

# CHAPTER 4

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## DATA SECURITY/DATA BREACH: WHAT EVERY LAWYER NEEDS TO KNOW TO PROTECT CLIENT INFORMATION

Rachel M. Edwards  
*Professional Liability Fund*  
*Practice Management Advisor*

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To view these chapter materials and the additional resources below on or before October 30, 2019 go to [www.osbplf.org](http://www.osbplf.org) , select Upcoming CLE, select Learning The Ropes, and click on program materials, under Quick Links. After October 30, 2019, select Past CLE, Learning The Ropes, and click on program materials, under Quick Links.

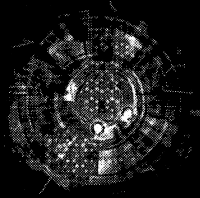
### Additional Resources

- a. PLF Practice Aids available at [www.osbplf.org](http://www.osbplf.org) > Practice Management > Forms > View Forms by Category:
  - i. Cybersecurity and Data Breach
    1. Information Security Checklist for Small Businesses
    2. Protecting Yourself and Your Law Firm from Data Breach Checklist
    3. What to Do After a Data Breach
  - ii. Hardware and Software
    1. How to Backup Your Computer
- b. InBrief articles available at [www.osbplf.org](http://www.osbplf.org) > Practice Management > Publications > In Brief:
  - i. June 2019- Cybersecurity and Employee Training
  - ii. January 2019- File Retention and Destruction Procedures: Additional Safeguards to Protect Your Firm from Lost or Exposed Client Data
  - iii. October 2018- Incident Response Plan
  - iv. May 2018- Cybersecurity Risk Assessment and Analysis
  - v. January 2018- Anatomy of a Ransomware Attack: One Firm's Story
  - vi. December 2016- What's Backing Up Your Data
  - vii. August 2016- Beware Ransomware
- c. InPractice blog articles available at [www.osbplf.org](http://www.osbplf.org) > Blog:
  - i. A Few Simple Ways to Increase Data Security (Lee Wachocki, April 19, 2019)

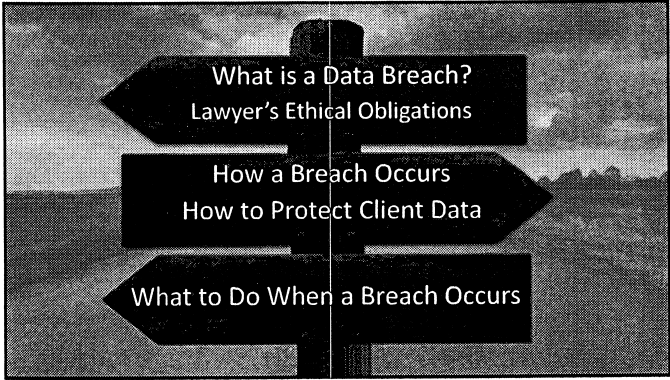
- ii. Evolving Scams: Don't Let Your Guard Down (Rachel Edwards, January 11, 2019)
  - iii. All Travel and No Play: Confidentiality Concerns if Working While Traveling (Rachel Edwards, August 10, 2018)
  - iv. Don't Fall Prey to Spear Phishing (Sheila Blackford, November 13, 2017)
  - v. Understanding Security When Using Cloud Storage (Hong Dao, October 20, 2017)
- d. National Institute of Standards and Technology Framework for Improving Critical Infrastructure and Cybersecurity  
(<https://www.nist.gov/cyberframework/framework>)
- e. Federal Trade Commission: Cybersecurity for Small Businesses  
(<https://www.ftc.gov/tips-advice/business-center/small-businesses/cybersecurity>)

# Data Security/Data Breach:

What Every Lawyer Needs to Know  
to Protect Client Information




Rachel Edwards  
PLF Practice Management Advisors | Attorneys



- What is a Data Breach?  
Lawyer's Ethical Obligations
- How a Breach Occurs  
How to Protect Client Data
- What to Do When a Breach Occurs

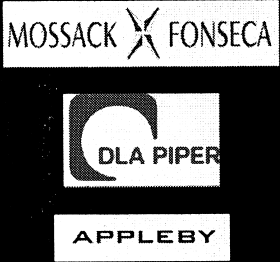
<p>What is a data breach?</p>	<p>Viewed, stolen or used without authority or knowledge</p>
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*"I am convinced that there are only two types of companies: those that have been hacked and those that will be. And even they are converging into one category: companies that have been hacked and will be hacked again."*

