

## Speculative Data Breach Damages Might Be Actionable

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**PRACTICES** Privacy and Cybersecurity

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Class action lawsuits naturally follow data breaches in which hackers penetrate a company's network and steal consumers' or employees' Personally Identifiable Information ("PII") en masse , especially when the network is a retailer's payment system. In these cases, plaintiffs allege various causes of action including claims for the substantial or increased risk of future harm because of the breach ("future harm" claims). But not all courts allow these claims to proceed without more. Courts usually dismiss future harm claims for lack of standing when plaintiffs cannot show that the breach has already resulted in tangible injury.

*Excerpted from [State Bar of Texas, Computer and Technology Section's Circuits Newsletter](#), May 2016.*