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MEMORANDUM

September 26, 2011

To Our Clients and Friends

Re: New California Security Breach Notification Requirements

California's recently enacted SB 24 amends its current security breach notification law, effective January 1, 2012. The law requires additional content for security breach notifications sent to California residents.

A company that experiences a breach of its system that results in the unauthorized acquisition of unencrypted computerized personal information is required to notify California residents of the breach in the most expedient time possible. The current law, however, does not specify the content of the breach notice. SB 24 requires that notices sent after January 1st be written in plain language and include the name and contact information of the company sending the notice. They must also include details regarding the incident, including the date or estimated date of the breach, the date of the notification, a general description of the breach, if possible, the types of personal information that were disclosed and whether notification was delayed as a result of a law enforcement investigation. Toll-free telephone numbers and addresses of the major credit reporting agencies must also be provided if the breach exposed a social security number, driver's license or California identification card number. In addition, at its discretion, a company may also indicate what has been done to protect individuals whose information has been breached and advice on steps they may take to protect themselves. A copy of the notice is required to be submitted electronically to the California Attorney General when more than 500 California residents have been affected by the security breach.

SB 24 provides that companies covered by the Health Insurance Portability and Accountability Act (HIPAA) will be deemed to have complied with the California notice requirements if they comply with the Health Information Technology for Economic and Clinical Health Act (HI TECH Act).

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A copy of SB 24 can be found at our website at
<http://www.schwartzandballen.com/news.html>

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