Law firm Liability Exposures: How to protect your firm against Cyber Liability Claims

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Agenda

- Cyber Liability Exposures For Law Firms
- Cyber Risk Management Tips
- Cyber Liability Insurance

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Cyber Exposures For Law Firms

Cyber Exposures – Law Firms Are Prime Targets

- Rich Collection of Data
- Sensitive Information
- Bank Information
- PII
- Poor Safeguards
- Lack of internal training and controls
- Lack of IT resources
- Wireless access
- Vendor Management
- Lost of stolen devices

- Internal Exposures
  - Rogue employees
  - Careless staff
- External Exposures
  - Business associates, vendors and suppliers
  - Organized crime
  - Hackers

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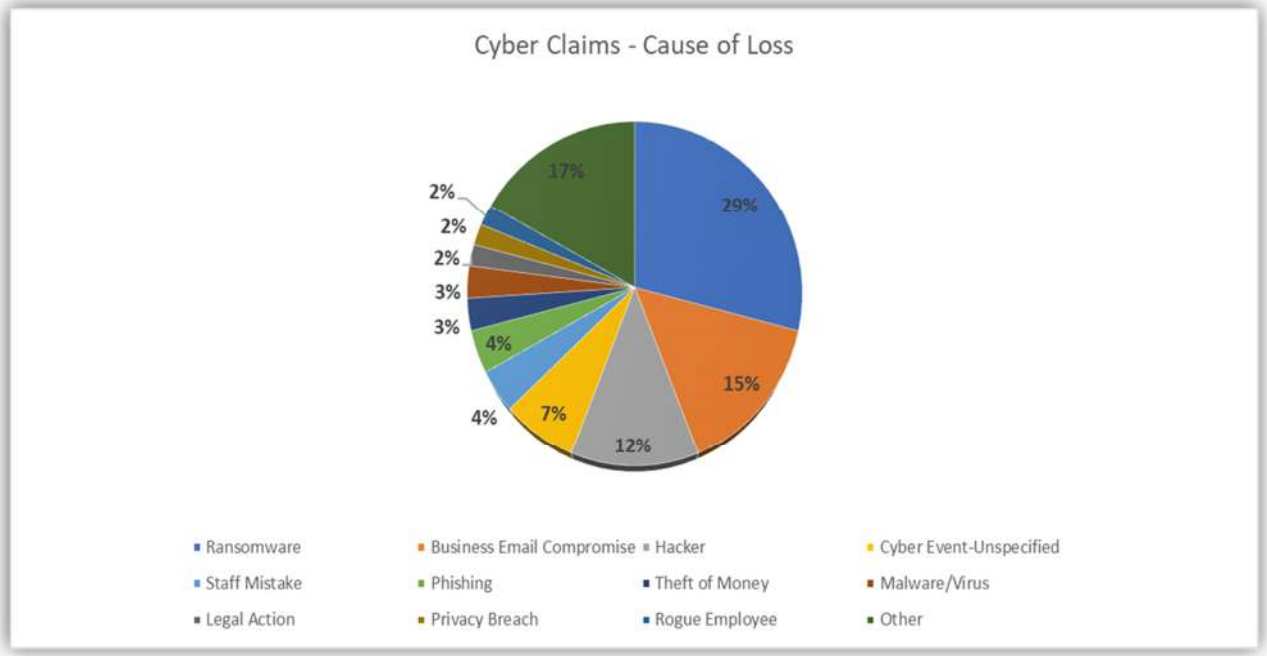
Cyber Claims



Source: 2022 NetDiligence Cyber Claims Study

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Social Engineering

- Social Engineering is the psychological manipulation of legitimate users into performing actions, breaking security procedures, divulging confidential information and parting with tangible assets

- Social Engineering scams take advantage of the "human factor" to perpetrate a fraud

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Social Engineering - NOT AN ISSUE FOR MY LAW FIRM

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- **WRONG!**
- Roughly 26% of all law firms already victim of a data breach
- Roughly 51% of law firms have taken no measures to prevent data breach
- Roughly 50% have no data breach response plan
- Ransomware attacks occur every 10 seconds

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Examples of Social Engineering Scams Involving Law Firms

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- Misdirection of Escrow Funds
- Fraudulent court notices
- Fake job posting/resumes for review
- Bank account/LinkedIn/Netflix password reset/purported "unauthorized access"
- Email with incoming fax notification
- Misdirection of real estate closing costs
- Recent Examples of Ransomware Attacks:
  - 3 small SD Law Firms were subject to ransomware and threated to expose confidential data
  - TX boutique firm client data was released because of a ransomware attack

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Why Are Small and Midsize Businesses Targeted?

