



## **DANIEL T. ROCKEY**

**Partner**

**San Francisco**

**Partner - Co-Leader, Data Privacy, Telecommunications & Collections**

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## **BIOGRAPHY**

Dan is the co-leader of the firm's Data Privacy, Telecommunications and Collections Class Action Team and represents companies in the technology and sharing economy sectors, focusing on class action defense and other complex commercial litigation matters, regulatory counseling and investigations, and privacy and data security matters.

Dan has been a member of the International Association of Privacy Professionals (CIPP/US) since 2008 and routinely defends companies in putative class actions involving data security breaches, ransomware attacks, and other alleged invasions of the right to privacy or privacy-related statutes, including the California Consumer Privacy Act (CCPA), the Telephone Consumer Protection Act

(TCPA), the Fair Credit Reporting Act (FCRA), the Confidentiality of Medical Information Act (CMIA), and the Biometric Information Privacy Act (BIPA).

Dan has also defended class actions under state and federal antitrust laws, the California Unfair Competition Law (UCL), and the Consumer Legal Remedies Act (CLRA), as well as numerous actions alleging violations of the Americans with Disabilities Act (ADA) and California's Unruh Civil Rights Act.

## **AREAS OF FOCUS**

- Data Privacy, Telecommunications & Collections

## **PROFESSIONAL AFFILIATIONS**

- International Association of Privacy Professionals (CIPP/US), 2008 – present
- Santa Clara County Bar Association
- American Bar Association
- Electronic Frontier Foundation

## **ADMISSIONS**

- California, 1995
- United States District Courts Eastern, Southern and Central Districts of California

## **EDUCATION**

- University of California-Hastings, J.D., 1995
- University of California-Davis, B.A., with honors, 1991

## **RELATED PRACTICE AREAS**

- Class Actions & Mass Torts
- Telephone Consumer Protection Act (TCPA)

- Consumer Fraud
- Insurance (Class Actions)
- Pharmaceutical & Medical Devices (Class Actions)
- Payment Systems
- Employment Class & Collective Actions
- Sports (Class Actions)
- Data Privacy, Telecommunications & Collections
- Business Speech
- Antitrust Class Actions
- Shareholder Securities and Mergers & Acquisitions
- Food, Ag & Nutrition (Class Actions)
- Outdoor Industry
- Finance
- Litigation & Dispute Resolution
- Fintech
- Class Actions
- Business & Commercial Disputes
- M&A Disputes
- Zero Emission Vehicles & Charging Infrastructure
- Data Privacy & Security
- Corporate
- Investigations
- Regulation, Compliance & Advisory
- Cryptocurrency & Digital Assets
- Media & First Amendment
- Healthcare & Life Sciences
- Financial Services

## EXPERIENCE

- Defending a major online fashion retailer in a lawsuit alleging violation of the Video Privacy Protection Act. The suit alleges that the client hosts video content on its website and that by also using Facebook pixels on its website to track usage statistics, it is unlawfully sharing personally identifiable information concerning videos viewed by users with a third party, in violation of the VPPA.
- Successfully defended major home products retailer in multiple TCPA claims alleging that client sent promotional text messages to customers who had opted-in to its loyalty club and

text-messaging program and subsequently opted-out. BCLP prevailed in both in arbitration by demonstrating that the claimant's purported opt-out was ineffective under FCC regulations. Currently defending same retailer in suit alleging violation of TCPA time-restrictions in text messaging program.

- Defending a provider of crypto currency trading software in a class action lawsuit filed in the wake of disclosures that the company was the victim of criminal hacking. The hacking resulted in the unauthorized disclosure of API keys, which were allegedly used by the hackers to consummate unauthorized trades in user accounts on various crypto currency exchanges.
- Defending retailer in putative class action alleging violations of the California Consumer Privacy Act, the Constitutional Right of Privacy, the Unfair Competition Law, and common law invasion of privacy based intercompany exchange of consumer transactions and product return data.
- Defending online retailer in nationwide class actions filed in various jurisdictions arising from a criminal hacking of the payment processing gateway on the client's website
- Defending leading online insurance broker against putative class action alleging violations of TCPA.
- Defending fast casual restaurant chain against putative class action alleging the failure to comply with BIPA with respect to use of fingerprint identification for employees.
- Defending leading credit union against claims that client's website lacked accessibility required by the ADA and the Unruh Civil Rights Act.
- Representing leading provider of on-demand rideshare service in multiple rulemaking proceedings before the California Public Utilities Commission convened to develop regulations governing the ridesharing industry, criminal background checks, the provision of Wheelchair Accessible Vehicle (WAV) service, autonomous vehicles, and data confidentiality and Public Records Act compliance.
- Representing leading provider of on-demand rideshare service in administrative trial before Maryland Public Service Commission regarding compliance with criminal background check regulations.
- Advising leading provider of on-demand rideshare service regarding launch of rideshare service, bicycle share service, and scooter share service in various jurisdictions across the US and EU.
- Advised generic pharmaceutical manufacturer regarding antitrust claims related to patented radio pharmaceutical for Parkinson's screening.

