Big Data, Big Impact

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Jaime d’Almeida is a managing director in the Boston office of Duff & Phelps, and is part of the Dispute Consulting service line. Jaime has managed over 100 valuation engagements, has over 20 years of experience in economic and valuation analysis and consulting, and has provided both deposition and trial testimony on valuation and damages issues.

Jaime is a testifying expert in corporate finance matters, specializing in shareholder disputes, appraisal rights, business divorces, solvency analyses, preference and fraudulent conveyance actions, breach of contract, merger and acquisition disputes, copyright and trademark disputes, and other commercial and economic damages analyses. Jaime has been involved in numerous dispute matters and has advised clients on a wide variety of topics including: asset-backed securities, business valuation, solvency, financial analysis, investment analysis, fairness and solvency opinions, and analysis of complex financial structures.

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I co-chair BakerHostetler’s Information Governance Team, founded the eDiscovery & Technology Management Team, & counsel clients on ways to avoid information-related liability. I handle cutting edge privacy, data breach, information governance, cyber insurance, & insurance coverage matters, including TCPA claims.

I frequently speak & write about information-related strategies & best practices. I have successfully completed courses on Big Data and Crisis Management/Business Continuity at the Massachusetts Institute of Technology (MIT), Professional Education, & co-chair the Claims & Litigation Management Alliance (CLM) Cyber Liability Committee. I am a member of the ABA Big Data Committee & the Sedona Conference Data Security & Privacy Liability Working Group.

I also have over 20 years of experience in large scale first- and third-party complex insurance coverage matters, providing a full range of services from opinion work, coverage gap analysis, claims counseling, broker liability, settlement negotiations, international arbitration & all phases of insurance coverage litigation.

I am a member of the Law360 Insurance Editorial Advisory Board, the Editorial Advisory Board of Legal Technology News, the Professional Liability Underwriters Association, and the Defense Research Institute, & a contributor to InsuranceThoughtLeadership.com, Datfloq.com, & BigDataMadeSimple.com.

I was honored as LawCrossing’s Law Job Star in July 2014, featured in Law Technology News as a leading woman in technology, & have been quoted in Forbes, Reuters, Law360, Bloomberg BNA, Insurance Business America, the National Law Journal, & Law Technology News about information-related & insurance issues. I was selected as the LXBN Leader in May 2015 & as a finalist for CLM's 2015 Outside Counsel of the Year award.

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Jeff Pierantozzi is a Vice-President at TrailBlazer Consulting, LLC. Mr. Pierantozzi has over 18 years of experience in designing and implementing data management and information governance solutions for clients in the both the public and private sector. Mr. Pierantozzi applies his deep understanding of information systems and data analytics gained through more than a decade of custom software development and implementation to the many issues involved with proactive management, cleansing, and analysis of big data, as well as the management of large data sets involved with complex litigation. Mr. Pierantozzi has specific recent experience with managing, analyzing, reviewing, and producing detailed reports in support of expert testimony for one of the largest financial frauds in history. Mr. Pierantozzi also has specific experience developing and implementing enterprise-wide information governance programs.

Jeff earned his B.S. in Computer Science from Drexel University. He is a Certified Records Manager (CRM,) and Certified Project Management Professional (PMP).

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An innovative litigator, Melissa Kosack focuses her practice on commercial litigation, securities and regulatory enforcement, and white collar defense. She remains attentive to all aspects of her clients' needs in order to construct comprehensive and effective strategies that effectively achieve the desired resolution.

Melissa is currently working on multiple matters in connection with BakerHostetler's role as counsel to the court-appointed Trustee under the Securities Investor Protection Act in the liquidation of Bernard L. Madoff Investment Securities LLC.

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Decisions Around Big Data

What an organization

What can be done technically

Best Practices

would like to do

What can be done legally

Photo Credit: Scott Weaver, BakerHostetler
What is encompassed in the term Big Data?
What is “Big Data”?

Wikipedia defines “Big Data” as “a broad term for data sets so large or complex that traditional data processing applications are inadequate”\(^1\)

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What is creating Big Data?

The Internet of Things (IoT)

- TVs
- Wearables
- Watches
- Thermostats
- Appliances
- Cars
- Phones, tablets
- Beds
- Toothbrushes
… on just about every aspect of our lives

- How long you brushed your teeth
- How far, fast, and where we drive
- How many steps we take each day
- What we search for on the Internet
- Who our “friends” are
- Where we ate dinner last night
- What books we read
... for just about every possible way to generate revenue

- Targeted ads for products you might purchase
- Maintenance reminders for your car
- Maintenance reminder for your teeth
- Recommendation for what to binge watch next
- Recommendations for what to read next
What makes Big Data “Big”?

