Top Ten Things to Do to Prevent a Data Breach

Reminger
ATTORNEYS AT LAW est. 1958

Presenters – Trenton Gill, Reminger

Trent practices in Reminger Co., LPA's Indianapolis office. He represents attorneys, physicians, dentists, and chiropractors in professional liability claims and disciplinary/licensing matters. Having tried multiple jury trials, Trent has been responsible for civil cases from inception through conclusion, including appeals.

Trent counsels clients on a variety of legal issues including labor and employment, insurance coverage, contract creation and negotiation, worker's compensation and risk management.

Reminger
ATTORNEYS AT LAW est. 1958

Presenters – Brandon Abshier, Reminger

Brandon focuses his practice on civil litigation, workers' compensation, and data breach/privacy matters. As a litigator, Brandon enjoys problem solving complex cases. He has assisted international companies facing major litigation in the United States and worked with publicly traded companies handling their commercial litigation needs.

A Certified Information Privacy Professional/U.S. (CIPP/US) by the International Association of Privacy Professionals (IAPP), Brandon has received special training in the data breach and privacy fields. For clients whom have experienced a data security breach, Brandon provides counsel to ensure they minimize their exposure to litigation and regulatory actions.

Reminger
ATTORNEYS AT LAW est. 1958

Presenters – Adam Gwaltney, Ritman

Adam specializes in numerous types of Professional Liability Insurance to include Legal Professional Liability, Title Agent Errors & Omissions and Cyber Liability Insurance. He has been a frequent speaker for the Indiana Continuing Legal Education Forum (ICLEF), The Indiana State Bar Association and numerous other legal trade associations.

Adam instructs a quarterly Law Practice Management workshop for the Robert McKinney School of Law in Indianapolis. He is an approved CE and CLE provider and conducts webinars and speeches for the American Land Title Association (ALTA), Indiana Land Title Association (ILTA), Michigan Land Title Association (MLTA) and The Ohio Land Title Association (OLTA).

Reminger ATTORNEYS AT LAW est. 1958

Topics covered

1) Conduct a Professional Security Assessment
2) Develop and Implement a Cyber Event Response Plan
3) Stay Current with Technology
4) Implement Intrusion Detection Methods
5) Mobile Device Management
6) Train Your Staff; Awareness
7) Stay Abreast of Legal Compliance
8) Backup-Backup-Backup
9) Emails, Passwords, Scams
10) Insurance; Risk Transfer

What is a Cyber Event?

1. An occurrence leading to a compromise, misuse, loss or theft of data, information systems, money, professional services or a combination of all
2. Not necessarily a data breach

Conduct Security Assessment

- ***Reevaluate Existing Privacy and Security Systems and Procedures***
- This review can highlight your organization's privacy and security vulnerabilities as well as its strengths. Identifying weaknesses is a critical part of developing an incident response plan. For example, if your review reveals that it is difficult to locate either physical or electronic copies of established written privacy policies, then perhaps the policies are not the issue but rather the communication and visibility of these policies.
- The bottom line is this: Use your existing privacy policies and procedures to establish a baseline and revisit those policies to identify any latent vulnerability that should be addressed in the incident response plan.

Cyber Event Response Plan

- The foundation of breach preparedness is having a well-prepared incident response team. Representatives from all of your company's functional groups.

- At the very least, your internal incident response team should include representatives from IT, security, legal, compliance, communications and customer service and a member of the executive management team. A smaller firm may not have different people in all of those functions, but this suite of functions should be represented.

Stay Current with Technology

- **Keep Security Software Up-To-Date.** Keep security patches for your computers up-to-date. Use firewalls, anti-virus and anti-spyware software; update virus/spyware definitions daily. Check your software vendors' websites for any updates concerning vulnerabilities and associated patches.

Intrusion Detection Methods

Reminger
ATTORNEYS AT LAW est. 1958

Mobile Device Management

- **Manage Use of Portable Media.** Portable media, such as DVDs, CDs and USB "flash drives," are more susceptible to loss or theft. This can also include smartphones, MP3 players and other personal electronic devices with a hard drive that 'syncs' with a computer. Allow only encrypted data to be downloaded to portable storage devices.

Staff Training and Awareness

- Establish a written policy about privacy and data security and communicate it to all employees. Require employees to put away files, log off their computers and lock their offices/filing cabinets at the end of the day. Educate employees about what types of information are sensitive or confidential and what their responsibilities are to protect that data.