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- Small and midsize businesses (SMBs) are the principal target of cybercrime.
  - Based on one study, 60 percent of all targeted cyberattacks last year struck SMBs.
- SMBs are easier targets than larger organizations.
- Many SMBs lack sufficient resources and in-house expertise to address cyberattacks.
- It has been estimated that half of the small businesses that suffer a cyberattack go out of business within six months as a result.

Source: U.S. Securities and Exchange Commission, "The Need for Greater Focus on the Cybersecurity Challenges Facing Small and Midsize Businesses," 2015.

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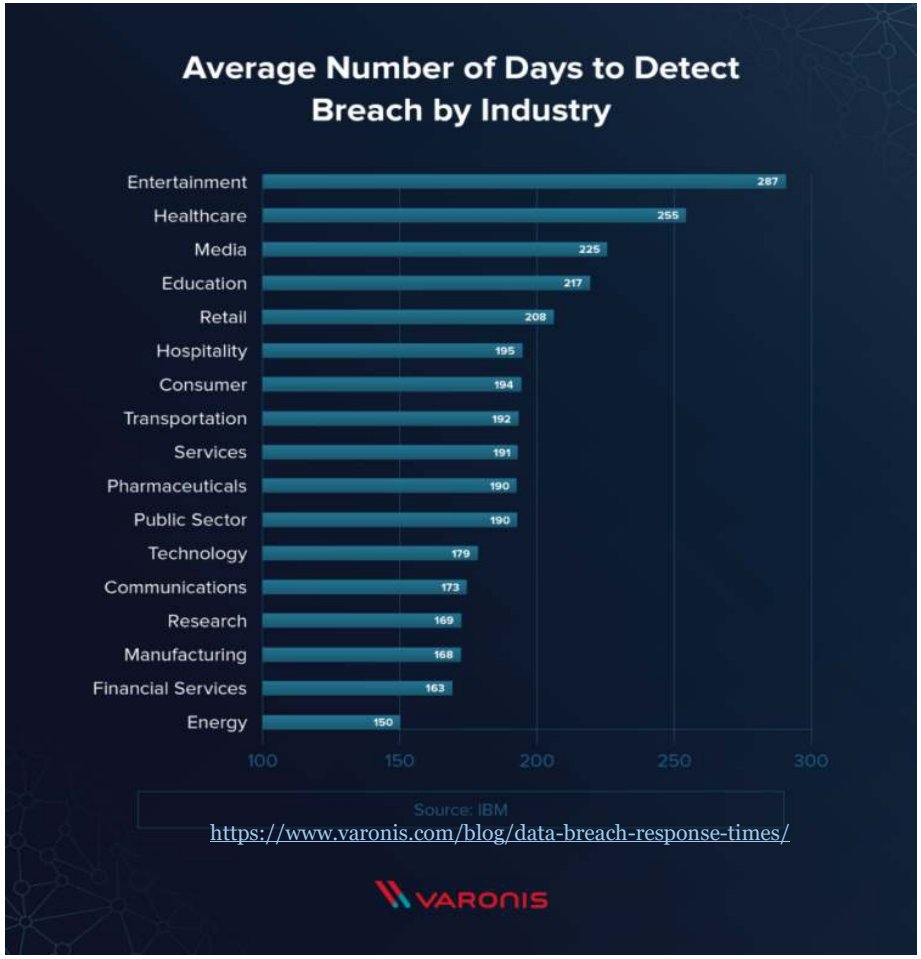
Breach Detection

Obligation to Monitor For a Data Breach

System Monitoring Activities



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Stopping the Breach and Restoring Systems

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Key findings:

Formation of the IR team lowered the total cost of a data breach by an average of $360,000 from the mean cost of $3.92 million.

$360,000

IR team lowers the total cost of a data breach by an average of $360,000

Extensive testing of the IR plan reduced the total cost of a data breach by an average of $320,000 from the mean cost of $3.92 million.