Former FBI director Robert Mueller, 2012

## High Profile Attacks on Law Firms




MOSSACK X FONSECA

DLA PIPER

APPLEBY

## Threat actors

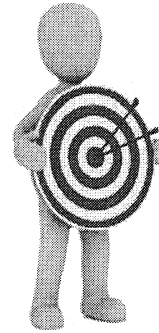
- Outsiders
  - Hackers- white hat vs. black hat
  - Hacktivists
  - Governments
  - State-sponsored
  - Other third parties
- Insiders
  - Intentional vs. unintentional



## What are they seeking?



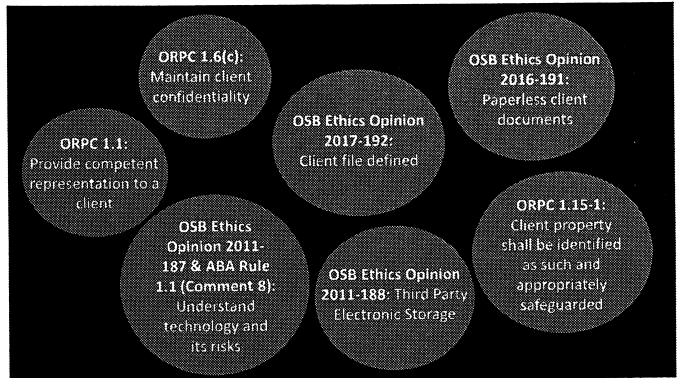
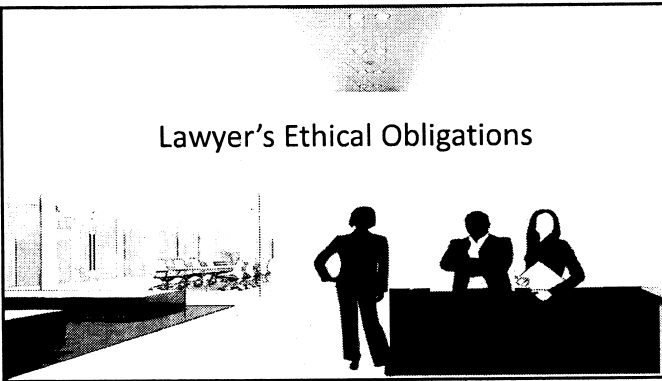
- Money
- Personally identifiable information
- Intellectual property
- Trade secrets
- Business plans
- Information on litigation and transactions
- National security data
- Denial/disruption of service



## Why are law firms targets?

- Store valuable information
- Inferior or lack of safeguards
- Large amounts of money held in operating and/or trust accounts

## Lawyer's Ethical Obligations



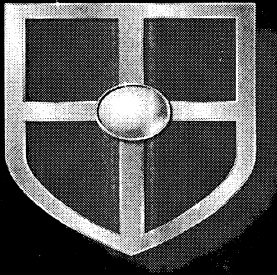
**ORPC 5.1**  
Responsible for another lawyer's conduct that violates the ORPCs

**ORPC 5.2**  
Responsibilities of subordinate lawyer

**ORPC 5.3**  
Have a duty to supervise staff

**ABA Formal Opinion 477:**  
Securing client information

**ABA Formal Opinion 483:**  
Obligations after an attack



- Safeguard client physical property & electronic property
- Understand how to use technology safely
- Have a response plan

