



December 2018

[Homepage](#) | [Committee Roster](#) | [Join the Cyberspace Law Committee](#)

In This Issue

[Message from the Chair](#)

[Cyberspace Law Institute and Winter Working Meeting - January 25-26, 2019](#)

[Subcommittee News](#)

[SEC Settles Charges with Two Celebrity ICO Promoters](#)

[Upcoming Cryptocurrency Ethics CLE](#)

[New Smithsonian Exhibition on Urban Mobility](#)

[Committee Member News](#)

[Call for Future Contributions](#)

Important Dates

[Business Law Section Spring Meeting](#)

March 28-30, 2019
Vancouver, BC

Editorial Board

[Tom Kierner](#)

Message from the Chair

Dear Cyberspace Colleagues:

Our annual Cyberspace Law Institute and Winter Working Meeting is less than two months away, and you will be impressed by the strong agenda Program Chair [Ed Morse](#) and Vice-Chair [Cheryl Burtzel](#) have put together. Please read more about it below. If you are a regular attendee, I look forward to your participation. If you have never attended before (or it has been a while), I am equally excited about welcoming you to the meeting and to your collaboration. You will find the two days both invigorating and fun. As someone who attended for the first time last year put it, "I've found my tribe!"

Even before then, however, you have opportunities to learn from and collaborate with your cyberspace colleagues. [Steve Middlebrook](#) and [Sarah Jane Hughes](#) have prepared two very timely webinars:

- "Application of CFPB's Prepaid Rule to Digital Wallets and Peer-to-Peer Payments" on December 5 at 2 pm ET - See below for instructions on participation or, if you miss it, look for the link we'll send soon to access the recording.
- "Legal Ethics and Cryptocurrency" on December 18 at 1 pm ET, as part of the BLS "In The Know" series - This is an updated reprise of the program recently presented at Annual Meeting.

[Candace Jones](#) and [Isvara Wilson](#) are working diligently with chapter authors on a new *Director's Handbook - Enterprise Technology*. They will work on editing at the Cyberspace Law Institute and Winter Working Meeting. If you are interested in helping, please contact Candace.

Keep in mind that there are always opportunities to publish through the committee. Please contact [Mike Silvestro](#) if you want to participate on one (or more) monthly Current Law Task Force call(s) and write up a short summary of a current issue. If you have an idea for a longer article (or book?), please reach out to [Juliet Moringiello](#). We welcome your input.

Regards,
Cheryl Dancey Balough
Cyberspace Law Committee Chair

Cyberspace Law Institute and Winter Working Meeting - January 25-26, 2019

Before December and year-end demands press upon you, take a moment to [register](#) for the January 25-26, 2019 Cyberspace Law Institute and Winter Working Meeting. We will gather in St. Petersburg, Florida for two days of innovative CLE programs, roundtable discussions, subcommittee working meetings, and fun networking. Schedule your travel so you arrive for our Thursday evening, January 24 networking reception at our host hotel, the historic Don CeSar.

With [Stetson University's](#) generous hosting, the institute provides 6 hours of CLE,

opportunities to contribute to subcommittee work, and several hours of networking over breakfasts, lunch, and pre-cocktail reception for just \$250 (inclusive). Throughout Friday and Saturday morning, we will offer 8 plenary programs, and you can choose among multiple roundtables and subcommittee meetings. Our institute includes programs on:

- The Year of Cyberspace in Review
- Crowded Skies for E-Commerce Beyond 2018
- Positioning, Navigation, and Timing (PNT) and Global Navigation Satellite System (GNSS) Applications: Cybersecurity Considerations
- Double, Double Toil and Trouble: Data Privacy and the Double Trouble of the California Consumer Privacy Act of 2018 and the Push for a Federal Privacy Standard
- Current Developments in Fintech
- Geolocation Tracking and Privacy
- Putting a Finger on the Problem: An Update on U.S. Biometric Privacy Law
- Blockchain Technology --- It's Not Just for Bitcoin Any More!

You can read descriptions of the programs and [entire agenda here](#).

Remember to sign up for our Friday dinner at [Crabby Bill's](#) too, where we will enjoy drinks, seafood, and more right on the beach! The cost is just \$62. Because of glitches with the ABA's new website, you need to sign up for the dinner via mail or secure fax (see form on [registration page](#)). If you register(ed) online for the institute, please mark just the dinner on the form. Or you can register for the institute and the dinner together via mail/fax. (Hey, sometimes retro is cool-even for cyberspacers!) If you have any registration questions, please contact Quiana Nesbit at (312) 988-5588 or Quiana.Nesbit@americanbar.org.

