

iFA INTERNATIONAL
FRANCHISE
ASSOCIATION

IFA 26

LEGAL

WASHINGTON, DC | MAY 17-19

AGENDA

- **2026 Select Franchise Cases and Legal Trends Update – Harris Chernow (Reger, Rizzo & Darnall LLP)**
- **International: Update on China – Dominic Hui (Ribeiro Hui)**
- **Staying Ahead of Cybersecurity Risks: How to Protect Your Franchise Business from Attackers and Litigants Alike – Jennifer Daskal (Venable, LLP)**
- **Using AI in the Employment Process: Recent Developments You Need to Know – Bradford Kelley (Littler Mendelson, P.C.)**



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What AI are you using?

A. ChatGPT

B. Harvey

C. Claude

D. Skynet

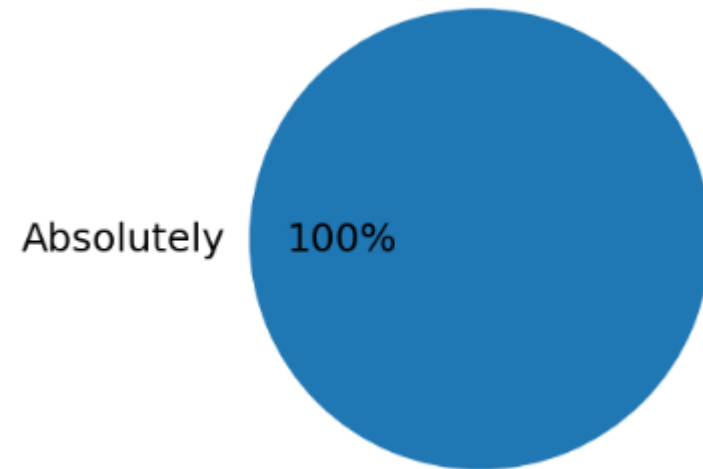
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Do you prefer to have someone other than Harris speak?

A. Absolutely

B. Let's give the guy a shot.

Do you prefer to have someone other than Harris speak?



Your client is a 200-unit QSR franchisor. Last week, a ransomware attack encrypted their entire POS system. The franchisor's in-house HR team has been using an AI hiring tool for 18 months. Three franchisees in California just received termination notices. And they have a master franchisee in China who has 40 units. By the end of this hour, you will find out just how badly this client is in trouble.

Three California franchisees just received termination notices. One of them is now operating under a family member's entity in the same territory. How protected is your non-compete?

- A. Not protected – its California – duh – stop wasting my time with this question!
- B. Protected – standard language, probably enough for a court
- C. Very protected – our clause expressly covers non-signatories and agents
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2026 Select Franchise Cases and Legal Trends Update

Harris J. Chernow

Reger Rizzo & Darnall LLP

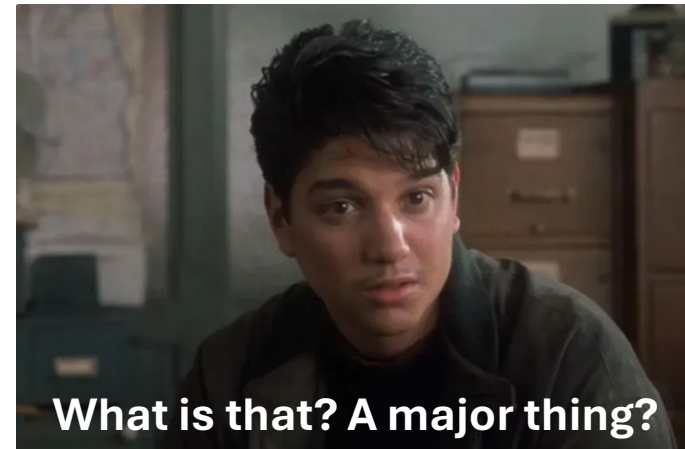
Philadelphia, PA

Need to know:

Assault and Battery



Aiding and Abetting

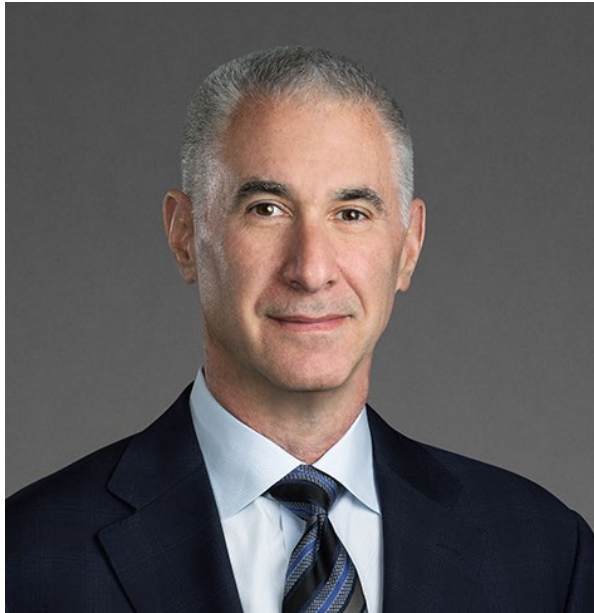


Definitions

Why?

“Tough conversations between Franchise Gladiators”

Assault and Battery Definition:



Aiding and Abetting Definition:



Non-Compete Cases



I didn't sign!!!

