



## → David M. Poell

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David Poell is a partner in the Business Trial Practice Group in the firm's Chicago office, particularly focusing on the areas of consumer privacy and class action litigation.

### Areas of Practice

David represents companies in a variety of class actions, multi-district litigations and other complex commercial litigation matters in state and federal courts. He specializes in defending corporate clients in high-stakes litigation matters involving federal consumer-protection statutes, privacy torts, unfair business practices, false advertising claims and large-scale data breaches.

David is also particularly experienced in prosecuting and defending actions involving the enforcement of restrictive covenants and non-competes, deceptive trade practices, misappropriation of trade secrets, the Lanham Act and unfair competition. He further advises companies regarding privacy matters and provides counseling on compliance with FCC, FTC and state-specific rules and regulations.

In addition, David works on appellate litigation matters and is well-versed in issues involving administrative law, Article III standing issues and federal jurisdiction.

### Pro Bono

Of note with regard to his pro bono practice, David previously represented a prisoner in an Eighth Amendment excessive force trial in the Eastern District of Missouri.

### Honors

Illinois Rising Star, *Super Lawyers*, 2016-2023

Helen Hritz Award for Excellence in Classical Arabic Studies, University of Notre Dame

Honored by Chicago Transportation Authority for Act of Heroism

### Articles

- Eye on Privacy: 2023 Year in Review  
01.26.2024
- Ill. Ruling Could Be Watershed Moment For BIPA Cases  
*Law360*, 12.14.2022

- Eye on Privacy 2021 Year in Review  
01.11.2022
- One “Chirp, Buzz, Or Blink” is Not enough to Sue Under the TCPA  
*San Diego Defense Lawyers*, Fall 2019
- Credit Card Theft Plaintiffs Discover Warm Home After 7th Circuit Rulings  
*Chicago Daily Law Bulletin*, 04.28.2016
- When is an 'injury' not really an injury? Article III and statutory standing, a comment on *Spokeo, Inc. v. Robins*  
No. 13-1339 (U.S. OT 2015)  
*Inside Counsel*, 11.10.2015

## Eye on Privacy Blog Posts

- "The Landscape of GIPA Litigation in Illinois," March 18, 2024
- "Illinois Supreme Court Finds Federal Law Labor Preempts Union Members' BIPA Claims," March 27, 2023
- "Illinois High Court Rules “Per-Scan” Damages Can Be Awarded Under BIPA," March 2, 2023
- "Illinois High Court Allows Biometric Privacy Claims to Go Back Five Years," February 10, 2023
- "Illinois Appellate Court Weighs in on Biometric Data Policies," December 14, 2022
- "The Impact of the Narrowed Scope of CFAA Liability in the Privacy and Security Realm," June 14, 2021
- "Defunct Photo App Agrees to Erase Biometric Data in FTC Settlement," January 20, 2021
- "FCC Sets Volume Limits For Some Prerecorded Calls to Home Phones," January 15, 2021
- "TCPA's 2015 Government-Debt Collection Exception Struck Down- Now What?" August 3, 2020
- "Seventh Circuit Issues Landmark BIPA Decision," May 20, 2020
- "SCOTUS Review of CFAA May Impact Analysis in Data Breach Notification Obligations," May 18, 2020
- "FCC Ruling Helps Clarify What COVID-19 Texts and Calls Are “Emergency” Under TCPA," April 10, 2020
- "Live Free or Die Trying—New Hampshire Voters Enshrine Right to Privacy in State's Constitution," November 19, 2018
- "Ninth Circuit Opens Door for More Expansive Meaning of ATDS in TCPA Cases," November 14, 2018
- "New York Federal Court Dismisses Nationwide Class Action Arising Out of Alleged Spying by E-Commerce Retailers," September 10, 2018
- "Car Dealer's Attempt to Crash Data Privacy Class Action Sputters Out," February 14, 2018
- "New York Court Scraps Another FACTA Receipt Class Action for Lack of Standing," November 28, 2017

## Cannabis Law Blog

- "IMPACT OF COVID-19 ON ILLINOIS CANNABIS CONTRACTS – Do Force Majeure Clauses Provide A Defense To Non-Performance," May 18, 2020

## Class Action Defense Strategy Blog Posts

- "Cutting the Cord on Video Privacy Protection Act Claims – The Emerging Non-Consumer Defense," June 6, 2023

