

Global Data Privacy and Security Team

Data Security Breach Litigation Trends: At A Glance

While General Counsel cite class action fears as one of their top concerns following a data breach, there is a great deal of misunderstanding concerning the nature of data security breach class action litigation. Bryan Cave’s Data Privacy and Security Team publishes the most comprehensive survey and analysis of consumer class action complaints relating to data security breaches. You can access a copy of our full 2015 Data Breach Litigation Report, which analyzes class action filings over a 15 month period, [here](#).

The following provides an overview of current litigation trends:

<p>4%</p> <p>Percent of publicly reported breaches that lead to class action litigation.</p>	<p>110</p> <p>Approximate number of class action filings.</p>	<p>25</p> <p>Number of unique defendants of class action filings.</p>	<p>Retail Industry</p> <p>While only 14.5% of publicly reported breaches relate to retailers; over 60% of all class actions are filed against retailers.</p>
<p>24</p> <p>Number of different legal theories alleged by plaintiffs.</p>	<p>>91%</p> <p>Percentage of class actions that are brought on behalf of a putative national class.</p>	<p>1. Negligence 2. UDAP 3. Breach of contract</p> <p>Most common legal theories alleged.</p>	<p>Credit Card</p> <p>The vast majority of litigation focused on breaches involving credit card data.</p>

For more information on data breach litigation or to subscribe to the Bryan Cave Plaintiff Troll Alert contact:

Jena M. Valdetero
Partner
jena.valdetero@bryancave.com
161 North Clark Street, Suite 4300
Chicago, IL 60601
phone: 312 602 5056

David A. Zetoony
Partner
david.zetoony@bryancave.com
1155 F Street, N.W.
Washington, D.C. 20004
phone: 202 508 6000

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What factors should you consider when assessing whether you are likely to receive a class action complaint following a data security breach:

✓	Was the quantity of records lost lower, or greater, than the average number of records involved in recent class action lawsuits?	✓	Did your breach impact consumers in multiple states?
✓	How much media attention did the breach receive?	✓	Did the breach involve credit card data?
✓	If you disclosed the quantity of impacted individuals, was your estimated quantity accurate or inaccurate?	✓	Did consumers suffer any direct monetary harm?
✓	What percentage of class actions have been filed in your industry when viewed as a function of the quantity of breaches that occur in your industry?	✓	Could the data fields involved lead to identity theft?
		✓	Has there been any evidence of actual identity theft?
		✓	Did you offer credit monitoring, identity theft insurance, and/or credit repair services?