Non-Compete Cases

The Filta Group, Inc. v. LXU, Ltd.
No. 25-cv-914, 2025 WL 3718465
(M.D. Fla. Dec. 23, 2025)



Preliminary objection stage:

Main Issue

Enforcement of restrictive covenants against non-signatories

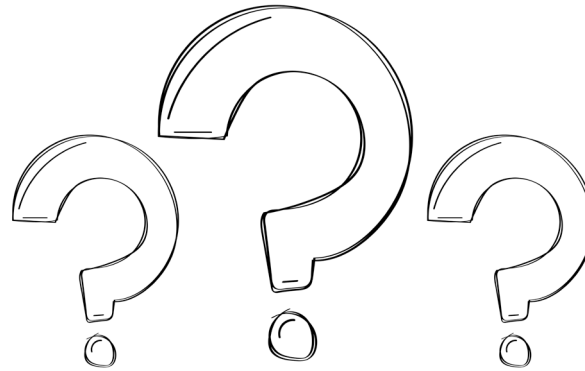


Key Concepts

- Enforcement against those “through which the signing party conducts business”
- “Parties” includes persons “in active concert or participation”
- Injunction binds the signatory as well as “those identified with them in interest, in privity with them, represented by them or subject to their control.”

***The Filta Group, Inc. v. LXU, Ltd.*, No. 25-cv-914, 2025 WL 3718465 (M.D. Fla. Dec. 23, 2025)**

Should Franchisers enforce Franchisees to have their employees sign confidentiality and non-compete agreements?



Should Franchise Agreement covenants explicitly state that it applies to agents and/or non-signatories?

Non-Compete Cases

Laurel Invs., LLC v. Holiday Hosp. Franchising, LLC
No. 25-cv-10565, 2025 LX 617036, at *2-3
(E.D. Mich. Dec. 30, 2025)



Main Issue

Whether Michigan's conflict-of-law framework voided the agreement's Georgia choice-of-law provision



Key Concepts

- Michigan follows the Second Restatement choice-of law rules
- Citizen = Substantial Relationship
- Franchisee unable to demonstrate Georgia law contravened any fundamental Michigan public policy.
- Pleading deficiencies

Non-Compete Cases

***BrightStar Franchising, LLC v. Foreside Mgmt. Co.,
808 F. Supp. 3d 870 (N.D. Ill. 2025)***

A black-outlined speech bubble with a tail pointing towards the bottom left. Inside the bubble, the text "No way! WTH!" is written in a bold, black, sans-serif font.

No way! WTH!

Preliminary Injunction filed by Brightstar

Main Issue

Whether California's strict prohibition on post-termination covenants prevented application of an Illinois choice-of-law provision



Key Concepts

- California does not per se invalidate post-termination covenants in commercial contracts
- Rule of reason applies
- Opponent must demonstrate a difference in outcome from application of the two states' laws

Non-Compete Judicial Legal Update - Virginia



... but not for non-compete

Update

Governor Abigail Spanberger signed into law Virginia HB 69/SB240 on April 13, 2026.

Impact

- Makes it unlawful to enter into a franchise agreement that restricts the franchisee's post-termination rights to engage in business.
- Beginning July 1, 2026, Virginia will ban the **offer** or sale of a franchise containing a post-term non-compete provision in the agreement.

WHAT'S NEXT?

Arbitration Cases



Arbitration Cases

Northeast Emergency Apparatus LLC v. Mine Respirator Co. LLC
No. 2:25-cv-00556-SDN, 2025 LX 565810 (D. Me. Dec. 23, 2025)

Court v. Arbitrator



Main Issue

Arbitrability of a franchise agreement and analyzing challenges to the enforcement of an arbitration provision



Key Concepts

- Impact of incorporation of arbitration rules
- To avoid arbitration must attack arbitration provision itself
 1. Challenging entire agreement = purview of arbitrator
 2. Attacking specific arbitration terms = striking just those terms

Arbitration Cases

Marcus Corp. v. MKD Inv. Holdings, LLC

No. 25-CV-1131-SCD, 2026 LX 36633, at *2 (E.D. Wis. Jan. 26, 2026)

Back again... those non-signatories wanting out!



Something to sleep on – declaration judgment

Main Issue

Who determines the question of arbitrability for whether a non-signatory to a franchise agreement agreed to arbitrate



Key Concepts

- Court to decide absent clear and explicit consent
- Logically the arbitrator is not suited to answer this question
- Arbitration cannot be compelled absent an actual agreement to arbitrate - contract analysis

Contract Disputes



Contract Disputes

Isla Verde Serv. Station, Inc. v. Puerto Rico Energy, LLC 2025 WL 3539149 (D.P.R. Dec. 10, 2025)



Franchiser Request for TRO

Main Issue

Prevention of Termination



Key Concepts

- Balance of hardships case – (David and Goliath)
- General prohibition against termination
- Good faith negotiation requirement
- “Bona fide offer” requirement
- Used the Petroleum Marketing Practices Act

Contract Disputes

Big Tree Invests., LLC v. Urbanize, LLC **No. 27-CV-25-7049, *2 (Minn. Dist. Ct. Feb. 2, 2026)**



Main Issue

Waiver and release provision protections



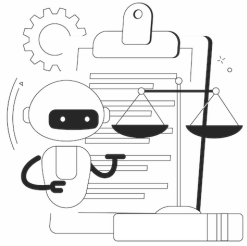
Key Concepts

- Importance of broad and clear waiver provisions – plain language
- Litigation strategy
 - Careful drafting of initial pleadings
 - Settlement already occurred

AI Cases



AI Cases

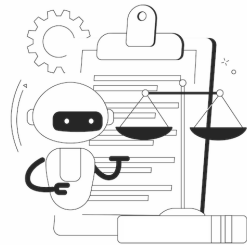


United States v. Heppner No. 25-cr-00503-JSR (S.D.N.Y. Feb. 6, 2026)

Is it a “crime” to use AI?