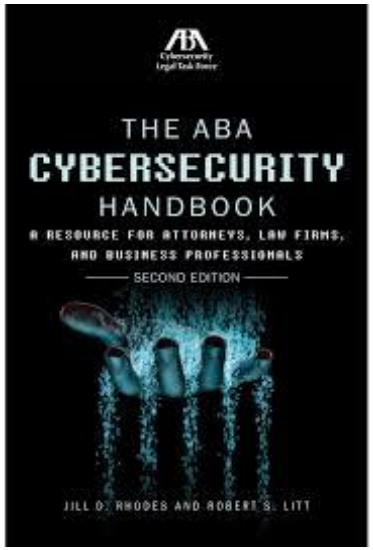
- It is a good practice to train all personnel and third-party contractors on basic breach response protocol. Additionally, further in-depth training should be provided to members of the internal breach response team.

- Remember that the earliest detection allows for the quickest response. All personnel must be trained to recognize that a breach may have occurred and to report it at the earliest possible moment.

Legal Compliance

- Rules of professional conduct (Competency and Confidentiality)
- HIPAA and BAAs. Civil and Criminal Penalties.

Review current business associate relationships and executing written agreements (if not already in place) and by reviewing current policies and procedures related to business associates to ensure there are individuals who are monitoring, negotiating and documenting business associate relationships. Risk assessment to identify vulnerabilities or weaknesses in HIPAA compliance. Develop a template business associate agreement to use with covered entities.



Reminger
ATTORNEYS AT LAW
est. 1958

Backup-Backup-Backup

- Create an “out-of-band” backup of files that will allow access to work in case of a malicious encryption.

Email, Passwords and Scams

- Stories:

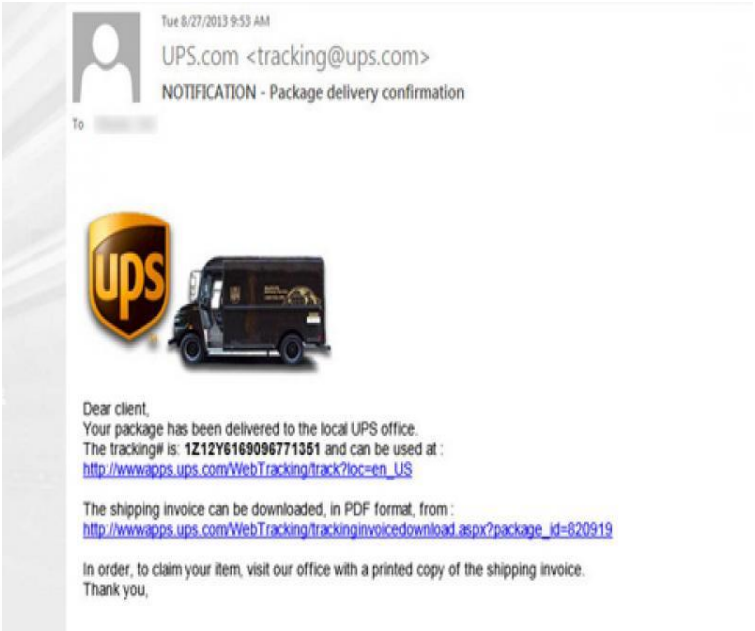
Reminger
ATTORNEYS AT LAW

From: Ronald A. Mingus
[mailto:mail@partnermail.net]
Sent: Wednesday, August 1, 2018 6:39 PM
To: Houston Hum <HHum@reminger.com>
Subject: Urgent Request

Are you still in the office? I'm in a meeting and I need you to handle an urgent request for our firm.

I could have reached you on the phone, I'm in a conference meeting and I need to provide our clients with some gift cards. Confirm if we can get some iTunes gift cards from the nearest store to you? It's very important and urgent. Let me know.

