



Cyber-Risk Management for the General Business Lawyer

November 7, 2014 | 6.00 General CLE Credits

Agenda

8:00 - 8:55 a.m. **Registration and coffee service**

8:55 a.m. **Welcome and Program introduction**
Program Chair: Leo Clarke

9:00 a.m. **Session 1: Cybercrime Report**
A survey of the latest developments in cybercrime and its effects in Western Washington
How common is cybercrime; what types of crimes and losses occur in Western Washington; and what is the likelihood of arrest and restitution

Presenters: Annette Hayes, Acting U.S Attorney, Western District of Washington; Bonnie McNaughton, Davis Wright Tremaine; Robert Kierstead, Special Agent in Charge of U.S. Secret Service, Seattle

9:40 a.m. **Session 2: The Lawyer's Role in Cyber-Defense**
Cyber-Risk Management-fundamentals all lawyers now need to know.
Why and how clients need lawyers to become involved; cyber-risk issue-spotting for lawyers; legal contingency planning and disaster recovery plans; translating IT jargon and legalese into business talk; Cyber-risk issue spotting.

Presenter: Leo Clarke, TechRisk.Law

10:25 a.m. Break

10:40 a.m. **Session 3: Vendor Management and Contract Negotiation**
Helping your client seize the power of the pen and deal with adhesion IT contracts. Allocating cyber-risk by contract up and down the supply chain. Analyzing key contract terms, typical market-resolutions, and strategies for dealing with the bargaining power of IT vendors.

Presenter: Louisa Barash, Davis Wright Tremaine

- 11:25 a.m. **Session 4: Protecting Proprietary Information and Responding to Intrusions and Breaches**
Even the most sophisticated companies have experienced thefts of data, followed by extortion or black market sales.
How can your client protect its proprietary information in a world of ever-increasing connectivity? What are the client's responsibilities to customers and employees whose non-public information is stolen?
- Presenter: Gavin Skok, Riddell Williams
- 12:10 p.m. Lunch (on your own)
- 1:30 p.m. **Session 5: Banking and Payments Issues**
What happens when cybercriminals steal your client's bank account information and loots its account or steal credit card information as in the infamous Target disaster? Learn the legal issues surrounding bank account takeovers, credit card indemnities, and other fraudulent payments schemes. What are the responsibilities of banks and their customers? What can merchants do to protect themselves?
- Presenter: Arian Colachis, General Counsel, Washington Federal, N.A. and Wendy Beth Oliver, Principal, Policy and Compliance Advisors
- 2:15 p.m. **Session 6: Shifting the Risk of Cybercrime: Evaluating and Negotiating Insurance**
Cybercrime can cause catastrophic losses. The insurance industry is finally addressing the needs of the digital economy.
Learn what losses can be insured and how to determine the best overage for your client, to evaluate appropriate limits, and to identify and negotiate the key terms.
- Presenter: Frank Cordell, Gordon Tilden Thomas & Cordell, L.L.P.
- 3:00 p.m. Break
- 3:15 p.m. **Session 7: Ethical Considerations in Data Security**
What are the responsibilities of in-house and outside counsel with respect to security of client information?
What ethical duties do lawyers face in the age of cloud-computing, out-sourcing, and "bring your own devices"?
- Presenters: Amit D. Ranade and Kurt Kruckeberg, Hillis Clark Martin Peterson
- 4:00 p.m. **Session 8: Creating a Cyber-Risk Tool-Kit**
What lawyers need to know so that their clients aren't caught empty-handed.
Cyber-attacks occur without warning and a delayed response can be disastrous, both financially and brand-wise. Learn what you need to have ready to help your client mitigate both risk and losses.
- Presenters: Martin C. Loesch, COO and General Counsel, Strategies 360; John Du Wors, Newman Du Wors, Seattle & Los Angeles; and Leo L. Clarke, TechRisk.Law
- 4:45 p.m. **Session 9: Questions & Answers with the Speakers**
- 5:00 p.m. Adjourn

Faculty Biographies

PROGRAM CHAIRPERSON

Leo Clarke

Leo L. Clarke is a Principal of TechRisk.Law, a cyber-risk management advisor, and General Counsel of Axia Financial, LLC, a mortgage lender with over offices in eight western states. Leo has been involved in technology risk management since co-founding TechRisk.Law in 1998 to advise insurance companies on then emerging e-commerce, Internet, and other IT risks. He has also served General Counsel of Washington Federal and the Federal Home Loan Bank of Seattle, practiced in six jurisdictions, been counsel of record in lawsuits in twelve states, and taught at five law schools.