Main Issue

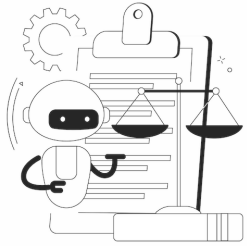
Client use of
generative AI



Key Concepts

- Attorney/client privilege
 - AI not an attorney – No confidentiality
 - Open vs. closed source – Open
 - “At the direction of” the attorney – Not here
- Work Product Doctrine
 - By or at behest of counsel – Not here
- Have “the talk” with your clients!
- Franchise protocols for use of AI

AI Cases



Lifetime Well LLC v. IBSpot.com Inc.

No. 25-5135, E.D. Pa., 2026 U.S. Dist. LEXIS 13363

Blame the Law Clerk and Associate!

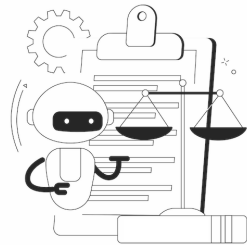
Local counsel is lucky... this time



Case about false advertising, copyright and trademark infringements – how ironic!

Main Issue

AI hallucinations
and attorney
sanctions



Key Concepts

- Motion submitted with 8 false citations
- Implement AI use policies in workplace
- When mistakes occur, courts look for:
 - Accountability; and
 - Corrective measures
- Local Counsel Beware

Lifetime Well LLC v IBSPOT.COM INC.
No. 25-5135, E.D. Pa., 2026 U.S. Dist. LEXIS 13363

“We do not seek to impugn Attorney Anderson’s integrity. She made an error and compounded it. But she has taken steps to address future concerns in her firm. The decision to terminate a new lawyer rather than correct the filing reflects a misallocation of responsibility. This misstep serves as a lesson for attorneys practicing in this Court and elsewhere the federal courts through Rule 11 require active supervision, independent verification, and accountability. The combined monetary and non-monetary sanctions imposed upon Attorney Anderson are intended to educate, deter repetition, and conserve judicial resources.”

Lifetime Well LLC v IBSPOT.COM INC.
No. 25-5135, E.D. Pa., 2026 U.S. Dist. LEXIS 13363

As to Goldin, [local counsel] said it does not matter that the motion included legitimate cites. The presence of legitimate cites does not excuse including fake cites. Local counsel should not be a rubber stamp and Goldin's biggest error in this case is his blind acceptance of documents submitted by out-of-state counsel.

AI Sanctions: When Attorneys Do/Don't Comply



Lifetime Well LLC v. IBSpot.com Inc

- Attorneys took accountability, complied with court orders, and took corrective actions
- Court:
 - Light or no monetary sanctions and lenient non-monetary sanctions
 - No disciplinary measures

Whiting v. City of Athens

Nos. 24-5918/5919, 25-5424, 2026 LX 132948
(6th Cir. Mar. 13, 2026).

- Attorneys denied fault, ignored/challenged court orders, and took no corrective actions
- Court:
 - Reimburse client in full, pay double costs to appellees for all appeals, individual punitive monetary sanctions, and submitted for disciplinary proceedings

You decide!

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Judicial Update 2026 - China

Dominic Hui
Partner



Shanghai, China



Your client's 40-unit Chinese master franchisee has a food safety incident at one of its franchise locations. A contracted supplier used unapproved ingredients. Is your client – the U.S. franchisor – exposed under Chinese law?

- A. No – that's why we have a master franchisee; the liability stays local
- B. Possibly – if we're deemed a "chain store corporate headquarters" under Chinese regulations
- C. Almost certainly yes – the Outsourcing Rules and Corporate Liability Regulations don't allow contractual disclaimers of food safety liability
- D. I need to call our Chinese counsel before answering