Subcommittee News

From the Cloud and Enterprise Technology Subcommittee

Candace Jones and Isvara Wilson

The Cloud & Enterprise Technology Subcommittee still has some unclaimed chapters for its new book, *Director's Handbook - Enterprise Technology*. Our goal is for authors to write short (no more than 5 pages) instructive descriptions for a board of directors audience. A lot of good source material has already been written on the wide range of technology topics the book will cover. We expect this book is to contribute to the existing scholarship by offering succinct treatment of a relatively comprehensive range of issues avoiding legal and technical jargon.

Our goal is to have draft chapters in advance of the Winter Working Meeting and to use our time in St. Pete to review the material and provide feedback to authors.

If you would like to volunteer to contribute a chapter, please contact [Candace Jones](#).

SEC Settles Charges with Two Celebrity ICO Promoters

Tom Kierner, Womble Bond Dickinson

The SEC recently settled charges against two celebrities, boxer Floyd Mayweather and music producer DJ Khaled, for failing to disclose that they had been paid to promote some Initial Coin Offerings ("ICOs").

Mayweather, for his part, promoted three different ICOs on his social media

accounts (screenshots of the promotions linked [here](#), [here](#), and [here](#)) for \$100,000 a pop. Khaled [promoted a single ICO](#) for a comparatively meager \$50,000. Both settled with the SEC for violations of Section 17(b) of the Securities Act and agreed to pay disgorgements plus civil money penalties.

It's unlikely that either celebrity will feel the financial sting of the SEC order, but it's worth noting that Section 17(b) doesn't only apply to celebrity endorsers. It requires "any person" that promotes a security for consideration to disclose "the receipt, whether past or prospective, of such consideration and the amount thereof." Since many companies launching ICOs deploy bounty programs to crowdsource the ICO's promotion, the potential liability may indeed be widespread.

[Click here to read the Mayweather Cease and Desist Order.](#)

[Click here to read the Khaled Cease and Desist Order.](#)

Upcoming Cryptocurrency Ethics CLE

There's an upcoming CLE that qualifies for 1.5 CLE ethics credits about legal ethics and cryptocurrency. Read below to find out more. Watch your email for more details on how to register!

Legal Ethics and Cryptocurrency

December 18, 2018 1:00 - 2:30 pm ET

Speakers:

David Hirsch, Securities & Exchange Commission, Fort Worth, TX
Prof. Donna Nagy, Maurer School of Law, Indiana University, Bloomington
Stephen D. Palley, Anderson Kill, Washington, DC

Moderator:

Stephen T. Middlebrook, Womble Bond Dickinson, Atlanta

This panel will address the ethical issues that arise when providing legal counsel to cryptocurrency businesses and will offer practical advice on how appropriately to serve clients whose business models may be ahead of the law. We will discuss recent ethics opinions and guidance related to cryptocurrency provided by the Nebraska Lawyer's Ethics Advisory Committee, the Office of Government Ethics and the U.S. House of Representatives Committee on Ethics. In addition, the panel will review recent statements by the Chairmen of the SEC expressing concerns that the legal advice some counsel have provided to entities operating in the cryptocurrency space elevates form over substance and has contributed to fraudulent and illegal activity. We will review several recent SEC enforcement actions in which cryptocurrency businesses were charged with fraud and securities law violations, with a focus on the lawyers' ethical obligations to promote compliance with securities regulations.

New Smithsonian Exhibition on Urban Mobility

Thanks to Roland Trope for passing along [this link](#). Cooper Hewitt, Smithsonian Design Museum will present a new exhibition entitled "The Road Ahead: Reimagining Mobility." The exhibition runs from mid-December until the end of March and explores the challenges and possible improvements of urban mobility and infrastructure.

Committee Member News

John Gregory, co-chair of the Cross-border e-Commerce Subcommittee, published [a note on the e-commerce provisions of the US - Mexico - Canada Free Trade Agreement](#) that will, if ratified, replace NAFTA. NAFTA of course did not have any e-com provisions. The note also refers to the ABA model provisions on this topic.

Sarah Jane Hughes has accepted the invitation of George Mason University's Law & Economic Center to participate in its first Financial Services Regulation Law Conference on May 16, 2019 at GMU's Law School in suburban Washington, D.C. CLC members will want to plan to attend - because the Conference is being organized by long-time CLC members Robert Ledig and Tom Vartanian. Sarah Jane will present a paper on cryptocurrency and the global financial transactions surveillance model and whether it sufficiently includes cryptocurrencies.

Call for Future Contributions

Do you have something that might make a good contribution to next month's Cyberspace Law newsletter? [Email Tom Kierner](#) with your blurb! Have a less Cyberspace-y contribution? It might be a good fit for Business Law Today. [Email Juliet Moringiello](#), and she will help you with the submission process.

{{AA_HTML LSSpecial - Chicago Footer}}