Cyber Risk INSIGHTS CONFERENCE

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Welcome to the Cyber Risk Insights Conference!

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Welcoming Remarks

Rebecca Bole
EVP & Editor-in-Chief
Advisen

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Leading the way to smarter and more efficient risk and insurance communities, Advisen delivers:
The **right** information into
The **right** hands at
The **right** time
To power *performance*

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Jeremy Barnett, NAS Insurance Services
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Cherie Dawson, AIG
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Christiaan Durdaller, INSUREtrust
Pascal Millaire, CyberCube Analytics
Prashant Pai, Verisk Analytics
Catherine Rudow, PartnerRe
Maeve Slattery, eBay Inc. [2018 Conference Chair]
John J. Soughan, Dulles Cyber Advisors

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How do you stay current with the fast-changing cyber risk market? Join more than 36,000 insurance and risk professionals that accomplish this by reading Cyber Front Page News. Check your email tomorrow for an ***exclusive offer only available to conference attendees***.

FPN FRONT PAGE NEWS | CYBER EDITION

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Coming soon!

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Now featuring:

- *Cyber brokers*
- *More providers – 150+!*
- *Easier navigation*
- *New industry commentary*

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2018 Advisen Cyber Guide

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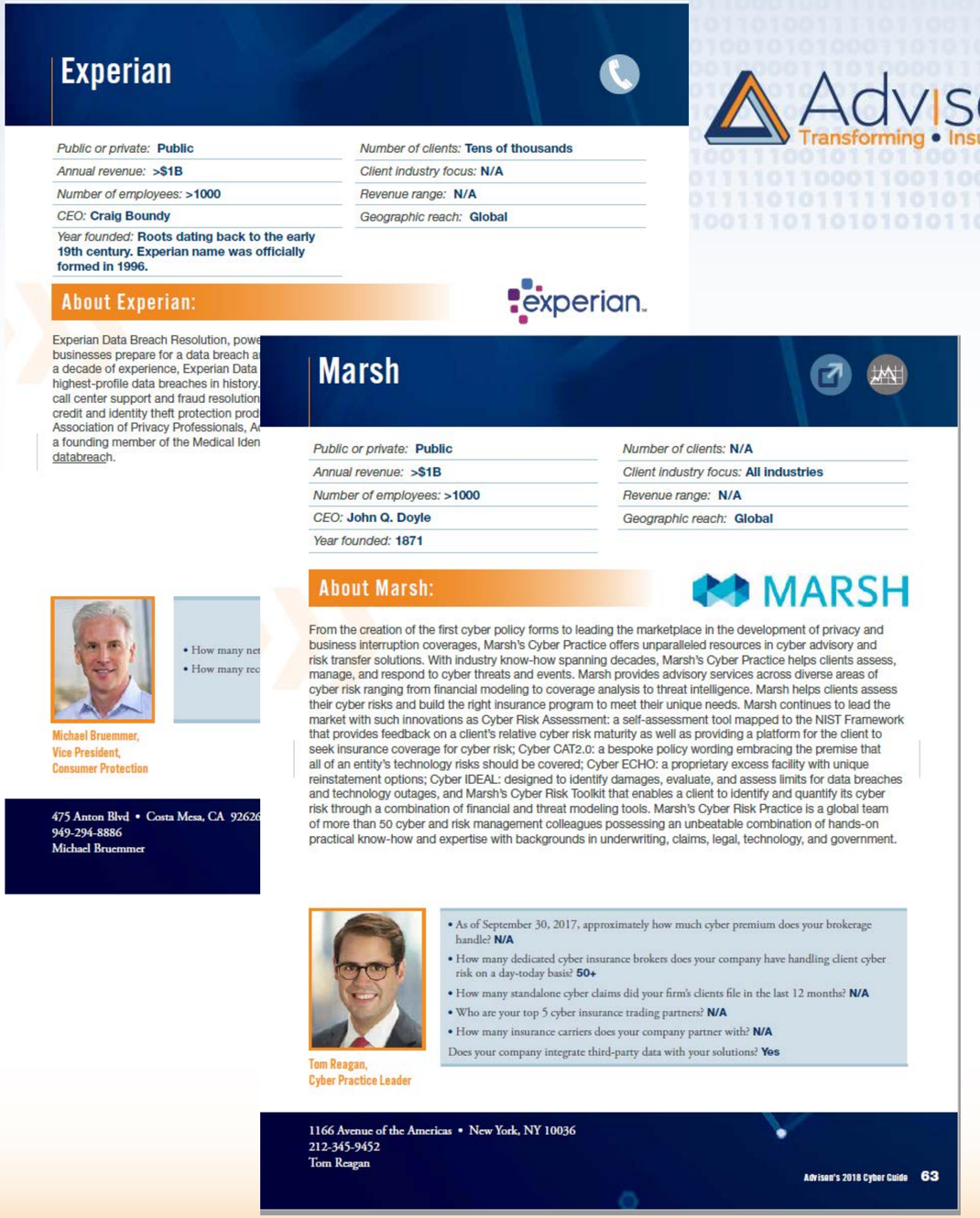
CyberCube

AmWINS Group, Inc.



