

PETER F. McLAUGHLIN



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Peter F. McLaughlin is senior counsel with Foley & Lardner LLP and a member of the firm's Privacy, Security & Information Management and Information Technology & Outsourcing Practices. He is also a member of the Health Care Industry Team.

As the former global privacy director and assistant general counsel of a Fortune 20 health care company, Mr. McLaughlin has specific experience in data privacy and security issues relevant to the health care sector as well as international privacy compliance.

In the health care arena, Mr. McLaughlin has:

- Represented Spokeo, a data broker, in *In the Matter of Spokeo, Inc.*, the first FTC matter alleging violations of the FCRA and Section 5, arising from the sale of Internet information, as well as an alleged violation of the endorsement guidelines.
- Assisted a health care company under FTC and OCR consent decrees to develop a compliant information security program.
- Coordinated the review and revision of data security and privacy policies concerning PHI.
- Represented a health care provider before regulators with respect to the preparation of and response to mandated independent assessment of security programs.
- Analyzed state attorney general settlement offers under HIPAA and HITECH investigations.
- Managed internal investigations related to privacy and security compliance and potential security incidents.
- Conducted multistate surveys of minor consent laws and Notice of Privacy Practices requirements.
- Advised software and medical device developers on data security and privacy compliance requirements.
- Conducted HIPAA Security Rule compliance reviews.
- Counseled a global healthcare company on the outsourcing of HR systems.

In the U.S. and international arena, Mr. McLaughlin has:

- Counseled a multinational defense firm on its U.S. privacy and security compliance program and European data transfers.
- Directed the strategy and implementation of a Fortune 20 company's global privacy program and Binding Corporate Rules application.
- Assisted a Middle East government in development of its new data security and privacy law.
- Advised U.S. environmental controls company on their implementation of a global HR database.
- Advised a recruiting company on privacy rules across 45 countries.
- Counseled companies regarding Safe Harbor preparation certification and management of onward transfers.
- Provided tactical advice to a *Global 50* company's M&A team on international privacy rules.

In 2010 - 2012, the *Legal 500* recognized Mr. McLaughlin's technology work in the area of data protection and privacy.

Mr. McLaughlin received his J.D. from Georgetown Law Center in 1993 and was the senior articles editor for the journal, *Law & Policy in International Business*. He earned his bachelor's degree from Columbia University in 1986.

Mr. McLaughlin is admitted to practice in Massachusetts and New York. He is a member of the American Bar Association (ABA) and is vice chair of the ABA's Information Security Committee. For four years he was co-chair of the Privacy Security & Data Management subcommittee for the Business Law Section. He is also a member of the International Association of Privacy Professionals, the American Health Lawyers Association and its Health Information Technology Committee.

Mr. McLaughlin is a Certified Information Protection Professional (CIPP), certified by the International Association of Privacy Professionals.

He is a frequent speaker at ABA, HIPAA Security Summit, Practising Law Institute, International Association of Privacy Professionals, and other programs in the U.S. and internationally. He recently spoke at the Healthcare Financial Management Association's "Electronic Medical

Records: The Good, The Bad, and The Audits” event on the topic of “Legal Issues Surrounding the Electronic Medical Record” (March 2012).

Publications

- Quoted, "ABA Science, Technology Leaders Discuss Data Security, Cybersecurity, Other Trends," BNA's *Electronic Commerce & Law Report* (March 2012)
- Co-Author, "Privacy, Security and Information Management: An Overview," American Bar Association Business Law Section (July 2011)
- Interview, "Protecting privacy in the education landscape," *The Privacy Advisor* (June 2011)
- Author, "The Proliferation of Mobile Devices and Apps for Health Care: Promises and Risks," published in both BNA's *Privacy & Security Law Report and Health Law Reporter* (June 2011)
- Contributing author, "Massachusetts Health and Hospital Law Manual," MCLE, Inc., 2nd Supplement (May 2011)
- Lead Author, "Protecting Personally Identifiable Information: A Guide for College and University Administrators," Council on Law in Higher Education (March 2011)

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Kenneth P. Mortensen is vice president, assistant general counsel and chief privacy officer at CVS Caremark Corporation, where he provides leadership for enterprise-wide information governance, including the corporate privacy and security strategy to address operational and data management needs through an approach that protects individual privacy and assures compliance with federal, state and local privacy laws and regulations by building a culture of privacy within CVS Caremark. Mortensen serves as chief privacy and security counsel to the CVS Caremark’s internal Business Policy Council, which consists of the most senior CVS Caremark executives who have oversight responsibility of core business units and are charged with setting the long-term strategic vision and determining key business initiatives. Additionally, he spearheads corporate efforts to drive awareness of obligations and industry best practices concerning privacy and security.