## How It Occurs



Lost  
or  
Stolen  
Device

Improperly Discarded Device

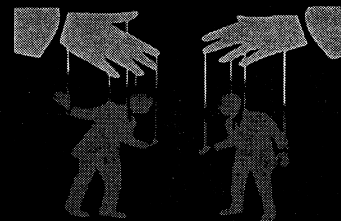


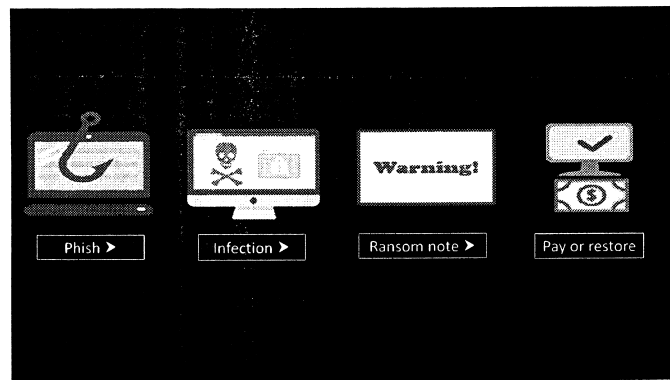
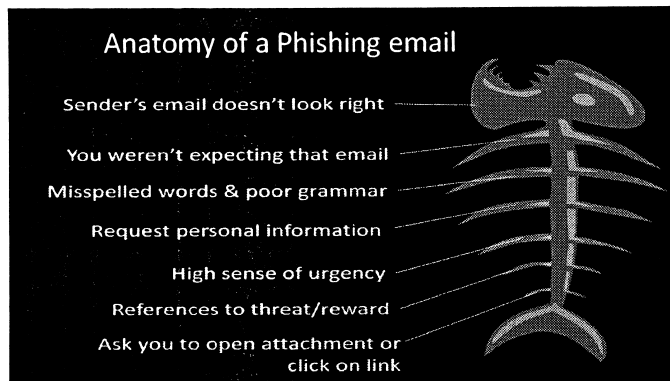
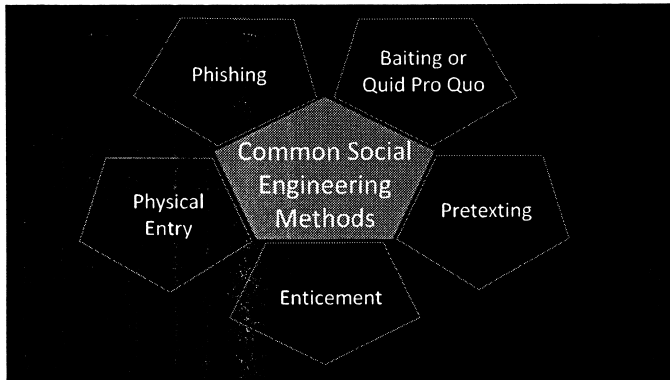
Malware Infection



- Adware
- Spyware
- Trojan Horse
- Virus
- Worm
- Ransomware

Social Engineering





### The Bait

Phishing Email Red Flags

courtclerk@chaik.ra.im  
 Hearing Case 15-01154?

Sender's email address doesn't look right or is spoofed to look legit

2015-01-15-1541154...  
 .zip

Email contains ".zip," ".exe," ".scr," or ".bat" file

NOTICE TO ATTORNEY  
 I hereby, you are notified that you have been scheduled to appear in front of the Court on the time and day, stipulated in the notice attached, signed by the Judge. **Please, open it now and read it very carefully.**

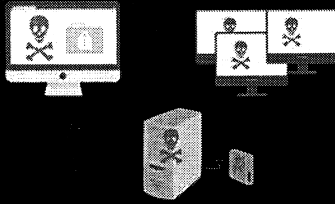
Please attend all documents and witness related to this case with you to Court on the hearing date.

IMPORTANT: If you do not appear at the hearing, **the Judge will discuss your case.**

Sincerely,  
 Clerk of the Court

Poor grammar and misspelled words  
 Refers to threats  
 High sense of urgency

## The Infection



Ransomware can spread to any device connected to the infected computer, including the server and backup.

## Phishing emails

### Potential "client"

Can you handle the enforcement of a breached severance agreement? Please respond if you can, I do like to discuss one.

### Can't talk, but ready to sign

I tried to call you but could not get through to you. We will have to reschedule a perfect time for a call back. I believe you must have gone through the materials I sent to you. In the interim I would like to know your fee, kindly send me your fee agreement with your terms for my review and signing pending my return.

### Flattery and imminent settlement

A copy of the signed agreement is attached. I have informed [redacted] of my intentions to take this issue to court. I wanted them to know that I have involved a reputable attorney to represent me. They have requested we give them a couple of days to come up with the funds and have assured that they would be no failure this time. I think taking this case to court should be a last resort.

## Phishing emails

### Expect a check

I will be out of the country for a week or more due family emergency, My Uncle isn't doing so well. However I instructed them to have further correspondence and funds owed sent to you and should be held till this matter is fully resolved.