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Experian

Public or private: **Public**
Annual revenue: **>$1B**
Number of employees: **>1000**
CEO: **Craig Boundy**
Year founded: **Roots dating back to the early 19th century. Experian name was officially formed in 1996.**
Number of clients: **Tens of thousands**
Client industry focus: **N/A**
Revenue range: **N/A**
Geographic reach: **Global**

About Experian:

experian.

Experian Data Breach Resolution, powe
businesses prepare for a data breach a
a decade of experience, Experian Data
highest-profile data breaches in history.
call center support and fraud resolution
credit and identity theft protection prod
Association of Privacy Professionals, A
a founding member of the Medical Iden
databreach.

Marsh

Public or private: **Public**
Annual revenue: **>$1B**
Number of employees: **>1000**
CEO: **John Q. Doyle**
Year founded: **1871**
Number of clients: **N/A**
Client industry focus: **All industries**
Revenue range: **N/A**
Geographic reach: **Global**

About Marsh:

MARSH

From the creation of the first cyber policy forms to leading the marketplace in the development of privacy and business interruption coverages, Marsh's Cyber Practice offers unparalleled resources in cyber advisory and risk transfer solutions. With industry know-how spanning decades, Marsh's Cyber Practice helps clients assess, manage, and respond to cyber threats and events. Marsh provides advisory services across diverse areas of cyber risk ranging from financial modeling to coverage analysis to threat intelligence. Marsh helps clients assess their cyber risks and build the right insurance program to meet their unique needs. Marsh continues to lead the market with such innovations as Cyber Risk Assessment: a self-assessment tool mapped to the NIST Framework that provides feedback on a client's relative cyber risk maturity as well as providing a platform for the client to seek insurance coverage for cyber risk; Cyber CAT2.0: a bespoke policy wording embracing the premise that all of an entity's technology risks should be covered; Cyber ECHO: a proprietary excess facility with unique reinstatement options; Cyber IDEAL: designed to identify damages, evaluate, and assess limits for data breaches and technology outages, and Marsh's Cyber Risk Toolkit that enables a client to identify and quantify its cyber risk through a combination of financial and threat modeling tools. Marsh's Cyber Risk Practice is a global team of more than 50 cyber and risk management colleagues possessing an unbeatable combination of hands-on practical know-how and expertise with backgrounds in underwriting, claims, legal, technology, and government.

Michael Bruemmer,
Vice President,
Consumer Protection

• How many net
• How many rec

475 Anton Blvd • Costa Mesa, CA 92626
949-294-8886
Michael Bruemmer

Tom Reagan,
Cyber Practice Leader

- As of September 30, 2017, approximately how much cyber premium does your brokerage handle? **N/A**
- How many dedicated cyber insurance brokers does your company have handling client cyber risk on a day-today basis? **50+**
- How many standalone cyber claims did your firm's clients file in the last 12 months? **N/A**
- Who are your top 5 cyber insurance trading partners? **N/A**
- How many insurance carriers does your company partner with? **N/A**

Does your company integrate third-party data with your solutions? **Yes**

1166 Avenue of the Americas • New York, NY 10036
212-345-9452
Tom Reagan

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LAST CHANCE TO SUBMIT YOUR NOMINATION!

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Nominations close FRIDAY, FEBRUARY 16TH at 11:45pm ET

Opening Remarks

Presented by our 2018 Conference Chair

Maeve Slattery
Director
Head of Global Insurance
eBay Inc.