Prior to coming to CVS Caremark, Mr. Mortensen was the first global chief privacy officer for Boston Scientific Corporation and had worldwide responsibility to implement a corporate privacy program at the medical device manufacturer. He guided the company through the programmatic and systemic changes necessary in response to the HITECH Act, which enhanced the privacy protections of HIPAA.

Earlier, Mr. Mortensen served as the chief privacy and civil liberties officer for the U.S. Department of Justice, where he was the primary counsel and policy advisor to the attorney general and deputy attorney general on privacy and civil liberties matters and worked to create the newest independent office in the department, the Office of Privacy & Civil Liberties. He coordinated the departmental oversight concerning privacy and civil liberties in all aspects of the department’s mission, especially with regard to national security and foreign intelligence. Mr. Mortensen represented the department in inter-governmental discussions about all aspects of privacy and civil liberties protections, including the interface between differing privacy authorities, such as U.S. privacy law and EU data protection frameworks, including leading the U.S. government delegation to negotiate agreements with other countries for the exchange of criminal identification information, such as fingerprints.

Mr. Mortensen also served as the inaugural agency chair of the federal CIO Council's Privacy Committee, where he organized this group of federal privacy officials to promote adherence to the letter and the spirit of laws advancing privacy, including the Privacy Act of 1974 and the E-Government Act of 2002, as well as widely accepted concepts of fair information principles and practices. Additionally, he coordinated efforts to ensure widely available education and outreach efforts to create a culture of privacy and to enhance the respect for fair information principles across the federal government in order to minimize the impact on the individual's privacy, particularly the individual's personal information and dignity, in the design, development and operation of agency collections of data.

Before that, Mr. Mortensen had the position of deputy chief privacy officer for the U.S. Department of Homeland Security. He advised the DHS chief privacy officer and DHS senior leadership about privacy matters concerning the use, harmonization and implementation of technologies using risk assessment management techniques.

Formerly, Mr. Mortensen was a founding and managing partner of the law firm Harvey & Mortensen. As part of his private practice, Mortensen served as outside counsel to Pennsylvania Attorney General Mike Fisher regarding technology and Internet matters. As part of that role, he designed, developed and operated the Pennsylvania Do Not Call website on behalf of the attorney general.

Before going into private practice, Mr. Mortensen was a teaching fellow at Villanova University School of Law, where he taught computer and information law. In addition, at Villanova he managed the Center for Information Law and Policy, headed by Dean Henry H. Perritt, Jr., as the director of operations. Mr. Mortensen began his career at Burroughs Corporation, as an electrical engineer performing large system design for mainframes.

Mr. Mortensen is the co-author with Nuala O'Connor Kelly, the senior counsel for information governance and chief privacy leader for General Electric Corporation and former chief privacy officer of the Department of Homeland Security, of the chapter entitled "The Privacy Act of 1974 and Its Progeny," in the legal treatise published by the Practising Law Institute called "Proskauer on Privacy." In addition, he is a co-author of the chapter entitled "Civil Litigation: Security," in the

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book *Data Security and Privacy Law: Combating Cyberthreats*, which discusses civil actions and claims that may be brought in legal actions arising from data breaches, cyber intrusions and security incidents.

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Ms. Barrett is the international head of Eversheds LLP's privacy and information law group and also leads their international e-commerce work.

With a strong background in information technology law, Ms. Barrett has developed extensive experience in data protection/privacy law domestically and internationally. She is currently advising on data protection compliance issues in 60+ countries around the world and our data protection practice is independently ranked by Chambers as being amongst the best in the UK.

Ms. Barrett's recent experience includes advising:

- On the data protection compliance steps required to implement centralised HR and CRM system or shared service centres globally in EMEA, North & South America and Asia-Pacific.
- A leading premium subscription music service on the privacy aspects of its acquisition of Napster businesses in Germany and the UK.
- On the terms of use, terms of sale, privacy and cookies policies and consents for numerous retailers across Europe including those required in relation online behavioural advertising.
- On "Cookies" Directive compliance including extended notices and consents.
- A client on its approach to a "voluntary" ICO audit.
- On the privacy issues associated with international investigations including deployment of ethics reporting hotline and other reporting tools
- Clients on their data security breach reporting obligations in the UK and internationally, including representing clients in their communications with the ICO and other regulators
- Successfully defending clients in response to proposed enforcement action by the ICO.
- On the privacy issues arising from proposed implementation of cloud computing solutions including consideration of Patriot Act, ITAR and similar issues.
- Several medical devices companies on privacy

terms for use with clinicians, hospitals and their patients.

Ms. Barrett plays a key role in advising on e-commerce including advise across 30+ countries working closely with colleagues in other teams to enable clients to make educated risk assessments and undertaken compliant activities in respect of their web presence and the back office fulfillment associated with international website offerings.

Ms. Barrett is noted in Chambers as "an incredible lawyer – practical, knowledgeable and able to assemble a great team." She is noted for her cross-border expertise in this field.