

## Tuesday, April 26

**7:30 — 8:30 Breakfast & sign-in****8:30 — 8:45 Welcome & overview**  
([Meal](#), [Weinlein](#))**8:45 — 10:00 [Session 1] When are ransomware payments illegal under current U.S. law?**  
([Chen](#), [Gray\\*](#), [Saikali](#), [Wescott](#))

There is currently no legal authority that guides determination of whether a threat actor to whom one is considering making a ransomware payment either is itself, or is acting for the benefit of, an organization/entity listed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List), such that making a ransomware payment to that threat actor would be prohibited. A panel of WG11 brainstorming group members will lead a dialogue with all attendees on their outline which evaluates whether WG11 should develop an independent standard and/or factors that would provide guidance on this issue.

**Required Materials:**

- 1.1 The Sedona Conference WG11 Brainstorming Group Outline – When are ransomware payments illegal under current U.S. law? (April 2022)

**10:00 — 10:15 Morning break****10:15 — 11:30 [Session 2] Coordination of multiple litigation and regulatory fronts arising out of major privacy and cybersecurity events**  
([Falk](#), [Pizzirusso](#), [Powell](#), [Shonka](#), [Swetnam\\*](#))

A company that suffers a major privacy or cybersecurity event may find itself the target of class actions, state Attorneys General investigations, Federal Trade Commission or other federal agency actions, and foreign regulatory inquiries. While these disparate company adversaries often focus on similar or identical issues, coordination across the adversary group is rare. While some companies facing this situation prefer to engage with a coordinated adversary group to achieve efficiencies and perhaps even global resolution, others endeavor to discourage or prevent any such coordination from occurring. In this session, we will discuss the benefits of and impediments to coordination among the company's adversaries in this situation, as well as the company's strategic arguments for encouraging or discouraging such coordination.

**Recommended Materials:**

- 2.1 AMG Capital Management, LLC, Et Al. v. Federal Trade Commission

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Tuesday, April 26 (Cont.)**11:30 — 12:30 [Session 3] Notice and consent – biometric facial recognition data***(Altman, Baxter-Kauf, Evers\*, Falk)*

A panel of WG11 drafting team members will lead a dialogue with all attendees on the latest draft of their Commentary which puts forth legal principles that should govern whether, under what circumstances, and what manner of, notice and consent of an individual should be required in connection with the collection, creation, use, and disclosure by the private and public sectors of that individual's biometric facial recognition data. The draft Commentary also provides legislators and other policymakers with guidance for implementing new and amending existing notice and consent requirements in connection with an individual's biometric facial recognition data.

**Required Materials:**

- 3.1 The Sedona Conference Draft Commentary on Notice and Consent Principles for Facial Recognition Technology (April 2022)

**12:30 — 1:30 Lunch****1:30 — 2:30 [Session 4] Model data breach notification law***(Keller, Meade\*, Promislow, Tully)*

A panel of WG11 drafting team members will lead a dialogue with all attendees on the latest draft of their Commentary to guide the development of data breach notification laws. Drawing upon best practices in data privacy and incident response, the Commentary describes how data breach notification laws should address different aspects of data breach notification, including what constitutes a notifiable breach, what methods of notification should be permissible, and whether there should be timelines for notification.

**Required Materials:**

- 4.1 The Sedona Conference Draft Commentary on Proposed Model Data Breach Notification Law (April 2022)

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Tuesday, April 26 (Cont.)**2:30 — 3:45 [Session 5] Privacy and data security legislative and regulatory update**  
([\*Cattanch\*](#), [\*D'Ambra\*](#), [\*DeGroff\*](#), [\*Drum\\*\*](#), [\*Kemnitz\*](#))

The panel will lead a dialogue on some of the most important actual and proposed legislative and regulatory enactments during the past year in the privacy and data security space. We will cover not only the most significant enactments of the past year, but also currently proposed enactments that raise important privacy and data security issues, with the goal of bringing WG11 members up-to-the-minute on where the codified law in the space currently is – and more importantly, where it could be heading in the future.

**Recommended Materials:**

- 5.1 Uniform Personal Data Protection Act, National Conference of Commissioners on Uniform State Laws

**3:45 — 4:00 Afternoon break****4:00 — 5:00 [Session 6] WG11 town hall**  
([\*Drum\*](#), [\*Keller\*](#), [\*Meal\\*\*](#), [\*Moncure\*](#), [\*Pizzirusso\*](#), [\*Promislow\*](#), [\*Saikali\*](#), [\*Wilan\*](#))

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

**Recommended Materials:**

- 6.1 The Sedona Conference *Incident Response Guide*
- 6.2 Should WG11 prepare a Second Edition of the *Incident Response Guide*? Issues for consideration

**5:00 — 7:00 Reception (guests invited)**

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Wednesday, April 27**8:30 — 9:30 Breakfast & sign-in****9:30 — 10:45 [Session 7] Incident response: The unresolved questions***(Jorgensen, Meade, Moncure, Saikali\*, Vibbert)*

A panel of leading outside counsel, corporate counsel and technologists with extensive experience in incident response will facilitate a dialogue on the most challenging questions companies face when responding to a suspected data breach. These are questions that often are not addressed or resolved by data breach notification laws, including the difficult decisions companies must make relating to scope of investigations, the use of third-party data review firms, timing of notification, effective use of substitute notice, and challenges specific to vendor data breaches. The dialogue will be a highly interactive one based on a series of short scenarios.

**Recommended Materials:**

- 7.1 Letter from the Office of the New York State Attorney General to Aptos, Inc. regarding Aptos communications with client-retailers resulting from data breach
- 7.2 Jami Vibbert, et al., *Federal Agencies Sound Alarm on Widespread Log4j Cybersecurity Flaw: How Should Organizations Respond?*, Arnold & Porter
- 7.3 Jami Vibbert, et al., *So You've Been Hit by a Ransomware Attack? Now What?*, Arnold & Porter

**10:45 — 11:00 Morning break****11:00 — 12:00 [Session 8] Second edition of The Sedona Conference *Commentary on Application of Attorney-Client Privilege and Work-Product Protection to Documents and Communications Generated in the Cybersecurity Context****(Baxter-Kauf\*, McNamara, Melchiondo, Wilan)*

A panel of WG11 drafting team members will lead a dialogue with all attendees on their draft of the second edition of the Privilege Commentary. The draft addresses new caselaw developments regarding attorney-client privilege and attorney work product in the context of litigation related to cyber incidents. The draft also includes additional focus on certain specific areas of legal response to cyber incidents that were only touched on or were outside the scope of the first edition of the Privilege Commentary.

**Required Materials:**

- 8.1 The Sedona Conference Draft Commentary on Application of Attorney-Client Privilege and Work-Product Protection to Documents and Communications Generated in the Cybersecurity Context, Second Edition (April 2022)

## Wednesday, April 27 (Cont.)

**12:00 — 1:00 [Session 9] Biometric privacy primer**  
([\*Kalat\*](#), [\*McCarthy\*](#), [\*Promislow\*](#), [\*Ray\*](#)\*)

A panel of WG11 drafting team members will lead a dialogue with all attendees on the latest draft of their Primer which provides guidance to practitioners, judges and policymakers regarding how biometric information and biometric data are legally defined, how biometric systems work, and the privacy, data security and related issues they raise.

**Required Materials:**

9.1 The Sedona Conference Draft Biometric Privacy Primer (April 2022)

**1:00 — 2:00 Grab-and-go lunch**