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Data Breach: Still the Goliath

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Data Breach: Still the Goliath

Aloysius Tan
Product Manager
Advisen
Moderator

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Data Breach: Still the Goliath

- **Aloysius Tan**, Product Manager, Advisen (Moderator)
- **Michael Bruemmer**, Vice President, Data Breach Resolution Group, Experian
- **Kirsten Mickelson**, Claims Counsel, Hiscox USA
- **David Navetta**, Partner, Cooley LLP

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The Cost to Reputation

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The Cost to Reputation

Lauri Floresca
Partner and SVP
Woodruff-Sawyer & Co.
Moderator

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The Cost to Reputation

- **Lauri Floresca**, Partner and SVP, Woodruff-Sawyer & Co. (Moderator)
- **G. Scott Solomon**, Vice President, Charles River Associates
- **Elissa Doroff**, Vice President, XL Catlin

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The Cost to Reputation

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Afternoon Break

Coming up next…

GDPR: All You Need to Know

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GDPR: All You Need to Know

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GDPR: All You Need To Know

Cinthia Motley
Member
Dykema
Moderator

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GDPR: All You Need to Know

- **Cinthia Motley,** Member, Dykema (Moderator)
- **Jon Adams,** Senior Privacy Counsel, LinkedIn Corporation
- **Emy R. Donavan,** Global Head and CUO, Tech PI and Cyber, Allianz
- **Pascal Millaire,** CEO, CyberCube Analytics

THE GDPR

A HIGH-LEVEL SUMMARY OF THE ISSUES & RISKS

KEY CHANGES, RISKS

- Increased fines (from small to 4% global revenue)
- Increased territorial scope
- Heightened standards for lawful data processing
- Rights of access, data portability, rectification
- Rights of erasure, objection, restriction of processing
- Profiling, Automated Decision-making

KEY CHANGES, RISKS

- Privacy by Design as the new default
- Mandatory DPOs
- New regulator scheme (one-stop-shop, EDPS)
- 72 hour breach notification
- Data mapping
- Codes of conduct and certifications (?)

GDPR ISSUES TO WATCH

- What will the business impact (and cost) be?
- How do we engineer solutions to address EU data subject rights at scale?
- How do we ensure that we have a lawful basis for processing data?
- What products/features are too risky for the EU market?
- What do we do about data we already have in our possession?
- How should data controllers and processors work together to tackle data subject requests?
- Will member state data protection authorities cooperate, or will one-stop-shop fade away?

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GDPR: All You Need to Know

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Regulation Update

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Regulation Update

Mark Mao
Partner
Troutman Sanders
Moderator

Regulation Update

- **Mark Mao**, Partner, Troutman Sanders (Moderator)
- **Lara Forde**, Vice President, Risk Management, ePlace Solutions
- **F. Paul Greene**, Chair, Privacy and Data Security Practice Group, Harter Secrest & Emery LLP

U.S. Regulation & Litigation Update

Mark C. Mao, Esq., Partner, Troutman Sanders LLP
F. Paul Greene, Esq., Partner, Harter Secrest & Emery LLP
Lara Forde, Esq., CIPP, VP, Risk Management, ePlace Solutions, Inc.

troutman sanders

HSE Harter Secrest & Emery LLP
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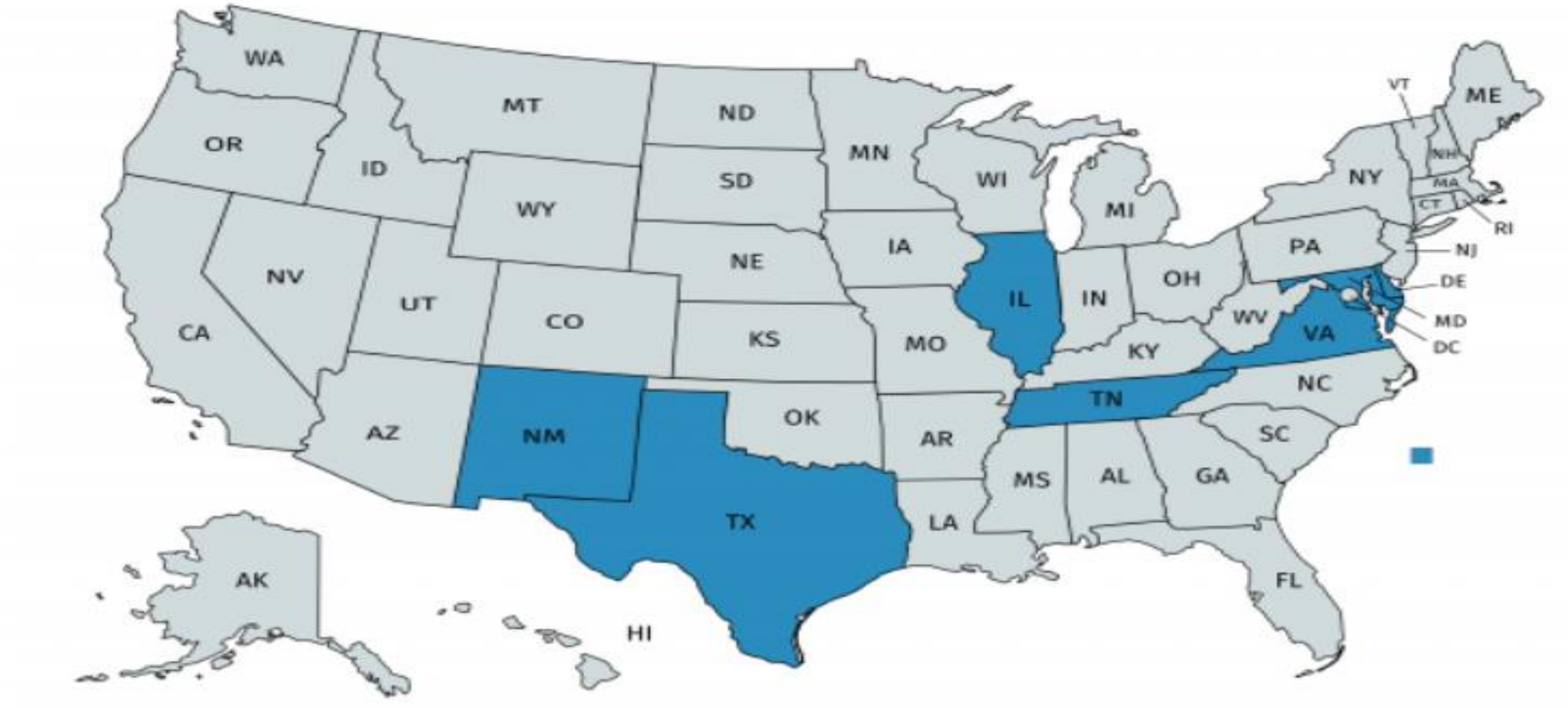
U.S. Regulation & *Litigation Landscape*

