

**DELAWARE STATE BAR ASSOCIATION
E-DISCOVERY AND TECHNOLOGY LAW SECTION**

MEETING MINUTES – THURSDAY, JULY 27, 2017

Attendance: Jamie Brown, Aleine Cohen, William Denny, Brian King (by phone), Sara Beth Kohut, James Levine (Chair), Bruce McCullough

1. Old Business

- A. The Minutes from the April 12, 2017, and May 5, 2017, meetings were approved on motion by Bill and second by Sara Beth.
- B. Bill reported on the amendment to Computer Security Breaches statute, 6 Del. C. § 12B-101 *et seq.* The bill was passed by the General Assembly and signed by the Governor, to be effective 240 days after signing. The amendment changes the definition of personal information; provides a 60-day notice requirement unless there is a determination that harm is unlikely; contains a more balanced risk of harm analysis to benefit consumers; establishes an obligation to provide credit monitoring if a SSN is revealed; requires notification to the Attorney General if over 500 accounts are breached; and allows online notice once signed in to the account if email login credentials are breached. Thanks were expressed to the working group led by Bill.
- C. Sara Beth reported on program planning for the Section's CLE scheduled for November 14, 2017. On the topic of "Recent Developments in Data Security," Bill and Aleine will organize a 1½ hour panel. On the topic of "Recent Developments in E-Discovery," James will organize a 1½ hour panel. The topic of "What Delaware Attorneys Need to Know About International Law as It Affects E-Discovery and Data Security" should be a separate CLE in the spring. Sara Beth will contact the International Law Section about jointly sponsoring this.
- D. We need to prepare a Section profile for the DSBA Journal. James will work with them to prepare this.
- E. In discussing a contribution to Delaware Law Review, it generally was agreed that this is not realistic for our Section. Aleine said that DOJ summer interns could start on this next summer.
- F. Bruce reported that the Section web page has been kept reasonably current. It will be updated with a link to the revised Computer Security Breaches statute and a link to the article by Ryan Newall in the July/August 2017 *DSBA Bar Journal* on contracts curbing future e-discovery.

2. New Business

- A. Section members made brief presentations on recent developments in e-discovery and technology law.
- i. Sara Beth discussed the Dentons situation, which involved a threat to expose confidential information an individual obtained through access with a partner's email account.
 - ii. James discussed a Knight First Amendment Institute at Columbia University lawsuit against Donald Trump, Sean Spicer, and Daniel Scavino for blocking certain @realDonaldTrump Twitter users. The Complaint was filed on July 11, 2017, in U.S.D.C., S.D.N.Y.
 - iii. Bill discussed a May 18, 2017, ruling in a U.S. District Court case in California against Experian which held that the attorney work product doctrine protected data breach information produced at the request of a law firm.
 - iv. Jamie shared V.C. Travis Laster's e-discovery template, which is moving toward the Del. District Court's approach.
 - v. Brian discussed an internet governance issue involving ICANN denying Amazon the right to run .amazon as a top level domain. This decision was overturned.
- B. Aleine reported on the option to participate with Delaware Department of Technology and Information in upcoming cyber security exercise sponsored by U.S. Department of Homeland Security. This cyberstorm testing is conducted about every 18 months and the DTI will participate in April 2018. They welcome involvement from the legal community.

Respectfully submitted,

Bruce W. McCullough, Secretary