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MEMORANDUM

December 12, 2007

To Our Clients and Friends

Re: New California Law Requiring Notification for
Security Breach of Medical and Health Insurance Information

California has amended its security breach law to require a person conducting business in California that owns or licenses computerized data that includes personal information to provide notice to a consumer of a security breach of the consumer's unencrypted medical information or health insurance information and name where the data was, or is reasonably believed to have been, acquired by an unauthorized person. The new law is effective January 1, 2008.

Currently, California law requires notice to consumers of security breaches involving the unauthorized acquisition of unencrypted "personal information." Presently, personal information means a consumer's name in combination with (1) a Social Security Number, or (2) a driver's license number or California identification card number, or (3) an account number or credit or debit card number, in combination with any required security or access code or password that would permit access to an individual's financial account.

The new law expands the definition of personal information to include medical and health insurance information. "Medical information" is defined as any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional. "Health insurance information" is defined as an individual's health insurance policy number or subscriber identification number, any unique identifier used by the health insurer to identify an individual, or any information in an individual's application and claims history, including appeals records.

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The new California law also amends the state security freeze statute to permit a consumer reporting agency to release public record information in a consumer's file if a freeze is in effect, or to apply a security freeze to an entire credit report.

A copy of the California legislation (A.B. 1298) can be found on our website at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox or Heidi Wicker at (202) 776-0700.