- State Breach Notification Law Update
- NYDFS: Impact on New York & Beyond
- Litigation Update

State Breach

Notification Laws



State Breach

Notification Laws

Breach Notification Law Update

- New Mexico = 48th state to enact notification statute
- Many states amended notification laws

Common Themes

- Reasonable security measures
- Protection of additional types of personal information
- Expanded notification requirements
- Encryption exceptions
- Mitigation of harm from breaches

New Mexico

Breach Notification Law

New Mexico became the 48th state to enact a breach notification law. Highlights include:

- PII includes biometric information.
- Risk-of-harm threshold.
- 45 day notice to the state attorney general, and three major credit bureaus (for incidents affecting more than 1,000 New Mexico residents).
- Exception for entities subject to the GLBA or HIPAA.
- Additional data security requirements for 1) disposal of PII and 2) reasonable security measures.

Delaware

Breach Notification Law

Delaware passed the first significant amendments to its data breach law since 2005:

- Requiring reasonable security procedures and practices to protect residents' PI.
- Expanding PI (passport, biometric, username/password, medical/health insurance information, taxpayer ID).
- Adding an encryption exception for a "breach of security."
- Requiring a 60-day timeline to notify affected individuals, and the Attorney General (for breaches larger than 500 people).
- Mandating 1-year of credit monitoring if the breach involves a Delaware resident's Social Security number.
- Allowing substitute service when the breach enables an individual's email to be accessed.

Illinois

Breach Notification Law

Illinois amended its Personal Information Protection Act. Updates include:

- Requiring entities that own or handle PI of Illinois residents to implement and maintain reasonable security measures.
- Expanding PI (medical/health insurance, unique biometric information, username/password).
- Requiring state agencies directly responsible to the Governor to notify the Office of the Chief Information Security Officer of the IL Dept. of Innovation & Technology and the Attorney General within 72 hours after discovery (for breaches involving 250 or more residents or aggravated computer tampering (17-53 Criminal Code of 2012).
- Allowing substitute service when the breach enables an individual's email to be accessed.

Maryland

Breach Notification Laws

Maryland amended its Personal Information Protection Act. Updates include:

- Expanding PI (taxpayer ID, passport, government ID number, health information, biometric data).
- Providing a 45-day timeline to notify affected individuals.
- Allowing substitute service when the breach enables an individual's email to be accessed.
- Expanding the information subject to Maryland's destruction of records laws.

Virginia

Breach Notification Law

Virginia expanded its notification law in reaction to popular payroll scams. Changes include:

- Including income tax information among the types of information requiring notification to the Attorney General.
- Requiring employers and payroll service providers to notify the Office of the Attorney General after discovery of a breach of computerized data containing a taxpayer ID number & income tax withheld for that taxpayer. The Attorney General's office must then notify the state's Department of Taxation.
- Note: This new amendment does not require notification to the individual taxpayers regarding a security breach involving income tax information.