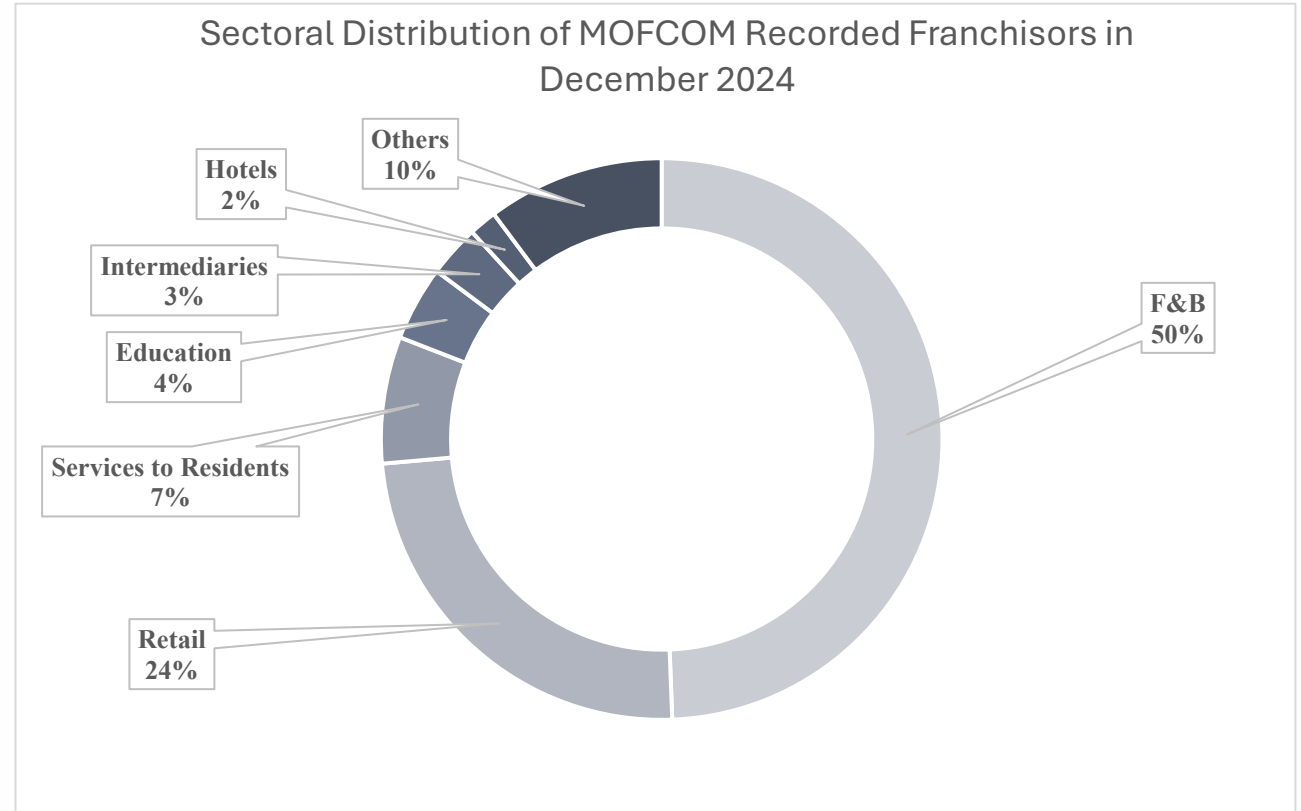
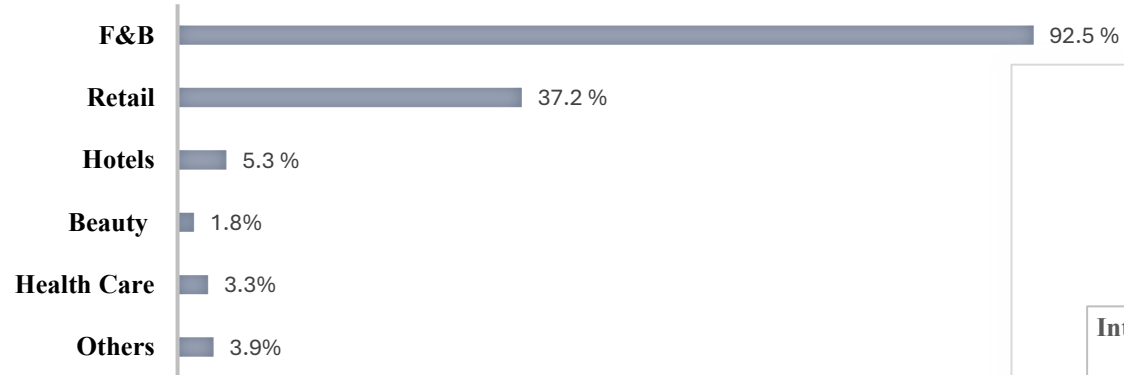
Facts



Population	1,408,280,000
Urban/rural population ratio	67:33
Cities with more than 5 million people	91 (2021 data)
Employed persons	734,390,000
Average wage	¥RMB 124,110/year (\$USD17,993.48/year)

Facts

Distribution of Investments by Sector



Food Supply Chain Management

- Common Issues
 - Sourcing of ingredients
 - Storage and use of ingredients
 - Use of approved additives, preservatives and certain prohibited substances
 - General hygienic standards
 - Storage and transportation of products
 - Incomplete records

Outsourcing Rules (From December 1, 2026)

- Rules of Supervision and Management of Food Production Outsourcing
- Wide definition – may capture F&B Franchisors who have engaged domestic producers
- Records and contracts should be in place
- Report to local authority (AMR)
- Duty to supervise, onsite team, regular audits
- Crisis management

Pre-made Dishes

- AMR circular (high-level)
- Various local rules issued
 - Hygienic requirements
 - Use of additives
 - Transportation and storage
 - Records
- Central Kitchen national standards



Corporate Liability Regulations

- Catering Chain Operation Food Safety Corporate Liability Supervision Management Regulations
- Catering chain
- Chain store corporate headquarters
 - Business licence to conduct chain store management

Takeaway

- record keeping
- on-site inspection team
- dual-suppliers modus
- local team – exposing to liabilities.

pcards and Pre-payment schemes

- Judicial Interpretation
- Potential Liability of Franchisor
- Takeaway
 - rules should be in place
 - more active role in managing the funds?
 - policing

Safe Harbour Rules under Anti-Monopoly Law

- Vertical Monopoly agreement on resale pricing and minimum pricing
 - Market shares of all parties less than 5%
 - Sales turnover is all along less than ¥RMB 100 million (approximately \$USD14.541 million)
- Geographical market partitioning
 - Market shares of all parties less than 15%
 - No impairment to competition within the relevant market

2025 Anti-Unfair Competition Law Amendments

- No deceptive marketing tactics
 - Paying reviewers
 - Fabricating order volume by false orders
- Posting malicious negative comments towards competitors
- Organizing joint actions to return goods after ordering from a competitor
- Unilateral change of terms in a promotional contest after commencement
- Behaviour of abuse of market position

ADR

- Commercial mediation law
- 2025 Arbitration Law Amendments
 - Interim injunctive and mandatory orders
 - Online arbitration allowed
 - Seat – governing law on procedures, and the location of arbitration

AI Regulations and Governance in China

- AI Safety Governance Framework 2.0 (2025) jointly issued by several national agencies (last version was issued in 2024)
- Not a law, but it highlights the direction of governance:
 - Protecting the infrastructure
 - Categorization of AIs with different regulatory strategies
 - AI safety assessment
 - Management with reference to the respective ultimate uses of AI
 - Safety measure on certain specific scenario (use, industry, target audiences, etc.)

