

**The Sedona Conference® Working Group 11  
on Data Security and Privacy Liability  
2016 Meeting**

**August 10-11, 2016  
Microsoft Campus, Redmond, Washington**

**Day One: Wednesday, August 10**

7:30 - 8:30 Continental Breakfast & Sign-In

8:30 - 9:00 Welcome & Overview  
(Howard, Saikali, Weinlein)

9:00 - 10:15 The Sedona Conference *Incident Response Guide*  
(Cattanach\*, Doss, Rollins, Swanson, Whitt)

WG11 drafting team members will lead a dialogue on the draft *Incident Response Guide*, which provides practical information on how an organization should respond to a data incident after initial detection of a potential incident. There will be some dialogue on how an organization should prepare for an incident, but the focus will be on the response to a data incident.

Required Materials: 1

10:15 - 10:30 Morning Break

10:30 - 11:45 The Sedona Conference *Commentary on Data Security and Privacy Issues in Mergers & Acquisitions*  
(Ho, Meyers, Romine\*, Rosenthal, Sherer)

WG11 drafting team members will lead a dialogue on the draft *Commentary on Data Security and Privacy Issues in Mergers & Acquisitions*, which contains three areas of focus: (a) a general commentary on data security and privacy issues in the mergers and acquisitions process; (b) a "due diligence checklist" that an attorney can use to spot potential data security and privacy legal compliance issues as part of a merger or acquisition; and (c) a section that provides sample provisions for inclusion in a merger/acquisition agreement that are designed to protect the acquiring or acquired companies from data security and privacy risks.

Required Materials: 2

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**Day One: Wednesday, August 10 (Cont.)**

11:45 - 12:45      Return on investment: evaluating the success and efficacy of data security program implementations  
*(Buller, Holcomb, Tango\*, Vibbert)*

A panel of WG11 brainstorming group members will lead a dialogue on whether metrics and key performance indicators by which counsel or senior executives can measure success and overall efficacy of data security program implementations can be developed. The dialogue will focus on whether there are calculable, meaningful, objective measures that may be (1) assessed and used within the entity to measure overall success or failure and (2) compared across entities/industries to permit the creation of normative standards and facilitate objective cross-company comparisons. The dialogue will also focus on whether this is the type of work WG11 should engage in, and if so, in continuing the brainstorming effort, what additional types of stakeholders, if any, should be added to the brainstorming group.

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12:45 - 1:45      Lunch (provided)

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1:45 - 3:00      An interactive data breach exercise: Tips on how to prepare and respond to a data breach from key parties involved, including forensic and security experts, in-house and outside counsel, and crisis communications experts  
*(Brennan, Clark, Jorgensen, Menkes, Saikali\*, Sorrell)*

The panel of dialogue leaders will engage in a mock data breach exercise and address best practices for how to prepare and respond to a data breach. The dialogue leaders will seek significant input from the full group of WG11 members in attendance in an effort to identify varying approaches to breach preparation and response, which may depend upon, among other things, size of an organization, geographic location, and industry.

Required Materials: 3

Recommended Materials: 1, 11

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**3:00 - 3:15 Afternoon Break**

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**3:15 - 4:15 Data protection regulator roundtable  
(Magalhães, McNabb, Novick, Shonka\*)**

Leading federal and state regulators will dialogue on important issues and developments in privacy and data security law. Topics will include recent state and federal enforcement laws, inter-agency coordination, recent enforcement actions, data security practices that give rise to regulatory concern, and laws governing how companies can permissibly collect, use, share, and dispose of sensitive information.

Recommended Materials: 2, 3

**4:15 - 5:15 What is keeping WG11 members up at night? A dialogue on the most pressing issues today for practitioners in data security and privacy liability  
(Howard, Michels, Moncure\*, Palmer, Wilan)**

The panel will seek input from the full group of WG11 members in attendance on industry-specific privacy and data security issues that they face on daily basis, including not just domestic issues, but also international issues, such as the General Data Protection Regulation (GDPR) and the EU-U.S. Privacy Shield.

Recommended Materials: 2, 4, 5, 6, 7, 8, 9, 10

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**5:15 - 7:00 Reception (guests invited)**

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**Day Two: Thursday, August 11**

8:00 - 9:00 Continental Breakfast & Sign-In

9:00 - 10:00 Establishing and maintaining privilege and client confidences in the data security context  
*(Duke, Keimig, Meal\*, Zimmerman)*

A panel of WG11 brainstorming group members will lead a dialogue with the full group in attendance on their outline on the topic. The dialogue will focus on how privilege and work product law applies to privacy and data security litigation, and where we may see privilege and work product law continue to evolve. In particular, the panel will lead a dialogue on proposed WG11 work product, including guidelines and best practices.

Required Materials: 4

10:00 - 11:00 What data security and privacy attorneys need to know about the benefits and drawbacks of emerging technologies  
*(Charney, George, Jorgensen\*, Watkins)*

This panel of lawyers and technologists will lead a dialogue on emerging technologies and the privacy and data security legal issues accompanying those technologies, as well as the potential for such technologies to aid organizations with data protection compliance. The dialogue will cover, among other things, the Internet of Things, wearables, “big data,” and cloud computing.

11:00 - 11:15 Morning Break

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11:15 - 12:15 Privacy by design  
(*Ackert, Harmon\**, *Lim, Riemann*)

The panel of brainstorming group members will lead a dialogue on their outline, which proposes practical guidance to integrate principles of privacy into the design of a product.

Required Materials: 5

12:15 - 1:15 The next two years and beyond for WG11: A dialogue on progress made in the two years since its inception, next steps for the working group, and establishing benchmarks for the future  
(*Clark, Jorgensen, Moncure, Saikali\**, *Sorrell*)

WG11 Steering Committee members will lead a dialogue amongst the full group on progress made on work product of the Working Group, and the Working Group as a whole. WG11 member input will be sought regarding the future direction of WG11, including ideas for new commentaries and projects.

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1:15 - 2:15 Lunch (provided)

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