Texas

Breach Notification Law

Texas passed legislation with heightened requirements and notice obligations for state agencies:

- *Only* affects state agencies and election data.
- Requires state agencies to notify the following within 48 hours after discovery of breach:
  - Texas Dept. of Information Resources, including the CISO
  - State cybersecurity coordinator
  - Secretary of state (if the breach involves election data)
- Expands the scope by including not only a breach but also a "*suspected breach of system security or an unauthorized exposure of that information.*"
- Requires a security assessment of Texas systems, threat response training, review of state digital data storage, and a state incident response plan.

Tennessee

Breach Notification Law

Tennessee amended its breach notification legislation for the second time in less than one year. Changes include:

- Revising definitions of “breach” and “personal information.”
- Adding a technically specific safe harbor encryption.
- Adding a 45-day timeline to complete breach notification, when required.

Impact on NY & Beyond

NYDFS Requirements

- **Who?** Entities operating under New York Banking, Insurance or Financial Services Laws, with some exceptions & limited exemptions.
- **What?** Nonpublic Information – different than NPI under GLBA; includes PII; health information (whether or not you are a HIPAA Covered Entity); and data the compromise of which would have a material adverse impact on business operations.
- **Key requirements** include:
  - Cybersecurity program/policy/incident response plan
  - CISO
  - Risk assessment
  - Personnel, training, access control
  - Data retention/destruction
  - Vendor management
  - Technical requirements – encryption of data at rest/transit, MFA
  - Notice – 72 hour notice to DFS of cybersecurity event
  - Certification/filings (via web portal)

NYDFS

Impact on NY & Beyond

- **Expanding Impact of Part 500**
  - Global reach
  - CO law (will other states follow?)
  - 3rd party vendors
  - Proposed SHIELD Act
  - Effect on *Spokeo* line of cases?
- **Unique problems**
  - Creature of state administrative law (can change very quickly)
  - Equifax amendments
  - Not enough regulators
  - Will the portal crash? Will it be hacked?

Litigation Update:
Standing

Circuit Split re: "injury in fact" requirement in breach/privacy context. Recent cases include:

- **Risk of future harm generally insufficient for standing**:
  - *Beck v. McDonald*, 848 F.3d 262 (4th Cir. 2017); *Alleruzzo v. SuperValu, Inc.*, 870 F.3d 763 (8th Cir. 2017); *Reilly v. Ceridian*, 664 F.3d 38 (3d Cir. 2011)
  - *But see In re Horizon Healthcare Servs. Data Breach Litig.*, 846 F.3d 625, 636 (3d Cir. 2017) (FCRA violation de facto injury)
- **Increased risk enough if sufficient likelihood of misuse:**
  - *Remijas v. Neiman Marcus Grp., LLC*, 794 F.3d 688, 689 (7th Cir. 2015); *Galaria v. Nationwide Mut. Ins. Co.*, 663 F. App'x 384, 387 (6th Cir. 2016); *Attias v. Carefirst, Inc.*, 865 F.3d 620 (D.C. Cir. 2017); *Fero v. Excellus Health Plan, Inc.*, No. 6:15-CV-06569, 2018 U.S. Dist. LEXIS 8999 (W.D.N.Y. Jan. 19, 2018)
  - *See also Whalen v. Michaels Stores, Inc.*, 689 F. App'x 89 (2d Cir. 2017) (citing *Galoria*, but concluding risk of future misuse insufficiently great because cancelled credit card)
- **Relevant factors: Type of information lost or stolen and apparent intent to misuse data**

Litigation Update:
Work Product

- ***In re: Experian:*** **Forensic report <u>protected</u> under work product doctrine where**:
  - Outside counsel retained the forensic firm.
  - Forensic firm investigated and prepared report for outside counsel in anticipation of litigation (even if dual purpose).
  - Full forensic report was not shared with the IRT.
- ***In re: Premera:*** **Forensic report <u>not protected</u> where:**
  - Company hired forensics before breach & outside counsel.
  - Scope of work did not change after counsel was retained; only reporting (to counsel) & labeling communications ("privileged", "work-product" or "at request of counsel") changed.

In re Experian Data Breach Litig., 2017 WL 4325583 (C.D. Cal., May 18, 2017)

In re Premera Blue Cross Customer Data Sec. Breach Litig., 2017 WL 4857596 (D. Oregon, Oct. 27, 2017)

Litigation Update:

Attorney-Client Privilege

- ***In re: United Shore Financial Services:*** Attorney-client privilege waived for investigation-related communications where:
  - Findings were disclosed in discovery requests, and
  - Relied upon for affirmative defense.