Safety risks		Technological measures	Comprehensive governance measures		
Inherent safety risks of AI technologies	Model and algorithm risks	Insufficient explainability	4.1.1 (a)	<ul style="list-style-type: none"> • Enhancing safety throughout the full life-cycle, including R&D and application • Establishing an AI safety assessment system • Improving data security and personal information protection regulations 	
		Bias and discrimination	4.1.1 (b)		
		Poor robustness	4.1.1 (c)		
		Unreliable output	4.1.1 (a) (b) (c)		
		External adversarial attack	4.1.1 (c)		
	Model defect propagation	4.1.1 (d)			
	Data risks	Illegal collection and use of data	4.1.2 (a)		
		Inappropriate content in training data	4.1.2 (b) (c) (d) (e)		
Improper annotation of training data		4.1.2 (e)			
	Data and personal information leakage	4.1.2 (d)			
Safety risks in AI application	Cyber and system risks	Component and computing safety	4.2.1 (a) (c) (d)	<ul style="list-style-type: none"> • Strengthening open-source ecosystem safety and supply chain safety • Implementing AI application classification and risk grade management • Promoting traceable management of AIGC • Unlocking key industry application demands in a safe and effective manner • Sharing information on AI risks and threats 	
		Expansion of cyberspace exposure	4.2.1 (b) (c) (d)		
		Supply chain safety	4.2.1 (d)		
		Abuse for cyberattacks	4.2.1 (e)		
	Information and content risks	Output of illegal and harmful information	4.2.2 (a) (b) (c)		
		Pollution of online content ecosystem	4.2.2 (a) (b) (c)		
	Real-world risks	New challenges to the economy and society	4.2.3 (a) (b) (c) (d) (e)		
		Use of AI in illegal and criminal activities	4.2.3 (a) (b) (c) (d) (e)		
		Loss of control over knowledge and capacity of nuclear, biological, chemical, and missile weapons	4.2.3 (a) (b) (c) (d) (e)		
	Cognitive risks	Exacerbation of "information cocoons" effects	4.2.4 (a) (b) (c)		
		Assistance in cognitive warfare	4.2.4 (a) (b) (c)		
	Secondary risks from AI application	Social and environmental risks	Disruption of employment structures		4.3.1 (a)
			Challenges to the balance of resource supply and demand		4.3.1 (a) (b)
		Ethical risks	Aggravating social bias and widening intelligence divide		4.3.2 (a) (b) (c)
Impact on education and suppression of innovation			4.3.2 (a) (b) (c)		
Intensifying research ethics risks			4.3.2 (a) (b) (c)		
Anthropomorphic interaction leading to addiction			4.3.2 (a) (c)		
Challenges to existing social order			4.3.2 (a) (b) (c)		
Emergence of AI self-awareness and loss of human control			4.3.2 (a) (b) (c)		

Legislations and regulations in China (1)

- 2023 Interim Measures on Generative AI
 - National security considerations
 - No discrimination
 - No monopolistic behaviour and unfair competition behaviour
 - Observance of other's rights
 - Duty to prevent addiction
- 2022 Algorithm Regulations
 - Recordal of algorithms
 - Technical requirements (on labelling, blocking, protection to elderly)
 - No price differentiation or unequal treatment

Legislations and regulations in China (2)

- 2026 Tentative Rules on Administration of Human-like AI services
 - Observe public morality (e.g. national security, no improper contents)
 - Technical requirements (e.g. training AI against “pollution”)
 - Modules for young users
 - No addictive setting
 - Official safety assessment for larger service providers (1 million users/100k active users)
- 2026 Tentative Rules on AI Morality Examination and Services
 - Enterprises to set up AI morality committee ensuring the AI is in line with the morality requirements

AI related Employment law issues in China

- China is not an employment at will jurisdiction
- Limited statutory termination grounds, including “objective change of circumstances”
- In the past, if there is a change of production method causing certain group of workers dispensable, the employer may terminate the contracts based on “objective change of circumstances”
- Recently Beijing Courts issued a notice – Introduction of AI technology should not fall within “objective change of circumstances”

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Staying Ahead of Cybersecurity Risks

Protecting Your Franchise Business from Attackers and Litigants Alike

Jennifer Daskal

Partner | jdaskal@Venable.com

The ransomware attack encrypted your client's centralized POS system. Customer payment card data was compromised across all 200 locations. Who is legally exposed?

- A. The franchisor – they centralized the system and own the data
- B. Each franchisee individually – they operate their own locations
- C. Both of the above
- D. No one, because the franchisor and franchisee complied with the Payment Card Industry Data Security Standard

Agenda

- Nature of the Threat
- Regulatory/Legal Framework
- Best Practices
- Responding to a Cyber Incident
- Protections: Steps Every Entity Should Take **NOW!**

Nature of the Threat

Cybercrime will cost the world \$15.6 trillion (USD) by 2029

By 2031, ransomware attackers will strike every two seconds

- Threats are increasing in scale and sophistication
- Geopolitics further complicate risks
- AI is accelerating the threat.

