

Dustin Berger

Of Counsel

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Dustin structures privacy and cybersecurity programs — and defends clients when incidents strike — so that technology risk becomes a business asset rather than a liability.

Dustin brings something rare to data privacy and cybersecurity work: he has held the operational roles his clients are trying to protect. That grounding shapes every engagement, from building a proactive privacy program from the ground up to guiding a client through the aftermath of a ransomware attack or a social engineering breach.

On the advisory side, Dustin counsels companies on compliance with the EU and U.K. General Data Protection Regulations (GDPR), the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach-Bliley Act (GLBA), the Children's Online Privacy Protection Act (COPPA), the California Consumer Privacy Act (CCPA), and a growing field of U.S. state comprehensive privacy laws. He also advises on the Federal Trade Commission Act (FTCA), the Fair Credit Reporting Act (FCRA), the Family Educational Rights and Privacy Act (FERPA), CAN-SPAM, and the Telephone Consumer Protection Act (TCPA) — giving clients a single point of contact for the full landscape of U.S. sectoral and state privacy obligations.

Dustin's technology commerce practice runs alongside his privacy work. He negotiates and structures agreements between financial institutions and their core information systems vendors, advises on data protection provisions in cloud infrastructure contracts, and helps clients manage the data-related dimensions of corporate acquisitions. As artificial intelligence tools move from experiment to infrastructure, Dustin helps clients deploy them responsibly — whether that means advising a bank on vendor oversight for generative AI, helping a software-as-a-service provider develop a framework for negotiating AI terms with customers, or building agreements for an AI company selling services into global healthcare markets.

Education

- Columbia University (LL.M., 2011)
 - Harlan Fiske Stone Scholar
- University of Denver, Sturm College of Law (J.D., 2009)
 - Faculty Prize (valedictorian award)
 - Order of St. Ives
 - Denver University Law Review
- University of Denver (M.B.A., 2003)
 - Daniels Scholar
- University of Wyoming (B.S., Computer Science, 2001)
 - University Honors Program

Bar Admissions

- Colorado
- Washington
- Wyoming

When incidents occur, Dustin has guided clients across industries through the response: a major healthcare provider facing ransomware, an aerospace business whose employee data was compromised, a professional employer organization targeted by social engineering, and a global IT services firm managing simultaneous incidents across its vendor and client network. He has also provided counsel in a matter where a company's top executive was personally targeted by regulators over security oversight.

Dustin is a frequent speaker on data privacy and cybersecurity topics, and his writing on privacy law has appeared in national legal publications. Clients in banking, healthcare, retail, technology, and aerospace rely on his counsel to address both immediate risks and long-term program development.

Select Experience

- Developed a comprehensive written information security program and suite of cybersecurity policies for a major diversified enterprise with substantial operations across the United States.
- Counseled a major healthcare provider through response to a serious ransomware incident, providing strategic guidance on containment, notification obligations, and regulatory compliance.
- Represented a startup bank in negotiating agreements with its financial software vendors to establish a comprehensive cloud-based technology infrastructure.
- Assisted a wide variety of clients in responding to complaints and demand letters alleging claims under the California Invasion of Privacy Act (CIPA).

Charitable & Civic Involvement

- Colorado LGBT Bar Association

Clerkships

- U.S. Court of Appeals for the Tenth Circuit, Honorable Terrence O'Brien, 2011–2014
- Colorado Court of Appeals, Honorable Alan Loeb, 2009–2010

Accolades

- Certified Information Systems Security Professional (CISSP) through ISC2
- International Association of Privacy Professionals, Fellow of Information Privacy
- Certified Information Privacy Professional for the United States, Europe, and Canada (CIPP/US, CIPP/E, and CIPP/C)
- Certified Information Privacy Manager (CIPM)
- Certified Information Privacy Technologist (CIPT)
- Holds the Security+ designation from CompTIA
- Consistently providing pro bono legal assistance to those in need through Dorsey's Pro Bono program

Legal Writings

- Law360, Employers Can Prepare For New Colo. Data Privacy Law (2018).
- Moving Toward Law: Refocusing the Federal Courts' Plain Error Doctrine in Criminal Cases, 67 U. Miami L. Rev. 521 (2013).

- The Management of Health Care Costs: Independent Medical Review after 'Obamacare', 42 U. Memphis L. Rev. 255 (2012).
- Balancing Consumer Privacy with Behavioral Targeting, 27 Santa Clara Comp. & High Tech L.J. 3 (2011).
- E-Discovery's Threat to Civil Litigation: Reevaluating Rule 26 for the Digital Age, 63 Rutgers L. Rev. 521 (2011) (with Robert Hardaway and Andrea Defield).

Select Presentations

- *Cybersecurity: A Practical Guide to Risk Assessment*, State Bar of South Dakota (June 2017)
- *Cybersecurity Issues in the Workplace*, National Association of Professional Employer Organizations, Capitol Summit, Washington, D.C. (May 2018)
- *Data Wars: How the California Consumer Privacy Act Affects California Employers*, Salt Lake City, UT (May 2019)
- *Corporate Contracting Conundrum: Dealing with Data Security & Privacy Issues*, Assoc. of Corporate Counsel Institute, St. Louis, MO (May 2022)