From the 2018–2019 Council Chair
Joellen Shortley, Deputy Corporation Counsel, Oakland County

Thank you for being a member of the Information Technology Law Section. I am honored to be the Section Chair this year and, I look forward to working with our Council members to provide quality services to our Section.

The Council is busy working to improve communications with Section members as well as planning the upcoming events in addition to our Annual Conference. Section members are welcome to attend or call in to Council meetings throughout the year and, to serve on Council committees. Please look for details on events in the Newsletter, Social Media sites and on our Section pages on the State Bar website.

We have very dedicated and energized Council members who welcome your input and help. Liz Storm and Daniel Ungar have put a lot of effort into making this an informative newsletter. They will be looking for section members to provide articles and ideas for upcoming editions.

Keith Cheresko is heading up the planning for the upcoming 2019 Annual Conference. Please contact Keith with your ideas and suggestions for topics. Kellie McDermit and Kathy Ossian are working on our new Membership Committee, which was established to focus on greater outreach and input from of our Section members.

Each year we elect new members to serve on the Council. If you would like to become a member of the Council next year, please consider getting involved this year as well.

One of our long time Section members, Steve Balagna, graciously offered to speak about his expertise in cyber security at a Section event we are holding January 31, 2019. We would like to have other Section members speak at our Section events, Council meetings or at the upcoming 2019 Annual Conference.

To serve you better, we need your input and participation. Please contact me with your ideas and suggestions. I look forward to working with our Council and Section members to make the Information Technology Section an active, informative and valuable resource for all members and attorneys of the State Bar of Michigan and surrounding states.

Thank you,

Joellen Shortley
2018–2019 Council Chair
shortleyj@oakgov.com, (248) 858-2155
The first Council meeting was scheduled for September 20, 2018, at 5th Tavern in Bloomfield Hills. Board members discussed upcoming events in 2019 and addressed whether members would like to call-in by phone or video for some of our upcoming Privacy Committee meetings. If you have comment on how we may better connect with you, please email us on suggestions for upcoming meetings.

**Upcoming Events**

**November 2018**
- 8  Section Council Meeting
- 15 Privacy Committee Meeting (to attend contact Keith Cheresko kcheresko@privassoc.com)
- 30  State Bar of MI Dues

**January 2019**
- 31  Steve Baragna on Cybersecurity
  Oakland County Board of Commissioners Auditorium, Pontiac, MI

**Spring 2019**
- TBD Joint Section Event

**September 2019**
- 12 12th Annual Meeting and Seminar, Inn at St. John’s, Plymouth, MI

*Remember to share current or upcoming events with your friends!*

**Section Events**

We hold events throughout the year, including joint events with other State Bar Sections and organizations. Last year, we held a joint event with ACES at Wayne State University. We held an event with the International Law Section at Cooley Law School. Other joint events are planned for 2019.

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**2018–2019 Section Council**

Fun at the First 2018–2019 Council Meeting—Keith Cheresko passes the gavel to Joellen Shortley

**Front Row (L to R):** Michael McCandlish, Jeanne Whalen, Adam Rubin, Chair Joellen Shortley

**Back Row (L to R):** Bob Rothman, Liz Storm, Kellie DeMeritt, Kathy Ossian, Keith Cheresko, Daniel Ungar

**Not pictured:** Onika Celestine, George Kimball, Kip Lanning

Bob Rothman looks on as Joellen Shortley brings the first meeting to order.
The Section’s Annual Meeting and Seminar at the Inn at St. John began with a presentation by Bob Rothman and Keith Cheresko on recent privacy legislation. One state that has been receiving a lot of attention is California, which recently passed the California Consumer Privacy Act of 2018 (CCPA). The CCPA requires protection of personal information of California residents. The law was passed in June and amended in late September, and more changes are expected before the provisions become operative on July 1, 2020 (extended from January 1, 2020 in the original version). Below are some key provisions:

1. The law protects the personal information of consumers, defined as natural persons who are residents of California.
2. It gives consumers the right to know what types of personal information are being collected, and whether personal information is sold or disclosed and to whom.
3. It authorizes consumers to opt out of the sale of personal information to third parties.
4. It allows a consumer to request a copy of the specific pieces of information collected and an explanation of the business purposes for which they are used.
5. It gives consumers the right to request the deletion of personal information collected.
6. It requires businesses to provide equal service and pricing with respect to privacy, which means that a business cannot charge a different price to a consumer who opts out.
7. For individuals under 16, the CCPA requires an opt-in regime rather than opt-out. So the sale of such an individual’s personal information would require affirmative consent.
8. The law applies to companies that conduct business in California, collect consumer personal information, and satisfy the following:
   a. Annual gross revenue exceeds $25 million; or
   b. Buys, sells, or shares/receives for commercial purposes (alone or in combination) personal info of 50,000 or more consumers, households, or devices; or
   c. Derives 50% or more of annual revenue from selling consumer personal information.

Personal information is defined broadly, encompassing many types of personal, professional, educational, and commercial information, biometric and geolocation data, as well as any inferences drawn from such information to create a consumer profile “reflecting the consumer’s preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.” The law also introduces a private right of action against business in certain circumstances involving unauthorized access, theft, or disclosure of personal information that is stored in nonredacted or nonencrypted form.

Privacy Committee

Keith Cheresko and Bob Rothman (Privacy Associates) lead the Privacy Committee, which meets quarterly for discussions on hot topics in IT. Ask to participate in this group when you join the Section. If you are unable to attend in person, you may call in remotely to these meetings.