In re: United Shore Financial Services, LLC, No. 17-2290 (6th Cir. Jan. 3, 2018)

Thank You

troutman sanders

HSE Harter Secrest & Emery LLP
ATTORNEYS AND COUNSELORS

ePlace SOLUTIONS

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Regulation Update

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Harter Secrest & Emery LLP

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Creating the Right Culture: Beyond Technology

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Creating the Right Culture: Beyond Technology

Jeremy Barnett
Senior Vice President
NAS Insurance Services
Moderator

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Creating the Right Culture: Beyond Technology

- **Jeremy Barnett,** Senior Vice President, NAS Insurance Services (Moderator)
- **Jim Goddard,** VP, Chief Information Security Officer, Kaiser Permanente
- **Tracey Malcolm,** Global Future of Work Leader, Willis Towers Watson
- **Denise Stokowski,** VP, Solutions – Product Management and Security, Gainsight

Creating the Right Culture: Beyond Technology

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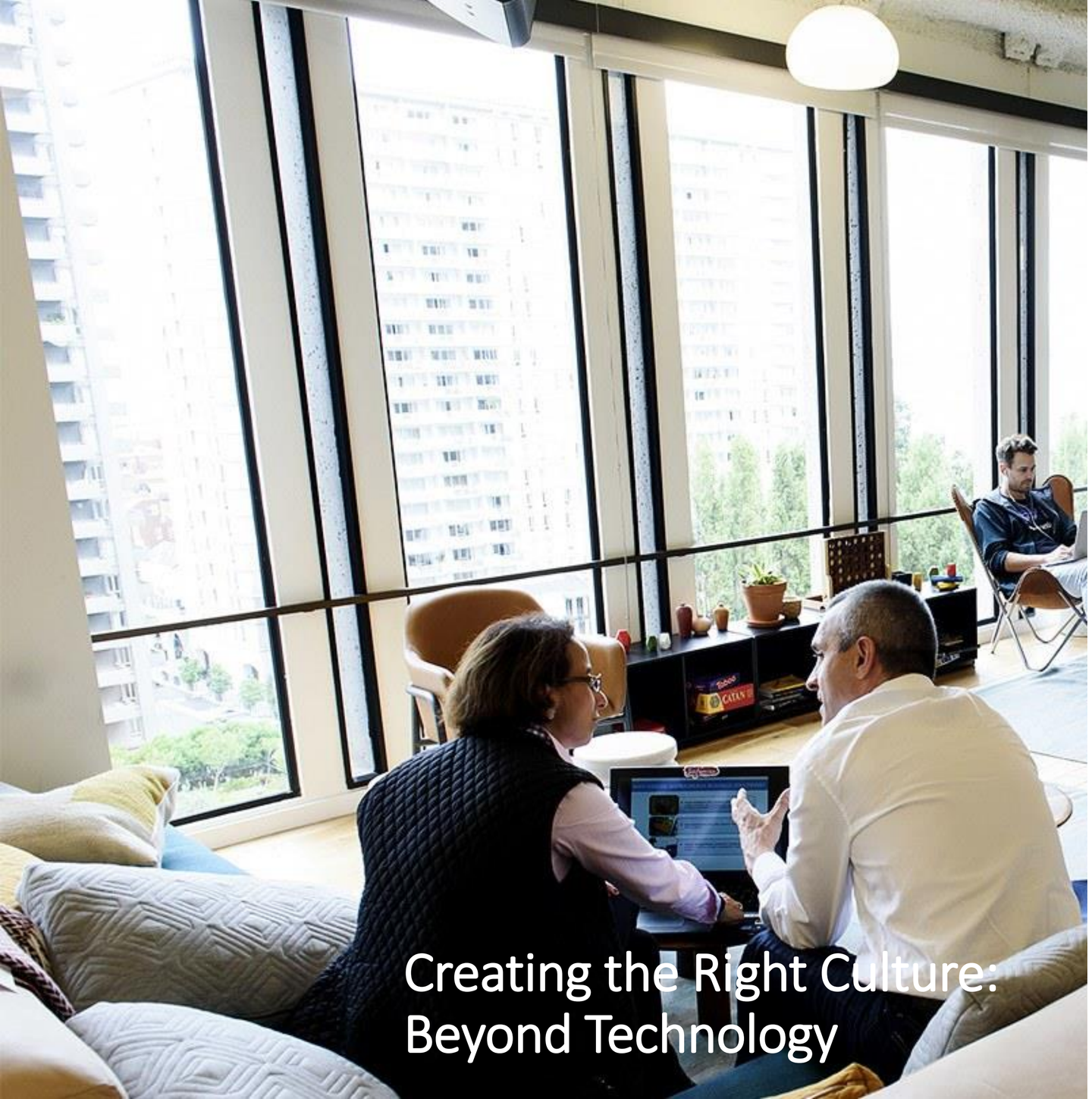