$320,000

IR plan reduces the total cost of a data breach by an average of $320,000

Organizations that both formed an IR team and extensively tested the IR plan saw the greatest savings – $1.23 million less than organizations that neither formed an IR team or tested the IR plan.

$1.23M

Savings from IR teams and testing the IR plan – $1.23 million less than organizations that neither formed an IR team or tested the IR plan.

Source - Ponemon Institute Cost of a Data Breach Study 2019

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Cyber Exposure and the Need for Insurance

Cyber Exposures – Cyber Loss

- Loss or damage to data/information
- Loss of revenue due to a computer attack
- Extra expense to recover/respond to a computer attack
- Legal liability to others for computer security breaches
- Legal liability to others for privacy breaches (not just computers!)
- Regulatory actions and scrutiny
- Loss or damage to reputation
- Cyber-extortion
- Cyber-terrorism
- Management time expended on breach response

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Your System has been breached, now what do you do?

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Breach Response Plan

Breach Counsel or Breach Coach

Insurance Carrier

Notify Your Clients and Provide Credit Monitoring

- Average cost is about $150 per client
- Every state has different rules and regulations
- Billable hours lost?

Forensics Team

- How you were breached
- Are they still in your system? If so remove them
- Recover any lost data
- Prevent breach from happening again

Cyber Extortion

- Negotiate Rates, get your clients files back

Social Engineering/Fund Transfer Fraud

- Must have controls in place for this type of exposure

3rd Party Claims

- Notify Insurance Carrier, if not Cyber then Professional Liability

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Cyber Exposures – How a Law Firm can Protect itself

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- Buy Cyber Coverage!
- Incident Response Planning
- Employee Training
- Risk Analysis
- Encryption
- MFA
- Back-ups
- Document Retention Policy
- Penetration Testing
- Anti-virus and Patching
- Intrusion Prevention and Detection
- Vendor Risk Management

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Risk Management

- Use common sense
- Avoid clicking on links in emails
- Utilize SPAM filters, malware detectors and anti-virus software
- Click on "details" for email address of sender
- Verify with a phone call to client/law firm
- Secure and frequent backups
- Changing password on frequent basis, complex passwords
- Continuous maintenance of operating systems and software programs
- Inform clients that wire instructions will not be sent over email, do not accept instructions over email

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Insurance Coverage Gaps

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	Property	General Liability	Crime/Bond	K&R	E&O	Cyber / Privacy
1st Party Privacy / Network Risks						
Physical Damage to Data						
Virus/Hacker Damage to Data						
Denial of Service attack						
B.I. Loss from Security Event						
Extortion or Threat						
Employee Sabatoge						
3rd Party Privacy/Network Risks						
Theft/Disclosure of private Info						
Confidential Corporate Breach						
Technology E&O						
Media Liability (electronic content)						
Privacy Breach Expense						
Damage to 3rd Party's Data						
Regulatory Privacy Defense/Fines						
Virus/ Malicious Code Transmission						

Coverage Provided:	
Limited Coverage:	
No Coverage:	

Traditional Insurance Gaps to name a few:

- Theft or disclosure of Third Party Information – GL
- Security & Privacy – "intentional act" exclusion – GL
- Data is not tangible Property – GL, Prop. and Crime
- Bi/PD Triggers – GL
- Value of Data if corrupted, destroyed or disclosed – Prop & GL
- Contingent Risks from external hosting, etc.
- Commercial Crime policies require "intent" and only cover "money securities and other Tangible Property"
- Territorial Restrictions
- Sublimits or long waiting periods applicable to any virus coverage available – Prop.

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High Cost of Data Breach

IBM Security: Cost of a Data Breach Report 2022

$164 average cost for lost or stolen record for PII data

$4.35 Million→ Average cost of a data breach

$9.44 Million → Average cost of a data breach in the US

$1 Million → Average difference in cost where remote work was a factor in causing the breach

45% of breaches occurred in the cloud

83% of organizations studies have had more than one data breach

Compromised credentials responsible for 19% of breaches

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What Does Cyber Insurance Cover?