- Defended major insurer in defense of antitrust claims under California Cartwright Act related to state-sponsored earthquake insurance program.

## RESOURCES

### PUBLICATIONS

- "Court Confirms that CCPA Is Not Retroactive," BCLP Client Alert, March 24, 2021
- "Lead Gen and the TCPA: How to Protect Your Company from Downstream Bad Actors," BCLP Client Alert, March 26, 2020
- "No Longer a "Whisper" - California Appellate Court Joins List of Courts to Weigh in on Website Accessibility," BCLP Client Alert, September 9, 2019
- "Sixth Circuit Holds Nonmember of Credit Union Lacks Standing to Bring ADA Claim Based on Allegedly Inaccessible Website," BCLP Client Alert, August 29, 2019
- "Website Accessibility Alert: Court Addresses Mootness Argument in Website Accessibility Case," BCLP Client Alert, June 10, 2019
- "Supreme Court Rules that Federal Arbitration Act Does Not Apply to Independent Contractors in the Transportation Industry," January 16, 2019
- "Website Accessibility Alert: Ninth Circuit Court of Appeals Issues Important Decision in Domino's Website Action," January 16, 2019
- "A Closer Look At Calif. Privacy Law's Private Right Of Action," Law360, December 12, 2018
- "Ninth Circuit Rules Match.Com Not Immune under Section 230," Daily Journal, September 16, 2016
- Will the FTC's 'Do Not Track' Proposal Spell the End of Free Internet Content?" *BNA Electronic Commerce & Law Report*, Vol. 16, No. 4
- "Proposed Data Privacy Legislation Generates Relief As Well as Concerns," *BNA Electronic Commerce & Law Report*, July 13, 2010
- "FTC investigates Ann Taylor for encouraging bloggers to tout new product line," *BNA Electronic Commerce & Law Report*, May 25, 2010
- "For Companies Operating On the Web, New Data Security Regulations Have Broad Implications," *Bullivant E-Alert*, November 2009

- “California Supreme Court Decision Raises Specter of Return of ‘Shakedown’ Suits,” *Bullivant E-Alert*, June 2009
- “Could You Be Liable Because Your Website Contributes to Unlawful Conduct by Your Users?,” 26 No. 5 *Andrews Computer & Internet Litigation Reporter* 1

## RELATED INSIGHTS

Blog Post

Dec 24, 2024

### **FTC Junk Fees Rule Targets Ticket Sales and Hotel Rentals**

Insights

Sep 12, 2024

### **Navigating a Security Incident - Communication “Dos” and “Don’ts”**

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### **Navigating a Security Incident - Best Practices for Engaging Service Providers**

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### **Federal Court Rejects Motion to Dismiss Wiretap Claims Using HIPAA to Support Crime-Tort Exception Allegations**

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### **Is Your Company Vulnerable to a Mass Arbitration Attack?**

Blog Post

Jun 28, 2024

### **California Ban on Hidden Fees to Take Effect; Restaurant Exception Passes**

Insights

Feb 16, 2024

### **New TCPA opt-out rules coming as FCC adopts report and order on revocation of consent**

On February 15, 2024, the Federal Communications Commission (“FCC”) adopted the Draft Report and Order and Further Notice of Proposed Rulemaking (“Report and Order”)[1] that it released last month under the Telephone Consumer Protection Act (“TCPA”). The Report and Order, along with the new Rules, will have major impacts for senders of marketing text messages. Under the TCPA, businesses cannot text marketing messages, make marketing robocalls, or send fax advertisements to a consumer without having obtained their “prior express written consent.”[2] The new ruling imposes strict requirements for revocation of consent. Businesses should take note and ensure their opt-out procedures comply with the new rules. Failure to do so may result in a class action

lawsuit, as the TCPA provides for a private right of action with statutory damages of \$500-1,500 per violation, per consumer, with n...

News

Nov 22, 2023

## **Dan Rockey weighs in on recent high dismissal rate of video privacy class actions**

Insights

Jul 25, 2023

## **VPPA trends: considerations for limiting exposure**

In recent months, organizations have been dealing with an emerging wave of lawsuits from an unexpected source: the VPPA. The Video Privacy Protection Act ("VPPA"), originally intended to prevent "wrongful disclosures" of video tape sale and rental data from companies like Blockbuster and Family Video, is being rehabilitated by the plaintiffs' bar to target any video content appearing on websites. Plaintiffs are now alleging that website operators using embedded videos are knowingly disclosing data to third parties through pixels and similar tracking technologies. For organizations caught in the crosshairs, violations of the law may result in statutory damages of \$2,500 per violation, as well as attorneys' fees, other monetary relief, and preliminary injunctive relief.

[1] Given the large number of users who may access a single website, class actions under the VPPA have resulted in substantial settlements, ranging ...