

Summer 1984

Liability of a Business Computer User for Improper Disclosure of a Customer's Personal Financial Information - Preface Second Annual Benton National Moot Court Competition Briefs, 17 J. Marshall L. Rev. 989 (1984)

George B. Trubow

Follow this and additional works at: <https://repository.law.uic.edu/lawreview>



Part of the [Legal Writing and Research Commons](#)

Recommended Citation

George B. Trubow, Liability of a Business Computer User for Improper Disclosure of a Customer's Personal Financial Information - Preface Second Annual Benton National Moot Court Competition Briefs, 17 J. Marshall L. Rev. 989 (1984)

<https://repository.law.uic.edu/lawreview/vol17/iss3/12>

This Symposium is brought to you for free and open access by UIC Law Open Access Repository. It has been accepted for inclusion in UIC Law Review by an authorized administrator of UIC Law Open Access Repository. For more information, please contact repository@jmls.edu.

LIABILITY OF A BUSINESS COMPUTER USER FOR IMPROPER DISCLOSURE OF A CUSTOMER'S PERSONAL FINANCIAL INFORMATION

On October 27-29, 1983, the Second Annual Benton National Moot Court Competition in Information Law and Privacy was held at The John Marshall Law School. Representatives of twenty-six law schools participated in the Competition. The John Marshall Law Review is pleased to publish the bench memorandum prepared for the competition judges. The best briefs submitted on behalf of the petitioner and respondent were written by the teams from South Texas College of Law and Boston University School of Law, respectively, and are also published here.

PREFACE

The computer pervades almost every aspect of modern life, and one may marvel at the phenomenal impact these omnipresent machines have had on daily affairs. Information technology accelerates exponentially as computers expedite information management, facilitate information access and aggravate information abuse.

Computer technology frequently transcends legal analyses and concepts developed through a slow evolution of feudalism and industrialism. Jurists must address complex questions of law and ethics regarding how our legal system will accommodate the "information society." The answers to such questions will help to define the quality of life in future America.

This year's Benton National Moot Court Competition problem challenged the participants from twenty-six law schools throughout the country to consider whether a business computer user should be held strictly liable when personal financial information about the user's customer leaks out of the computer system. Advocates had to address the public policy issue of whether fault is pertinent to the user's liability in such a case. The formulation of public policy on this issue requires the balancing of numerous factors including the advantageous position of users of large computer systems, technological developments, the profit motive, special interest groups and ethical notions of fairness and privacy. It was also necessary to consider whether,

if a computer user's liability for improper information disclosures was measured by fault, the doctrine of *res ipsa loquitur* could apply to shift the burden of proof.

Moreover, if a computer user's legal liability should be predicated upon fault, then the legal system must clarify what duties information managers and users owe to data subjects. In the context of this year's problem students analyzed what, if any, duty of confidentiality a bank owes to its customers regarding personal financial information. No statutes controlled the scenario, so the participants had to look to the common law for solutions.

The Benton National Moot Court Competition on Information Law and Privacy is an important element of a growing information law program at The John Marshall Law School's Center for Information Technology and Privacy Law. The Competition is funded by the Benton Foundation, named for its benefactor, William H. Benton, a United States Senator from Connecticut from 1949 to 1953, and founder of the Encyclopedia Britannica. The Foundation is interested in examining and enhancing the process by which information is exchanged, as well as the content and quality of what is communicated. The goals of the Benton Foundation, and of The John Marshall Law School, are mutually supportive with respect to the development and examination of a national information policy. This year's competition was another successful exercise in stimulating topical interest and dialogue among the nation's law schools.

*George B. Trubow**

* George B. Trubow is a Professor of Law and Director of The Center for Information Technology and Privacy Law at The John Marshall Law School, Chicago, Illinois.