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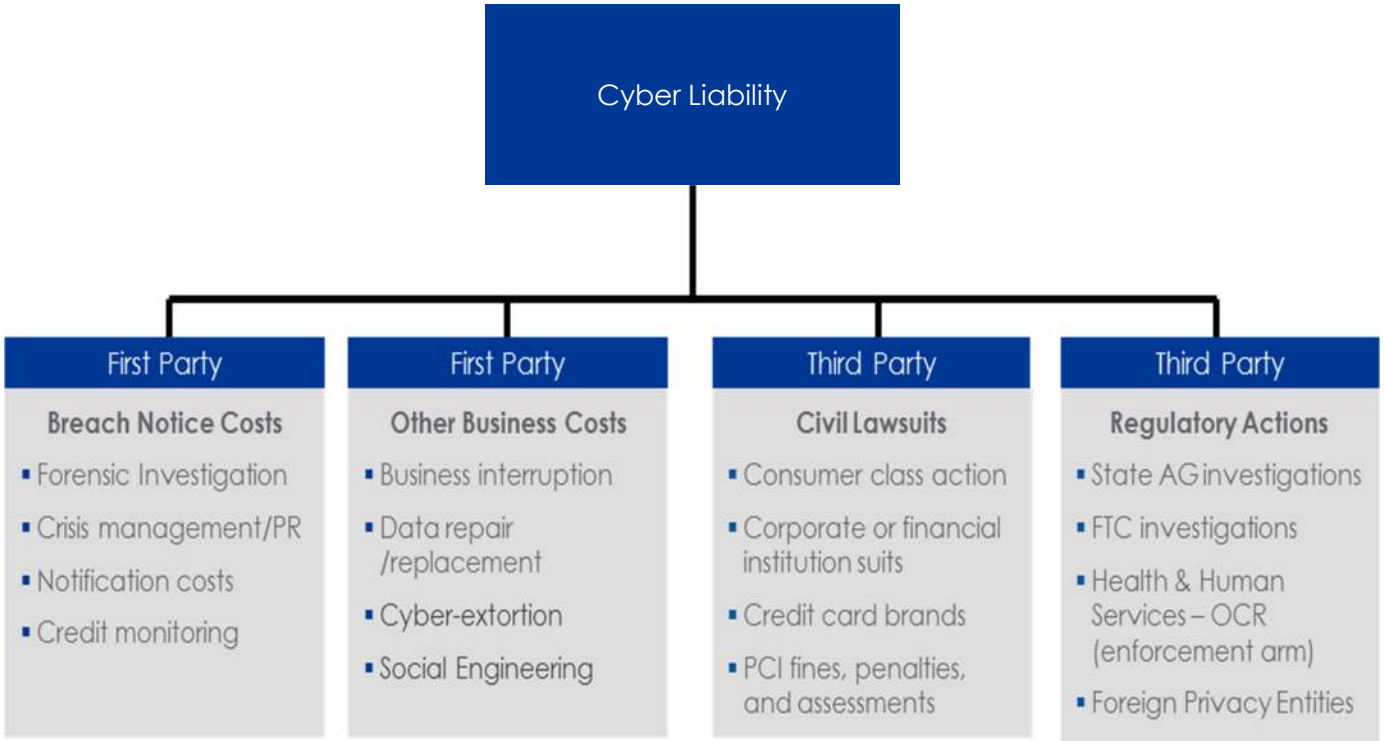

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Demand and Drivers for Cyber Insurance

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- Demand for Cyber Insurance
  - Most insurance carriers have reported experiencing an increase in demand
  - Need for additional capacity
  - Policy terms and conditions are broadening
  - Additional sublimited coverage being offered
  - Co-insurance and Higher Deductibles

- Drivers for Cyber Insurance
  - Privacy Notification Laws
  - News of cyber-related events
  - Board/Sr. Management
  - Increased education
  - Experiencing a cyber-related loss
  - Contractual obligations

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Insurance Application, Pricing and Coverage Details

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Application Process

- Application focuses on security controls in place
  - MFA for Email, Remote Access, Network Cloud Administration
  - Maintain Weekly Backups
  - Funds Transfer Controls (secondary means of communication to validate)

Pricing

- Very Affordable for small firms
  - Deductibles from 1,000-5,000
  - Limits from 500,000-5,000,000

Coverages Listed on Quote

- Certain Coverages may be limited depending on your application
  - Cyber Extortion (co-insurance)
  - Funds Transfer Fraud (Sub-Limits)
  - Business Interruption (waiting period)

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Questions

For any information on Professional Liability or Cyber Liability Insurance please feel free to contact:

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