KAISER PERMANENTE

Cyber security training

- Training opportunities
- Cyber Security University
- Leadership training and soft skills

Creating a cyber-aware culture

- Cyber awareness month
- Phishing training
- War gaming

Reinforcing executive know-how in the event of a cyber event

- Planning
- Annual exercises
- Table top exercises

Willis Towers Watson

Cyber security training

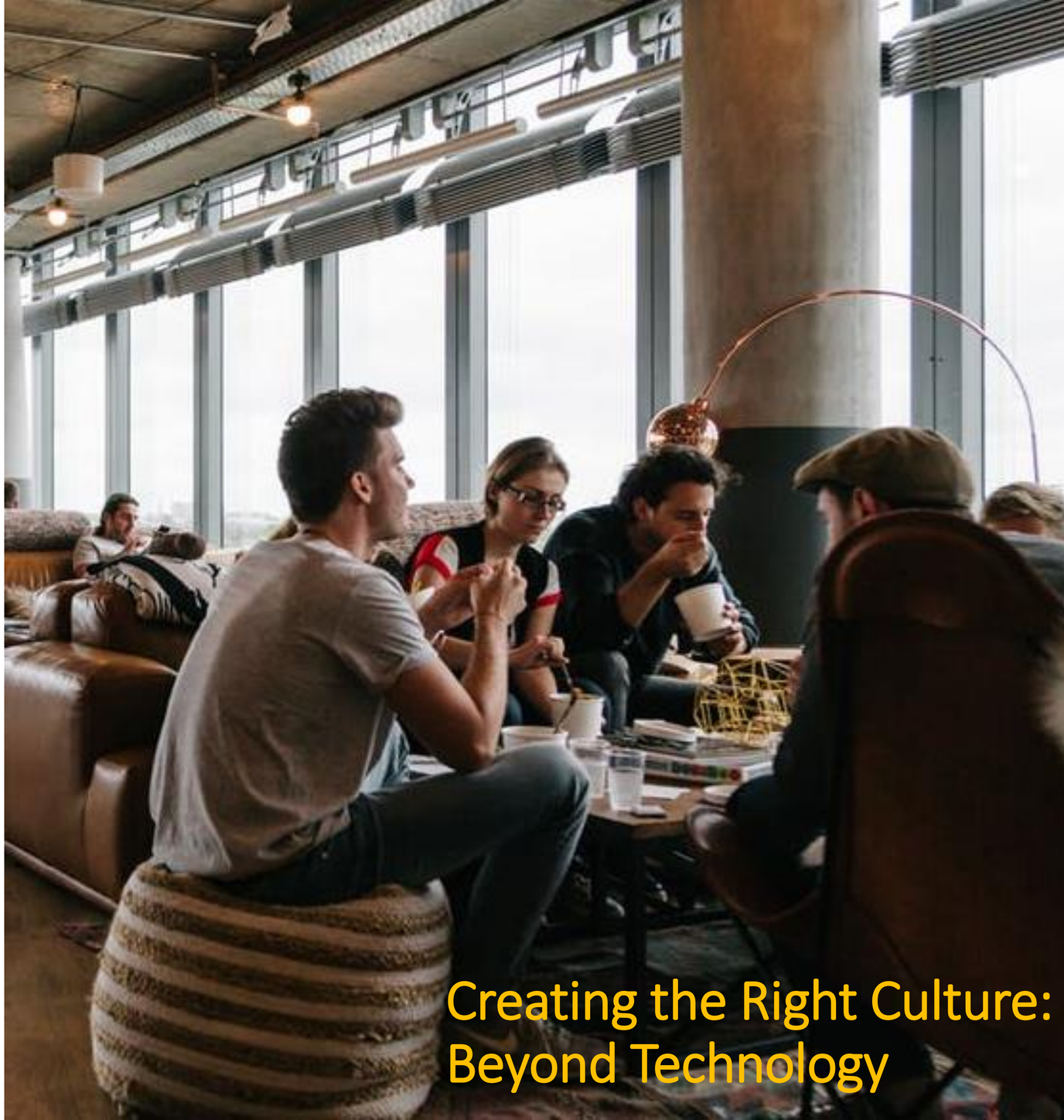
- Measurement! An early indicator
- Onboarding
- Job enablement: protecting info., use of technology

Creating a cyber-aware culture

- Communication
- Points of evidence: who to contact, what to do
- Cybersecurity function itself: hybrid roles, new roles: communication, education