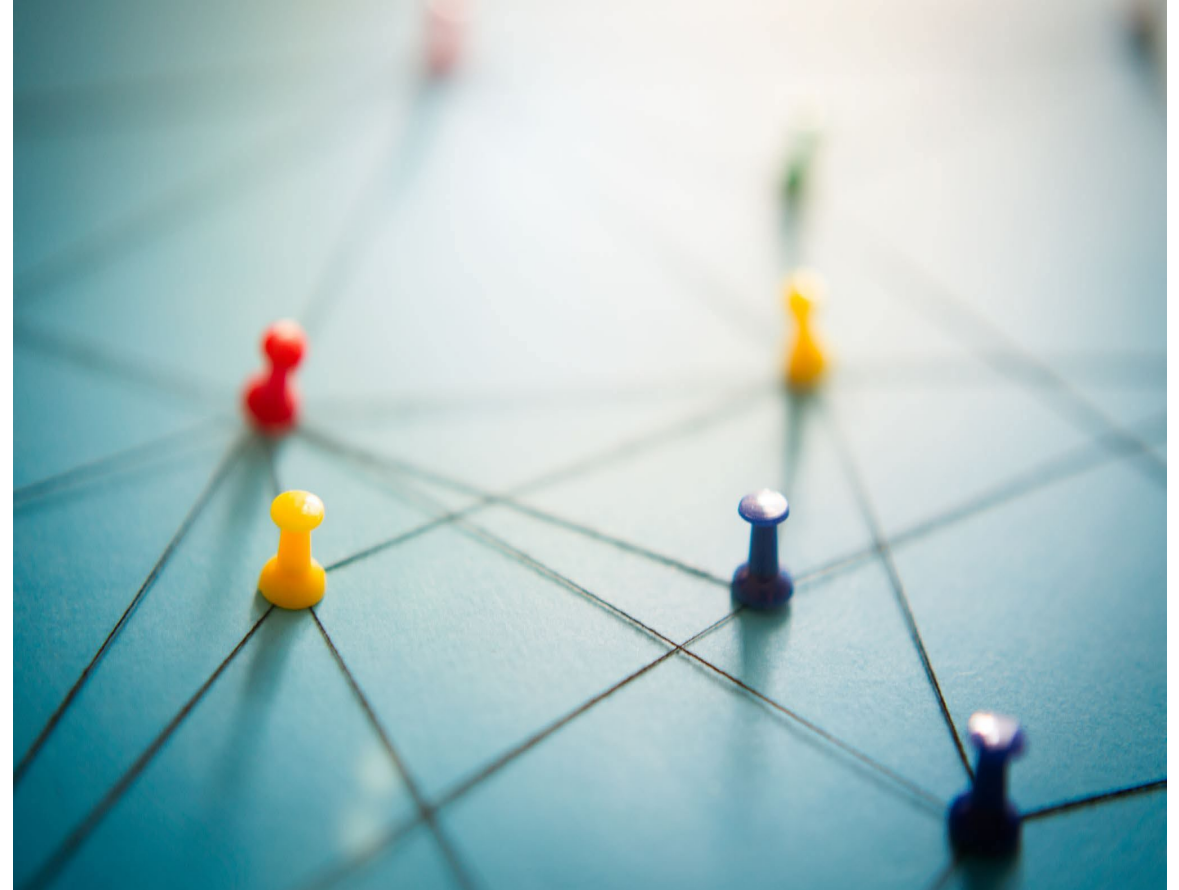


Project Glasswing by Anthropic

“Today we’re announcing Project Glasswing, a new initiative . . . in an effort to secure the world’s most critical software.”

Effect on Franchisor/Franchisees

- No company is immune
- Interconnected nature of the franchise creates additional risks
- Need to consider legal, reputational, economic considerations



Regulatory/Legal Framework

- **Federal Law**
- Federal Trade Commission Act, Section 5
 - Regulates unfair or deceptive acts or practices, including cybersecurity practices



Regulatory/Legal Framework

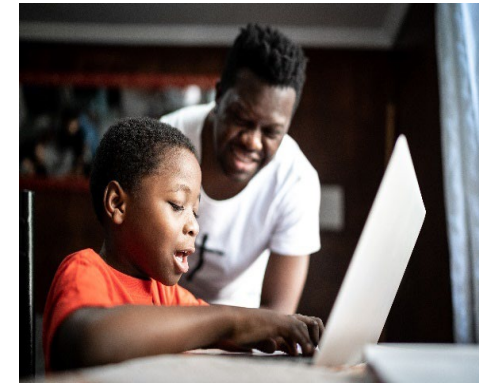
- **State Law**
- State unfair or deceptive practice laws
- Breach notification laws
- Affirmative security requirements
- Omnibus privacy laws



Sectoral Requirements

- **Financial Institutions**
- **Banking**
- **Health**
- **Securities and Exchange Commission**

