

## Michael L. McCabe, Esq.



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*Privacy Litigator and Former Chief of Compliance*

Mike is a veteran trial attorney and certified compliance professional who specializes in data privacy and cyber protection.

Prior to joining Beckage, Mike had a distinguished career in both the private and public sectors, having served as an Assistant U.S. Attorney and Deputy Chief in the Criminal Division of the U.S. Attorney's Office for the Western District of New York, and as Vice President, Chief Compliance Officer, and head of litigation for a global hospitality company.

As a litigator, Mike defends clients in high-stakes privacy and consumer class action matters following a data or security incident. Mike also defends businesses in privacy

tort actions and claims arising under state or federal laws, including the California Consumer Privacy Act (CCPA), Health Insurance Portability and Accountability Act (HIPAA), the Telephone Consumer Protection Act (TCPA), the Americans with Disabilities Act (ADA), the Fair Credit Reporting Act (FCRA), and California's Song-Beverly Act. As part of Beckage's Privacy Litigation practice team, Mike limits clients' litigation exposure and reduces damage awards.

Mike represents businesses in commercial technology disputes involving third-party vendor incidents, performance failures, misappropriation of trade secrets, and technology and licensing agreement disputes. Mike has obtained successful outcomes in a wide range of complex litigation matters and government investigations, including federal and state agency enforcement actions and business disputes involving breach of contract, corporate governance, false claims, fiduciary duty, fraud, intellectual property, and unfair and deceptive practices. He has appeared in numerous high-profile civil, criminal, and administrative matters in federal and state courts throughout the country.

Mike also focuses on the defense to regulatory investigations, including those brought by the Attorney General Multi-State, Department of Health and Human Services Office for Civil Rights, Departments of Insurance, SEC, and FTC. In the healthcare space, Mike responds to OCR investigations and has negotiated resolution agreements and consent orders.

Mike is skilled in providing pragmatic and strategic advice on managing clients' information in conformance with state, federal and international data privacy and security rules. Mike works seamlessly with key stakeholders in organizations to develop and/or strengthen internal policies and procedures, including data privacy and protection policies, marketing procedures, data incident response plans and specific procedures pertaining to compliance with the General Data Protection Regulation and state data privacy/security laws and regulations.

Mike advises clients on how to minimize the legal risks associated with mobile marketing, e-retail, online communities, native advertising, email and telemarketing, sweepstakes and contests, fantasy sports leagues, and casual gaming. He has experience in transactional matters relating to the deployment of advertising campaigns, including digital advertising and data sharing agreements.

As a Certified Compliance & Ethics Professional (CCEP) as governed by the Society of Corporate Compliance & Ethics, Mike is often called upon as a compliance advisor to Data Privacy Officers and Chief Compliance Officers. Mike also provides counsel on information governance issues and has helped develop programs and guidelines

applying best practices related to the organizational use, handling, retention, and destruction of data and other information. Mike is accustomed to helping make a business case for risk-based information governance practices to cut down on compliance vulnerabilities and create operational efficiencies.

## **Legal Associations**

- Bar Association of Erie County, Director

## **Present Affiliations**

- Society of Corporate Compliance & Ethics, Member
- Hilbert College, Trustee

## **Membership and Admission**

- New York State
- United States District Court, WDNY

## **Education**

- Yale Law School, J.D. (1998)
- Colby College, B.A. (1994)

## **Experience and Expertise**

- Works directly with in-house counsel, internal stakeholders, and third-party technologists to preserve evidence and manage discovery in data breaches and security incidents.
- Provides guidance regarding the creation, development, and implementation of global privacy and security policies, standards, procedures, and guidelines.
- Advises clients on information governance practices and the development of records retention, maintenance, and destruction policies and procedures.
- Represents organizations in high-stakes, complex litigation trials in state and federal courts. Has experience in various phases of trial preparation, including fact gathering, discovery, document production, motion practice, and trial strategy development.