The Four Vs:

- Volume
- Velocity
- Variety
- Value

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Managing data is not a new problem, it’s just gotten BIGger

• From the Turing machine to IBM’s Watson, computers have been helping us derive value from data for close to 60 years

• However, the complexity and size of our connected and online world requires specialized tools with the power and ease-of-use to quickly derive value from huge, and rapidly growing data sets
The volume, complexity, and rapidly changing nature of big data requires specialized, powerful tools

• “Distributed processing” is the primary tool for managing, analyzing, and using big data

• “Data visualization” tools provide the ability to portray data in ways, such as heat maps and frequency diagrams, that allow humans and computers to more quickly derive value from large data sets
Big Data, and the tools used to manage and analyze it, is inherently risky.

- The often personal and private nature of the data available in our connected world makes gathering, storing, analyzing and selling data both risky and rewarding.
- Distributed processing, as well as making data available in a timely fashion where it is needed, may require moving data across states, countries, or continents, all of which have regulations on how that data is transferred.
How is Big Data Managed and Governed?

- Added Importance of Information Governance for Big Data
  - All data within an enterprise’s possession or control needs to be governed.
  - Big Data is no exception. Given the speed with which Big Data volumes multiply, IG takes on added importance.
  - Policies should be developed to address how Big Data will be maintained throughout its lifecycle, including how it can be used, accessed and secured, and when it can be archived and legally destroyed.
How is Big Data Managed and Governed? (cont.)

• Mitigating the Risk of Misuse
  – Entities can face risks by using data in a manner that is inconsistent with customer consents, laws, regulations or contractual obligations.
  – Information Governance should be established prior to the start of Big Data collection and analysis.
  – Retrofitting Information Governance to existing Big Data can be difficult and costly.
Key Approaches to Dealing with Big Data

- Enterprisewide sensitivity
- Use of committees
- Proactive v. reactive
- Transparency
- Jurisdictional issues
How Companies use Big Data to Drive Value

- Sell Big Data externally
  - Number of Users (Particularly Related to Social Media)
- Use Big Data internally
  - Revenue (Including Advertising)
  - Personalization/Dynamic Pricing
- Reputation (Goodwill)
How Companies use Big Data to Drive Value (cont.)

• **Average Revenue per User ("ARPU")** is tied directly to the amount of data sites such as, Facebook, Twitter, LinkedIn, and Pandora, acquire from and maintain about their users, including, location, credit card information, relationships, and personal preferences.

• For example, Facebook's staggering and continually high valuation is rooted in how valuable its users are to advertisers and companies, particularly as to how they "like," "share," and respond to various sources of data.
Big Data Mishaps
Mistakes and How Things Go Wrong

Manipulation of News Feeds and Mood Analysis

“Rides of Glory”

Teen Girl Pregnancy
Valuation
Impact of Big Data on Valuation - Reputation and Goodwill

- Goodwill, an intangible asset, typically constitutes more than 50% of the purchase price of a business.
- Internet and E-Commerce companies reflect an allocation of 70.4% to goodwill.
- Companies are increasingly altering their business strategies as a result of the development of Big Data.
Impact of Big Data on Valuation - Reputation and Goodwill (cont.)

- Traditional Brick and Mortar Companies v. Data-dependent Companies
- What are Data-dependent Companies?
  - Platform Users
  - "Likes" and "Dislikes"
Impact of Missteps and Litigation on Brand Reputation

• Bad Press: perceived lack of controls from a data breach can generate bad press.

• Bad Press: revelation of Big Data practices considered intrusive, unethical or "creepy" can generate bad press.

• Loss of Control: Because social media drives public perception at breakneck speed, companies face the risk of losing control of their reputation messaging on both internal (employee-based) and external levels.
Impact of Missteps and Litigation on Brand Reputation (cont.)

- As businesses and the public become savvy about data practices, it is likely that customers may refuse to entrust their data to companies that will use it in ways that might anger or embarrass them.
- To the extent competition exists in the market, customers may seek alternative options for similar services based on misuse of Big Data.
- The future success of class actions will likely affect the impact of missteps on stock prices.
Do’s and Don’ts
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