Social Engineering Scams



Tue 8/27/2013 9:53 AM

UPS.com <tracking@ups.com>

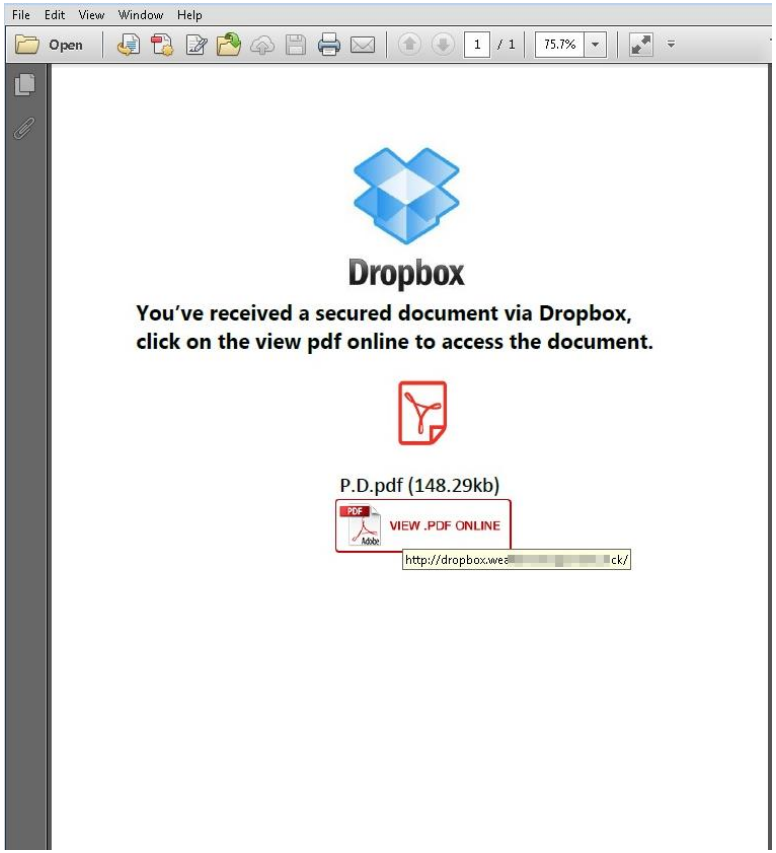
NOTIFICATION - Package delivery confirmation

To

Dear client,
Your package has been delivered to the local UPS office.
The tracking# is: **1Z12Y6169096771351** and can be used at :
http://wwwapps.ups.com/WebTracking/track?loc=en_US

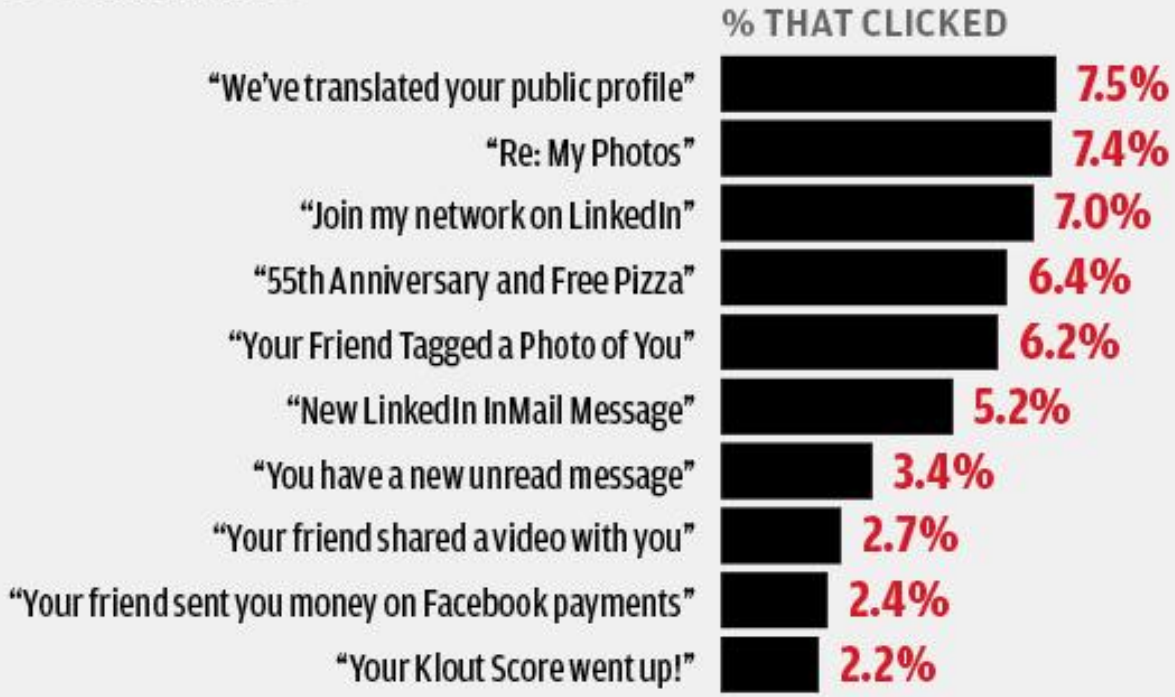
The shipping invoice can be downloaded, in PDF format, from :
http://wwwapps.ups.com/WebTracking/trackinginvoicedownload.aspx?package_id=820919

In order, to claim your item, visit our office with a printed copy of the shipping invoice.
Thank you,



Reminger ATTORNEYS AT LAW est. 1958

This year's most clicked social media scam lines



SOURCE: KNOWBE4

Reminger ATTORNEYS AT LAW est. 1958

Anatomy of a legal phishing scam:

1. Prospective client email;
2. After checking the legitimacy of the company on the Internet, the lawyer responds and relationship terms are "negotiated";
3. Lawyer receives an email from the new client that the hiring of counsel and/or the threat of legal action has suddenly caused debtor to agree to pay up;
4. Lawyer receives "cashier's check" from a reputable bank as a settlement payment, which is then deposited in the lawyer's client trust account;
5. Client requests an immediate wire distribution of the settlement funds to a foreign account and provides approval for the attorney's retainer or fees to be deducted from the funds and paid from the trust account;
6. Lawyer retains the fee and wires the balance to a foreign bank account. Cashier's check is fraudulent, and it is returned unpaid. Funds have already been wired to the foreign bank and the scammer has disappeared with the funds. Trust account overdrawn with report to the State Bar. Liable to the bank for the balance of the bad check and to clients whose funds may have been withdrawn, and subject to an investigation by the State Bar that may lead to discipline.

From: Huntsville Madison Bar Association <complaints.dept@outlook.com>
Date: June 6, 2016 at 12:45:22 PM CDT
To: Member [redacted]
Subject: The Huntsville Madison Bar Association Complaint
Dear Bar Member:

A complaint has been filed against your law practice.

Enclosed is a copy of the complaint which requires your response. You have 10 days to file a rebuttal if you so desire.

You may view the complaint at the link below.

complaint20167846.zip

Rebuttals should not exceed 25 pages and may refer to any additional documents or exhibits that are available on request.

Please be advised that as an arm of the Supreme Court of Alabama, The Huntsville Madison Bar Association can investigate allegations of misconduct against attorneys, and where appropriate, request that the attorney be disciplined. The Huntsville Madison Bar Association cannot render legal advice nor can The Huntsville Madison Bar Association represent individuals or intervene on their behalf in any civil or criminal matter.

Please review the enclosed complaint. If filing a rebuttal please do so during the specified time frame.

Sincerely,

The Huntsville Madison Bar Association

How Law Firms Can Reduce Risk

It's more important than ever to have systems and policies in place to help detect and deter this type of fraud. Since humans are "the weakest link" in the security chain, firm-wide education is the first step toward reducing risk. If your partners and employees are aware of the characteristics of risky emails, they will be more likely to recognize them and avoid becoming a victim.

Cybersecurity Litigation

- There is a split among circuit courts as to whether plaintiffs can establish standing to bring their cases.

- The 1st (ME, MA, NH, RI, and CT), 3rd (DE, NJ, and PA), and 4th circuits (MD, NC, SC, WV, and VA) have dismissed such cases for a lack of standing.

- The 6th (KY, MI, OH, and TN), 7th (IL, IN, and WI) and 9th (AK, AZ, CAL, HI, ID, MT, NV, OR, and WA) circuits are more likely to allow cases to move forward, holding that **an increased risk of identity theft is sufficient to establish standing**.