... and more



Contractual Requirements/Insurance Policies

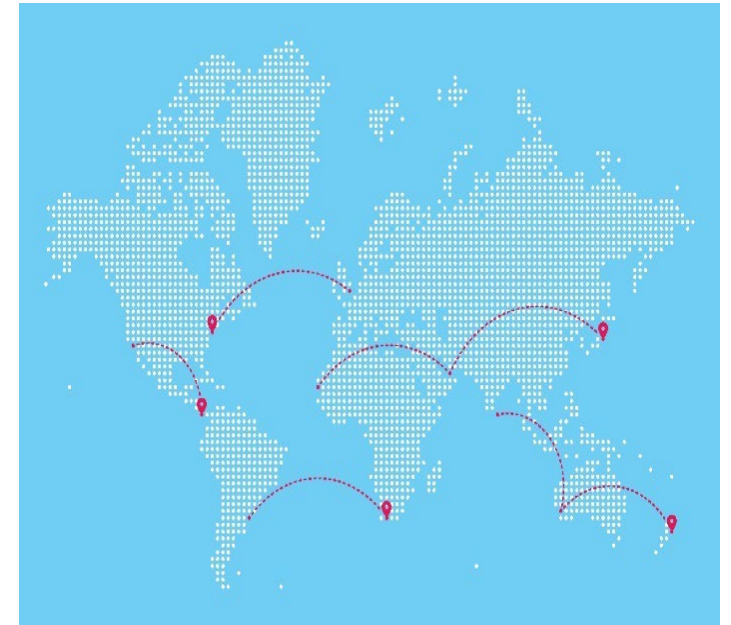
- **Key Considerations**
 - Business partner contracts
 - Cyber insurance
 - Credit Card Processing Rules (PCI DSS)



Data Transfers Rules

Potentially applicable to any company that operates internationally

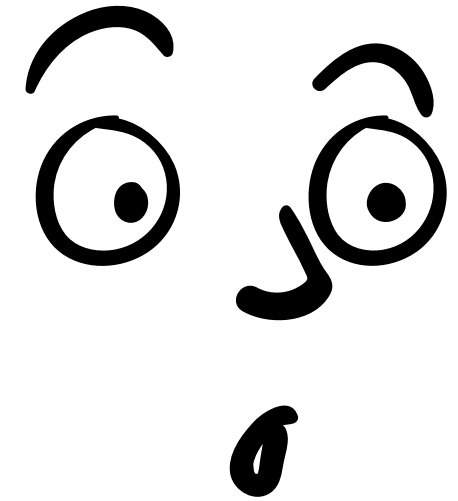
- *The Bulk Data Rule*
- *The Protecting Americans' Data from Foreign Adversaries Act*



Class Actions

Key Considerations

- *Standing – material risk of future misuse?*
- *Harm – monitoring, time loss costs?*
- *Law in flux? Shocking!!*



Wait?!
*I did everything
right and I am still
being sued?!!!*

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Best Practices/Standards Bodies

Standards bodies and certification frameworks can help defend against “unreasonable” claims

- *PCI DSS (credit cards)*
- *NIST*
- *ISO/IEC 27001*
- *CIS Security Controls*
- *SOC 2*



What To Do in The Wake of a Breach



- Assess the situation
- Bring in a forensics team
- Engage law enforcement (*maybe?*)
- Report (*maybe?*)
- Inform clients/contractual partners (*maybe?*)
- Engage your insurance company (*maybe?*)
- Communicate! (*Definitely!*)
- Address reputational, regulatory, and litigation risk

Steps Everyone Should Take

- Gap Assessments
- Security Plans
- Governance Documents
- Exercises
- Audits
- Testing and Training



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- **Using AI in the Employment Process:
Recent Developments You Need to Know**

Bradford Kelley
Little Mendelson, P.C.

Your client also uses AI to monitor franchisee employee productivity, schedule shifts, and flag performance issues. Under existing law, is that exposure?

- A. No – monitoring is always been permitted, AI just makes it more efficient
- B. Only if it chills employees' rights to organize or take concerted action
- C. Yes – AI monitoring creates material wage and hour and discrimination exposure
- D. The law hasn't caught up yet so there's no real risk right now

How Are Employers Using AI?



Creating HR-related materials (e.g., job descriptions)



Recruiting (e.g., resume screening, candidate assessment)



Sourcing (e.g., candidate identification)



Employee management (e.g., evaluating performance)



Employee development (e.g., on-demand resources)



Analyzing company policies and practices



Self-service chatbots or candidate interactions

Other AI Uses



Telephone monitoring



Keystroke logging



Auto-forwarding e-mail



Video surveillance with audio recording



Continuous screenshot capture



Laws Applied to AI

- Employment Anti-Discrimination
- Wage and Hour
- National Labor Relations Act
- Fair Credit Reporting Act
- Privacy Laws
- State Laws



Deepfake Harassment Isn't Just Hypothetical

- Liability for sexual harassment
 - Vicarious liability; failure to properly investigate; failure to take prompt and effective remedial action
- Hostile work environment (severe or pervasive)
- Defamation
- Negligent hiring/negligent retention
- Intentional or negligent infliction of emotional distress

Aldine ISD middle school teacher demands accountability after face used in 'deep fake' porn video