- "Strengthening the TCPA's Sovereign Immunity Shield—Fourth Circuit Rules Federal Employees Are Not Liable for Government-Mandated Robocalls," March 11, 2021
- "FCC Declares Certain Calls/Texts Regarding COVID-19 Are Exempt From The TCPA," March 25, 2020
- "Seventh Circuit Adopts Narrow Definition of Autodialer Under The TCPA," *March 2, 2020*
- "Supreme Court Punts On Whether FCC's Interpretation of the TCPA Binds Federal Courts," September 3, 2019
- "One "Chirp, Buzz, Or Blink" Is Not Enough To Sue Under The TCPA," August 30, 2019
- "Supreme Court Poised To Alter TCPA Landscape With Review Of Key Term 'Advertisement,'" November 15, 2018
- "Rikki, Don't Autodial That Number! – Ninth Circuit Doesn't Want You To Call Nobody Else (in violation of the TCPA)," October 26, 2018
- "5 TCPA Class Action Trends to Watch in 2018 – Legislation, Administrative Law & Litigation," February 28, 2018
- "Spokeo—Round 3: The Ninth Circuit Finds Alleged Statutory Violation Sufficiently "Concrete" To Satisfy Article III Standing," August 29, 2017
- "You Can't Always Get What You Want—Second Circuit Affirms Parties Can Bargain Away TCPA Right To Revoke Consent To Automated Calls," July 12, 2017
- "Mooting Class Actions by Offer of Judgment – Episode 2: The Ninth Circuit Strikes Back," April 22, 2016
- "Not Taking "Yes" For An Answer: U.S. Supreme Court Rules That Unaccepted Offer Of Complete Individual Relief Does Not Moot Plaintiff's Individual Or Class Action Claim," January 20, 2016
- "The Pitfalls of Ascertaining Ascertainability: Seventh Circuit Declines to Adopt Heightened Threshold Requirement for Class Actions," August 6, 2015
- "Seventh Circuit Affirms Lodestar Method to Determine Attorneys' Fees in TCPA Class Action Settlement," April 9, 2014, reprinted in the News Blog for the National Association of Legal Fee Analysis, April 10, 2014
- "Third and Seventh Circuit Courts of Appeals Issue TCPA Decisions," September 5, 2013

## **FCC Law Blog Posts**

- "Supreme Court Poised To Alter TCPA Landscape With Review Of Key Term 'Advertisement,'" November 17, 2018

## **Labor and Employment Law Blog Posts**

- "What Does Affirmative Action's Death Knell Mean for Employers?," July 12, 2023
- "Illinois Supreme Court Rules All BIPA Claims Are Subject to Five-Year Time Limit," February 3, 2023
- "Illinois Supreme Court Rules BIPA Claims Are Not Preempted by the Illinois Workers' Compensation Act," February 7, 2022
- "Seventh Circuit Certifies Hotly-Contested BIPA Accrual Issue to Illinois Supreme Court," January 10, 2022
- "Illinois Appellate Court Affirms 5-Year Statute of Limitations Period for Certain BIPA Claims," September 20, 2021
- "U.S. Supreme Court Case Preview—*Van Buren v. United States*: Does Use of a Computer for an "Improper Purpose" Violate the Computer Fraud and Abuse Act?," April 30, 2020

## Trade Secrets Law Blog Posts

- "Supreme Court Narrows The Scope of Liability Under The Computer Fraud and Abuse Act," June 8, 2021
- "Illinois Court Finds China Inadequate Forum For Trade Secret Misappropriation Claims Against Chinese Tech Company," May 28, 2021

## Media Mentions

3rd Circ. Affirms Drug Testing Lab's Escape From TCPA Suit  
*Law360*, 01.19.2023

Pharma Co. Wants Sex Drug Marketing Case Axed  
*Law360*, 10.19.2018

Spokeo 2 Years Later: As Split Grows, High Court Redo Looms  
*Law360*, 05.18.2018

7th Circ. Robocall Ruling To Pad Already Swelling Docket  
*Law360*, 11.27.2013

## Speaking Engagements

- Speaker, Fifth Annual Restaurant Legal Summit, "Restaurants' Conversion to Digital Menus – Consumer Privacy and Access Concerns," November 4, 2021

## Events

Class Action Threats in 2023 And Beyond - A Webinar Series  
Webinar Series, 2023

Data Beware! Class Actions in the Privacy and Data Sharing Space  
Class Action Threats in 2023 and Beyond - A Webinar Series  
Webinar, 06.13.2023

Fifth Annual Restaurant Legal Summit  
Restaurants' Conversion to Digital Menus – Consumer Privacy and Access Concerns  
Downtown Raleigh, NC, 11.04.2021

The Evolving Landscape of Biometrics Legislation – Illinois' Biometric Information Privacy Act and Beyond  
Virtual, 09.14.2021

## Memberships

Member, American Bar Association  
Member, Chicago Bar Association

## Podcasts & Webinars

Data Beware! Defending Class Actions in the Privacy and Data-Sharing Space  
06.13.2023

## Practices

Litigation

Privacy and Cybersecurity

Telephone Consumer Protection Act (TCPA)

Biometric Information Privacy Act (BIPA)

Class Action Defense

## Education

J.D., University of Michigan, 2010, *magna cum laude*, Executive Editor of the *Michigan Law Review*

B.A. University of Notre Dame, 2007, *magna cum laude*

## Admissions

Illinois