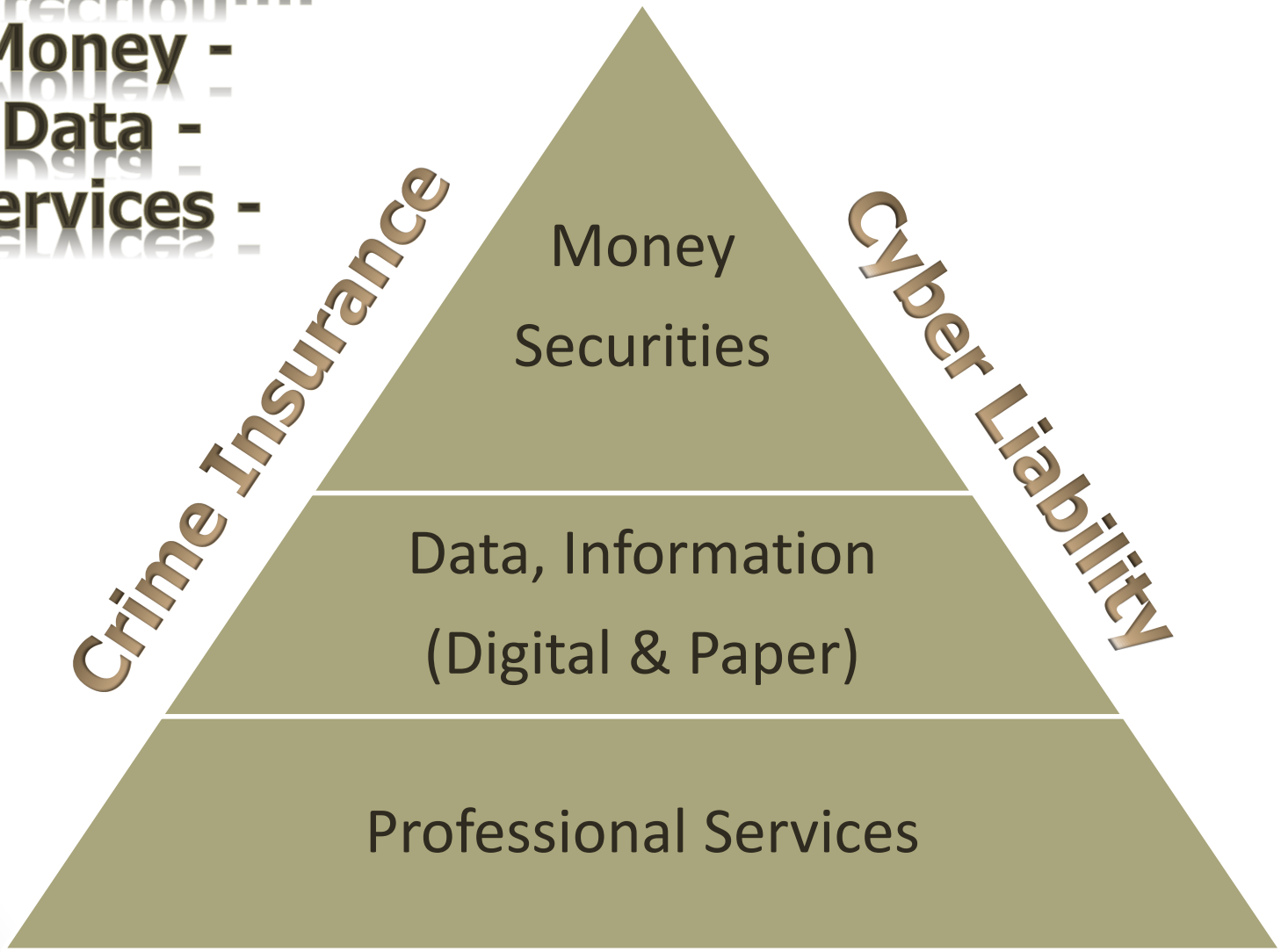
Risk Transfer and Insurance

The Pyramid of Protection….

Money -

Data -

Services -



Professional Liability

Reminger
ATTORNEYS AT LAW est. 1958

Rules of Professional Conduct…

1.1 Competence – comment 6

Maintaining Competence

[6] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, **including the benefits and risks associated with the technology relevant to the lawyer's practice,** engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Rules of Professional Conduct…

1.6 Confidentiality

IRPC 1.6 states that "[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent."

The ABA Cybersecurity Handbook explains that "[t]his obligation to maintain confidentiality of all information concerning a client's representation, no matter the source, is paramount," and "[t]he obligation is no less applicable to electronically stored information than to information contained in paper documents or not reduced to any written or stored form." Have to consider privacy for pre-suit investigations.

"A lawyer cannot take the 'ostrich' approach of hiding his head in the sand and hoping that his office or firm will not suffer a data breach that compromises client information."

"[l]awyers must implement administrative, technical, and physical safeguards to meet their obligation to make reasonable efforts to protect client information."

ABA Cybersecurity Handbook

Reminger
ATTORNEYS AT LAW est. 1958

How do we get our heads out of the sand? DON'T FREAK OUT!

You Don't Need to be a Techie to Comply with the Rules!

3 Easy Steps:

1. Invest in decent hardware and software and update.
2. Encrypt and change passwords regularly.
3. Train and retrain and stay updated.

REMINGER ALTA PRO LEGAL HOTLINE

(833)830-6269

24 HOURS A DAY/7 DAYS A WEEK

Reminger Co., LPA is a civil litigation defense firm that handles legal professional liability matters. When calling the hotline, tell the receptionist the state from where you are calling so that you can be directed to the appropriate attorney. Please be advised that by contacting a Reminger attorney by phone, an attorney-client relationship is not created. Furthermore, Reminger has no duty to keep confidential any information you provide in the phone call.

Reminger
ATTORNEYS AT LAW est. 1958

Contact Information

- Trent Gill, Reminger:
  - tgill@reminger.com
  - 317.853.7370
- Brandon Abshier, Reminger:
  - babshier@reminger.com
  - 614.232.2422
- Adam Gwaltney, Ritman:
  - agwaltney@ritmanassoc.com
  - 317.770.3004, ext. 103

Reminger
ATTORNEYS AT LAW est. 1958