In May 2018, the group reviewed these state security issues:
- New York State Dept. of Financial Services (23 NYCRR 500)
- Cybersecurity Requirements for Financial Service Companies (https://www.dfs.ny.gov/legal/regulations/adoptions/dfsrf500txt.pdf)

Previous Hot Topics:
- EU GDPR
- Blockchain
- Criminal Law

NEXT PRIVACY MEETING:
NOVEMBER 15, 2018
(Please email Keith Chersko at kcheresko@privassoc.com if you plan to attend)

NEW MEMBER DUES
NOVEMBER 30, 2018

Article Submissions
If you are interested in submitting an article for our Spring 2019 newsletter, please send submissions to:
Daniel Ungar
dungar@jaffelaw.com

A Guide to The California Consumer Privacy Act of 2018

#1 WHO’S PROTECTED?
A natural person who is a California resident.

#2 RIGHT TO KNOW
The right to know what personal information is being collected, and whether personal information is sold or disclosed and to whom.

#3 RIGHT TO OPT-OUT
The right to prohibit the sale of personal information to third parties.

#4 RIGHT TO ACCESS
The right to receive a copy of the specific pieces of personal information collected by a business.

#5 RIGHT TO DELETION
The right to request deletion of any personal information which the business has collected.

#6 RIGHT TO EQUAL SERVICE
The right to receive equal service and price when exercising privacy rights.

#7 SALE OF MINOR INFORMATION
Requires business to obtain “opt-in.” If minor is under 16, must obtain authorization of that minor. If minor is under 13, must obtain parent/guardian consent.

#8 WHO MUST COMPLY?
Businesses that conduct business in California and collect personal info that satisfies one of the following:
   a. annual gross revenue > $25 million;
   b. buys, sells, or shares/receives for commercial purposes, the personal info of 50,000 or more consumers, households, or devices;
   c. 50% or more of annual revenue is from selling consumers’ personal information.

#9 EFFECTIVE DATE
July 1, 2020
Ravi Nigam is a solo practitioner providing business and legal counsel to companies and individuals. Specializing in Data Privacy and Cyber Law, Immigration and Estate Planning, Ravi has previously served as the co-chairman of the Washtenaw County Bar Association Real Property Section and Business Law Section. Ravi is a member of the American Immigration Lawyer Association and Institute of Electrical and Electronics Engineers. Ravi is a Michigan-registered professional engineer who worked for many years in the computer industry prior to becoming an attorney.

**Q:** What’s the best part of membership in the IT Law Section of the State Bar of Michigan?

**Ravi:** One of the main benefits of the IT section membership for me is the ability to participate in committee meetings of areas of interest, especially in the hot topics throughout the year regarding protection of intellectual and other proprietary rights in the sale, leasing, distribution, provision, and use of hardware, software, services, and technology, including computer and data processing equipment, computer software and services, games and gaming, information processing, programming, and computer networks. My attendance at many Privacy Committee meetings has expanded my knowledge and skills related the rapidly growing data privacy area, allowing me to provide more services to my clients. Another benefit of membership is attending the Annual IT Section meeting. Attending the annual meeting allows me to meet and socialize with colleagues I speak with throughout the year at the Privacy Committee meetings. Even with travel, I am able to call in throughout the year and attend seminars on electronic commerce and electronic implementation of governmental and other non-commercial functions; the Internet and other networks; and associated contract and tort liabilities, and related civil and criminal legal consequences.

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**11th Annual Section Meeting & Seminar**

**Inn at St. John’s (Plymouth), Thursday, September 6, 2018**

Once again, this year’s Annual Meeting and Seminar in Plymouth was well attended and insightful. Bob Rothman and Keith Cheresko (Privacy Associates International, LLC) began with a presentation on privacy developments domestically and around the world. Stuart Shapiro (Cyber Security and Privacy Engineer MITRE Corporation) explained the inner workings of blockchains. After a short networking break, Ward Classen (Astea International) covered IP ownership and assignments and independent contractors. After lunch, Janet Stiven (GC at Moody Bible Institute) and Alex Simpson (Microsoft Legal) presented on infrastructure investment on cloud sharing, impacts on global data flows, and data mapping. John Wright presented the risks and rewards of Artificial Intelligence. The schedule was as follows:

**Welcome and Introduction**

Privacy Law—Current Developments

Bob Rothman & Keith Cheresko, Privacy Associates International, LLC

Blockchain—The Unbounded Potential of Blockchain, Aside From All the Stuff It Can’t And Shouldn’t Do

Stuart Shapiro, Principal Cyber Security & Privacy Engineer MITRE Corp.

**Contract Terms with Unintended Consequences**

Ward Classen, Astea International

**Cloud Computing from a Customer Perspective**

Janet Stiven, GC at Moody Bible Institute

**Cloud Computing from a Vendor Perspective**

Alex Simpson, Microsoft Legal

**Artificial Intelligence**

John Wright

If you missed this year’s seminar, you may find the presentations online. A live recording of the event will be on the State Bar of Michigan IT Law Section website, available Winter 2018.

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**Upcoming Event—Save the Date!**

**Steve Balagna on Cybersecurity for Your Law Firm**

Join us January 31, 2019, as Section member Steven Balagna talks about what electronic security measures might be “reasonable” and will provide some “special electronic security precautions” that may be necessary for a higher degree of protection.

ABA Formal Opinion 477R, revised May 22, 2017, states in conclusion:

“A lawyer generally may transmit information relating to a the representation of client over the Internet without violating the Model Rules of Professional Conduct where the lawyer has undertaken reasonable efforts to prevent inadvertent or unauthorized access. However, a lawyer may be required to take special security precautions to protect against the inadvertent or unauthorized disclosure of client information when required by an agreement with the client or by law or when the nature of the information requires a higher degree of security.”

**Contact for Steve:** harmdevel@comcast.net