Leo has published over thirty articles on topics ranging from cyber-security and cyberwar to constitutional law, and he has lectured at dozens of conferences in locations as diverse as New York, Dubai, Estonia, and Green Bay. He is a member of the New York and Washington Bars and graduated with honors from Stanford University and UCLA Law School.

PRESENTERS

Louisa Barash

Louisa Barash is a partner at Davis Wright Tremaine LLP, where she focuses on software, cloud services, and other technology transactions, intellectual property commercialization, and IP counseling. Her practice includes advising on open source software, mobile technologies, and the intersection of technology and healthcare. She is experienced negotiating and structuring strategic alliances, joint ventures, IP licenses and commercial agreements. She is the chair of the firm's Digital Health practice and a member of the firms' Cloud Task Force. She has also served as lead counsel and IP counsel in numerous merger and acquisition transactions.

Arian Colachis

Arian Colachis. Ms. Colachis is General Counsel for Washington Federal. Prior to joining Washington Federal, Ms. Colachis worked as a compliance attorney for the Investment Office of William H. Gates III, a securities litigator in private practice and as an attorney representing several regulatory agencies including the Australian Securities and Investments Commission, New York Stock Exchange, Attorney General for the State of Arizona and the US Securities and Exchange Commission. Ms. Colachis received a JD from Pepperdine University School of Law.

Frank Cordell

Frank Cordell is a partner at Gordon Tilden Thomas & Cordell. His practice emphasizes advising and litigating on behalf of policyholders engaged in coverage disputes with their insurers. His experience ranges from large-scale coverage litigation on behalf of international corporate policyholders under complex coverage lines, to advising individual insureds under disability, property, auto, and other policies. Frank has written and lectured to a wide variety of groups on insurance-coverage topics. He also maintains an active litigation practice involving a wide range of non-insurance commercial disputes. Frank is a 1991 summa cum laude graduate of the Washington & Lee University School of Law, where he served as Senior Articles Editor of the Washington & Lee Law Review and was named to the Order of the Coif. Frank was a law clerk to the Hon. H. Emory Widener, Jr., of the United States Court of Appeals for the Fourth Circuit, before joining Covington & Burling in Washington, D.C. as an associate in 1992. In 1996 he became a founding attorney of GTT&C's predecessor firm, and he was named Partner in 1998.

John Du Wors

John Du Wors is a trial lawyer. His practice emphasizes intellectual property, business, banking, securities and employment law. John has litigated hundreds of state and federal court cases and commercial arbitrations, throughout the country. John's representative clients include the Boeing Employee's Credit Union, Widevine Technologies, Inc., Labor Ready, Inc. and the Federal Depository Insurance Corporation. John speaks and writes regularly on legal issues relating to intellectual property and securities litigation. John has served as a chair to the Washington State Bar Association's Business

Law Section's Publications Committee, and previously served as chairman of the Pasadena Bar Association's panel on Bankruptcy Business & Commercial Law. An avid lover of the arts, John has volunteered as pro bono legal counsel for The Furious Theater Company, The Lineage Dance Company, and The Washington Ensemble Theater. He is an alumni of Seattle University School of Law and the University of Washington.

Annette Hayes

Annette L. Hayes is currently serving as the Acting United States Attorney for the Western District of Washington. Ms. Hayes received her Bachelor of Arts degree, with Honors, from Williams College, in 1984, and her Doctor of Law degree, with specialization in International Legal Affairs, from Cornell Law School, in 1991. During law school, she spent a year studying international and comparative law on a Genscher Fellowship at the Universitaet Heidelberg, in Germany. After graduating from law school, she practiced as a civil litigator at Heller Ehrman White and McAuliffe, in Seattle, from 1991 to 1994, and at Latham & Watkins, in Washington, D.C., from 1994 to 1997. Her practice included the representation of clients in civil litigation related to environmental, contract, employment, and international business disputes. In 1997, she joined the United States Attorney's office in Seattle. During her tenure in the office, she has handled a wide variety of matters including homicide investigations, large-scale drug conspiracies, international computer malware/hacking cases, and multi-million dollar intellectual property crimes. Her criminal work has involved numerous trials in the District Court for the Western District of Washington, and appellate advocacy in the Ninth Circuit Court of Appeals. In addition to serving as the Acting United States Attorney, she also has served in the United States Attorney's Office as: the Deputy Chief of the Complex Crimes Unit (2002-2005), supervising the work of Assistant United States Attorneys handling computer crimes and white collar prosecutions; the Chief of the General Crimes Unit (2005-2010), training new Assistant United States Attorneys and supervising the prosecution of a wide variety of drug, firearms, child exploitation, and other federal criminal cases; and, most recently, as the First Assistant United States Attorney (2010-2014) working with the United States Attorney to manage the Civil, Criminal and Administrative Divisions in the office.