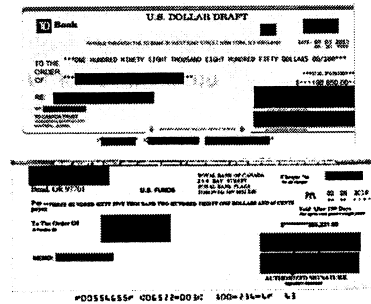
### Do nothing, get paid

Lastly, If [redacted] decides to breach the deadline of a week given to them again, you can then proceed with whatever action you deem necessary.

### "Opposing party" caves

Your client [redacted] has notified us that you are to represent him in the pursue of his severance pay. We acknowledge the fact he is owed exactly \$124,200.00 and we request that you give us till end of next week to make payment in full. He has also instructed us to make all payments due to you, so please furnish me with details for remitting his payment to you including the name the check is to be made out to just to make sure there are no errors and the address it should be sent to.

## Fake checks



## Other types of attacks



1. Inside attacks
2. Server attacks
3. Network attacks
4. Interception
5. Website attacks

How to protect client data

A large white padlock icon is centered within a dark circular background. The text "How to protect client data" is written in a white, sans-serif font, curving around the top and sides of the padlock icon.



## Security framework

1. Identify
2. Protect
3. Detect
4. Incident response plan



## Incident Response Plan



Password

Email

Internet  
Browser

Computer

Files

More

Passwords

- Use different, strong passwords
- Multi-factor authentication
- Consider using a password manager

Email

- Don't click on suspicious attachments and links
- Be wary of unexpected emails from "known" senders
- Use spam filters
- Be cautious when sending email
- Encrypt

Internet  
Browser

- Update web browser
- Enable automatic updates
- Disable pop-ups

## Surfing

- Match site with name
- Don't visit unknown sites
- No sensitive online transactions unless "https" site
- Don't download software unless from reputable and trusted site
- Don't click on browser pop-ups
- Secure your wireless network
- Use a firewall

## Computer

- Identify
- Install OS, programs & app updates
- Install/update antivirus & malware protection
- Encrypt hard drive and mobile devices
- Consider tracking and remote data wiping software

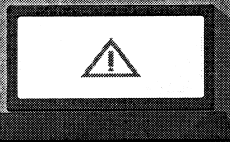
## Files

- Identify
- Backup | Use 3-2-1
- Choose cloud storage wisely
- Use secure file sharing
- Encrypt before uploading
- Ensure proper destruction

## More

- Educate and train
- Be vigilant
- Limit access
- Question unknown people in secure areas
- Be wary of unsolicited contact
- Protect physical property
- Cyber insurance

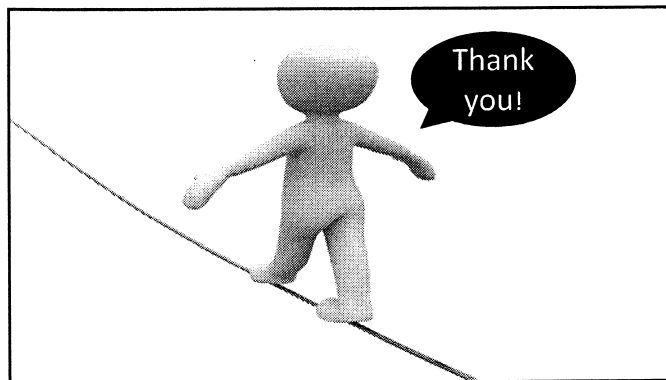
## What To Do When A Breach Occurs



- ✓ Contact Professional Liability Fund
- ✓ Contact Oregon State Bar
- ✓ Contact private legal ethics lawyer
- ✓ Call IT expert
- ✓ Change usernames and passwords

[www.osbnll.org](http://www.osbnll.org) > Practice Management > Forms > Cybersecurity and Data Breach > What To Do After a Data Breach

- ✓ Consider placing bank/credit/security freeze
- ✓ File police report
- ✓ Notify clients
- ✓ Contain the attack
- ✓ Notify the FBI
- ✓ Restore



## Contact Us

Practice Management Advisors

[www.osbplf.org](http://www.osbplf.org)

503-639-6911 | 800-452-1639

Sheila Blackford

[sheilab@osbplf.org](mailto:sheilab@osbplf.org)

Hong Dao

[hongd@osbplf.org](mailto:hongd@osbplf.org)

Rachel Edwards

[rachele@osbplf.org](mailto:rachele@osbplf.org)



and confidential