
- Miami University of Ohio (B.S. Business Economics and Political Science, 2008)
 - Departmental Honors

Bar Admissions

- District of Columbia
- Illinois

Court Admissions

- U.S. District Court, Northern District of Illinois
- U.S. District Court, Central District of Illinois
- U.S. District Court, Southern District of Illinois

Professional Affiliations

- American Bar Association

Representative Matters

Obtained dismissal of a data breach class action involving the protected health information of more than 1.2 million individuals on grounds that plaintiffs lacked Article III standing.

Obtained order striking plaintiffs' class allegations in a consumer products false advertising class action, which was subsequently affirmed by the Fifth Circuit Court of Appeals.

Defeated plaintiffs' motion for class certification in a Fair Debt Collection Practices Act (FDCPA) suit arising out of the use of outdated garnishment forms, on the grounds that the changes in the forms were immaterial and the purported class lacked sufficient

commonality.

Publications

May 27, 2025

HHS-OCR Risk Analysis Enforcement Initiative Continues Under New Administration

April 29, 2025

California Supreme Court Restricts the Enforceability of Contractual Limitation of Liability Provisions

February 18, 2025

Law360 Publishes Myers and Ross on Impact of Illinois Ruling on Future Data Breach Cases

Law360

June 25, 2024

States Enact Safe Harbor Laws that Provide Affirmative Defenses in Data Breach Litigation

Client Wins

Das, Myers and Spitaletto Obtain Dismissal of Texas Data Breach Class Action

Anjali Das (Partner-Chicago, IL), Brian Myers (Of Counsel-Washington, DC) and Tommy Spitaletto (Partner-Dallas, TX) obtained dismissal of a data breach class action filed against a mental health care provider in the Western District of Texas. The lawsuit arose out of a cyber-attack that involved personal information that included sensitive information such as health information and Social Security numbers. In support of our client's motion to dismiss, Wilson Elser argued that the plaintiff lacked Article III standing to sue because she failed to allege any injury-in-fact in the form of identity theft fraud, or misappropriation as a result of the breach. Instead, the plaintiff alleged that her harm consisted of (1) lost time and out-of-pocket expenses spent dealing with the data breach; (2) diminished value of her personal, health and financial information; (3) anxiety; (4) violation of privacy rights; (5) loss of the benefit of the bargain made with our client and overpayment for services intended to include data security; and (6) increased risk of future fraud and identity theft. The District Court agreed with Wilson Elser's position that the plaintiff lacked standing to bring suit and dismissed the case on the basis that the plaintiff failed to allege any actual injury in the form of identity theft, financial fraud or misuse of personal information that could be traced to the cyber incident.