Ex-Lifeguard Says Ga. YMCA Fired Her Over Doxing Report

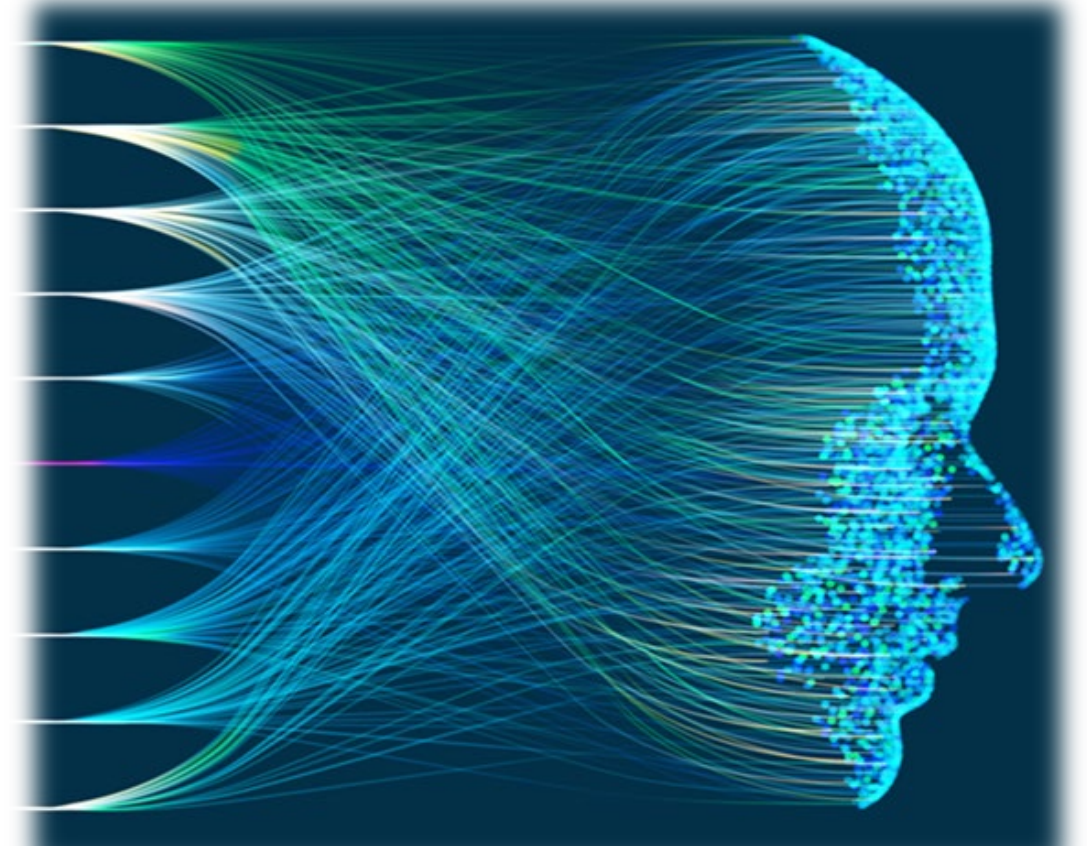
The YMCA of Metropolitan Atlanta Inc. has been sued by a former lifeguard who alleges she was fired after reporting that another YMCA employee doxed and shared doctored photos of her and other female YMCA lifeguards on a pornographic website.

Ex-Prosecutor Disbarred For Fabricating Harassing Texts

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Vendor Liability/Resume

- *Harper v. Sirius XM Radio, LLC*, 2:25-cv-12403 (E.D. Mich., filed Aug. 4, 2025)
- Class action alleging that employer used algorithmic decision-making tools, including AI and machine learning provided by 3rd party vendor.



Privacy, Surveillance, & Consent-Based Claims

In re Otter.AI Privacy Litigation, No. 5:25-cv-6911 (N.D. Cal., filed Aug. 15, 2025)

- Consolidated putative class action that has emerged as a leading case addressing privacy risks associated with AI-powered workplace monitoring and transcription tools.



Government Enforcement

EEOC v. iTutorGroup, Inc., No. 1:22-cv-02565 (E.D.N.Y. filed May 5, 2022)

- One of the EEOC's earliest enforcement actions challenging algorithmic discrimination in hiring.
- The agency alleged that iTutorGroup, an online English-language tutoring provider, programmed its recruitment software to automatically reject female tutor applicants age 55 and older and male applicants age 60 and older.



Transparency, Consumer Reporting, & Novel Theories

Kistler et al. v. Eightfold AI Inc., No. C26-00214 (Cal. Super. Ct., removed to N.D. Cal. 3:26-cv-01768)

- Complaint asserts that Eightfold functions as a consumer reporting agency under the Fair Credit Reporting Act and analogous state statutes.
- The suit asserts that Eightfold failed to provide required disclosures, obtain authorizations, or afford applicants the opportunity to review, dispute, or correct the information.



Automated Note-Taking



To: Ann Young

Sales Strategy Call

I've declined this meeting.

Please invite my AI notetaking assistant, at notetaker@FreeFlyByNightAI.com, which will attend and send me a summary.

AI Legislation



Key Questions

1. Is the AI tool limited-access, or general usage?

Will the AI tool be used only by certain employees/departments, or only in certain jurisdictions?

2. Is it vendor-licensed, or in-house?

3. Is it used for business decisions?

GenAI for day-to-day use? A new method of measuring employee performance? Talent Acquisition?

4. How will employees be involved?

Will the AI tool inform decision-making, or will the tool itself make business decisions?

5. Does it work?

How effective is the AI tool in its intended use? How can the Company monitor performance over time?



Takeaways

- Policies
- Transparency, fairness, & human oversight
- Displacement of workers and surveillance data
- Audits
- Vendor Issues

Your client also uses AI to monitor franchisee employee productivity, schedule shifts, and flag performance issues. Under existing law, is that exposure?

- A. No – monitoring is always been permitted, AI just makes it more efficient
- B. Only if it chills employees' rights to organize or take concerted action
- C. Yes – AI monitoring creates material wage and hour and discrimination exposure
- D. The law hasn't caught up yet so there's no real risk right now

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