Robert Kierstead

Robert Kierstead is the Special Agent in Charge of the U.S. Secret Service in Seattle, and directs such cases as the recent arrest of a Russian hacker who hacked into point of sales systems at retailers all across the United States.

Kurt Kruckeberg

Kurt Kruckeberg is an associate with the law firm of Hillis Clark Martin & Peterson in Seattle, Washington. Kurt's practice involves assisting clients with a variety of transactional matters related to business, real estate, intellectual property, and finance. He is particularly interested in new developments in business formation, like social-purpose corporations and start-up financing through crowdfunding. Kurt's interest in corporate social responsibility and work-life balance issues influenced his tenure as Editor in Chief of the Seattle University Law Review, where he oversaw special issues featuring the works of a number of scholars, including Joan Williams, Nancy Levit, Delaware Supreme Court Chief Justice E. Norman Veasey, and U.S. Supreme Court Justice Ruth Bader Ginsburg.

Martin C. Loesch

Marty Loesch is the Chief Operating Officer & General Counsel of Strategies 360. Marty oversees much of the firm's operations, management and growth, in addition to working with clients on high-level initiatives. Marty recently served as Chief of Staff to Washington Gov. Christine Gregoire. In the governor's office, he served as general counsel and director of external affairs before becoming chief of staff. In that role, Marty led the executive team and served as the principal advisor to the governor on policy, legislative, legal, communications, and political matters. Formerly, Marty was director of Inter-Governmental Affairs and the tribal attorney for the Swinomish Indian Tribe, representing tribal interests with local, state, and federal governments, and overseeing business operations and an economic development team. He also worked as an attorney for several firms, including as a principal in TechRisk.Law, a risk management law firm focused on high-tech clients. Marty was also a partner and litigator at Gordon & Polser, and previously specialized in environmental insurance coverage litigation at Karr Tuttle Campbell. Additionally, Marty served as an international law consultant with Catholic Relief

Services, reviewing humanitarian practices in Kosovo, and has been an international elections monitor on numerous occasions. Marty has a bachelor's degree and master's degree from the University of Notre Dame and juris doctors and master of laws degrees from the Notre Dame School of Law. He is the author of numerous legal and scholarly articles and has served on multiple boards.

Wendy Beth Oliver

Ms. Oliver is the Principal of Policy and Compliance Advisors, which provides regulatory compliance services to financial institutions. She was previously Assistant General Counsel for the Commercial and Private Banks of Bank of America, Of Counsel at Graham & Dunn PC, and General Counsel for Southern Pacific Funding Corporation, a national mortgage lender. She received a JD from Duke University, an MPA from the University of Michigan, and an AB from The University of Chicago.

Amit Ranade

Amit Ranade is a principal with the law firm of Hillis Clark Martin & Peterson in Seattle, Washington. His law practice focuses on real estate, commercial, banking, and technology-related litigation and bankruptcy. Amit has represented major internet service providers and internet retailers on both sides of anti-SPAM litigation, including matters before the United States Court of Appeals for the Ninth Circuit. Amit is licensed to practice in the federal and state courts of Washington and Oregon. He holds bachelor's and law degrees from the University of Washington ('98, '03), where he teaches civil procedure, UCC Article 9 secured transactions, and constitutional law as an adjunct faculty member. Amit is a Member of the ABA House of Delegates, where he voted on recent amendments to the ABA's Model Rules of Professional Conduct relating to cloud computing and cybersecurity.

Gavin Skok

Gavin is Chair of Riddell Williams' Litigation Group and a member of the firm's Executive Committee. He is a commercial litigator with extensive experience representing regional and national companies as both plaintiffs and defendants in state and federal courts throughout the Northwest and across the country. Gavin's practice emphasizes class action defense, data security litigation, securities fraud, and intellectual property disputes. Prior to joining Riddell Williams, Gavin was a federal judicial law clerk to United States District Court Judge Robert H. Whaley (E.D.Wash.).