Reinforcing executive know-how

- Being a sponsor
- Built into rewards scheme: bonus



GAINSIGHT

Cyber security training

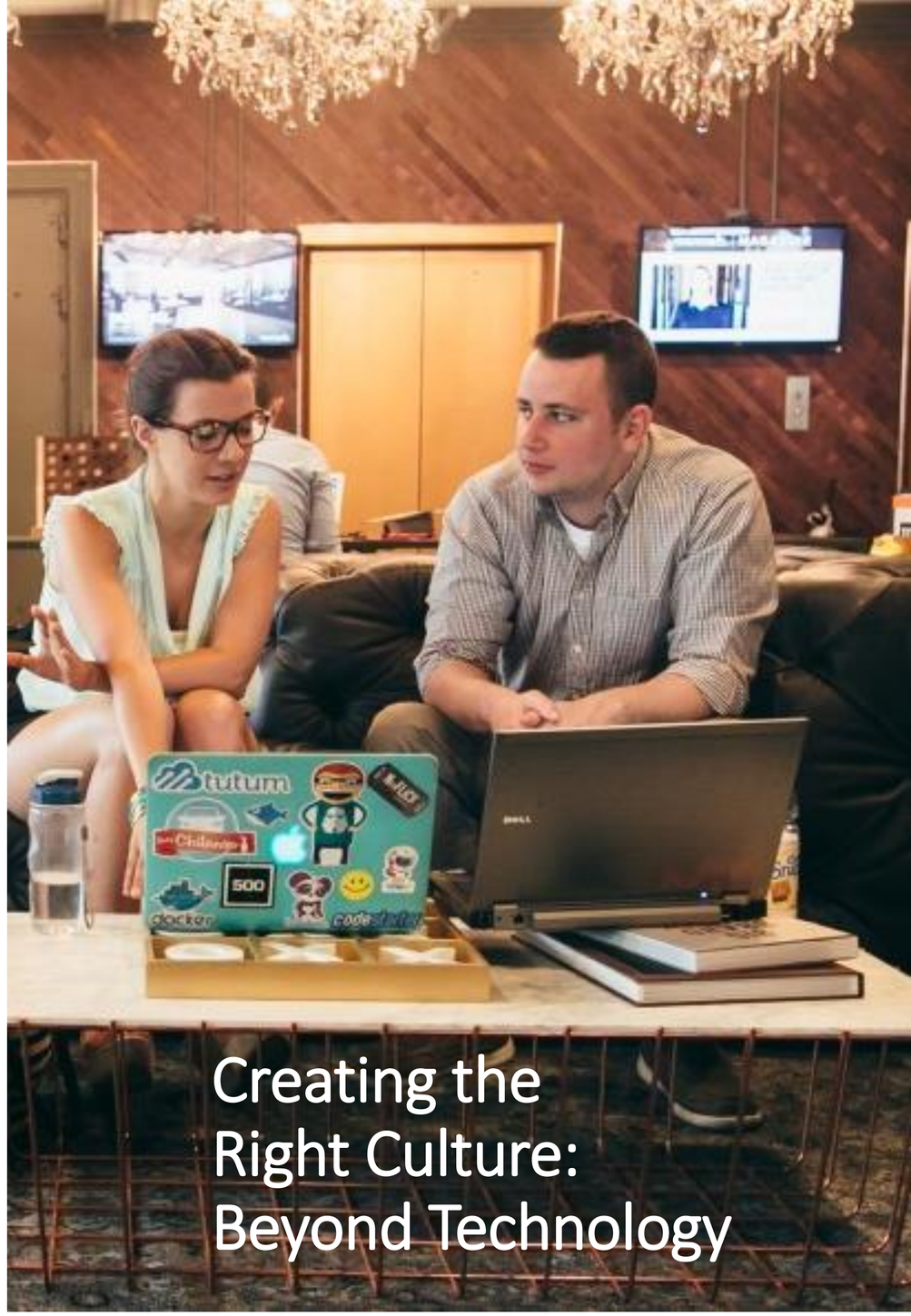
- Require Security Awareness Training – Annual LMS tracked training
- Perform Department Specific Training and policy development
- HERE'S WHAT I'D LIKE US TO DO -> Security Lead in each department

Creating a cyber-aware culture

- Share details of incidents at Weekly Company Huddle
- "Kickasskudos" by Security team of Gainsters that "Keep Gainsight Secure"
- HERE'S WHAT I'D LIKE US TO DO -> Internal Bug Bounty

Reinforcing Executive know-how in the event of a cyber event

- Developed Incident Communication Process – 1 customer vs many customers
- Lead by Example -> Culture including Golden Rule, Success for All
- HERE'S WHAT I'D LIKE US TO DO -> Tabletop exercise



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Closing Remarks & Reception

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