

9th Circ. Says AmeriBen Data Breach Enough To Allege Injury

By **Gina Kim**

Law360 (October 9, 2026, 8:13 PM EDT) -- The Ninth Circuit on Friday revived a proposed data breach class action alleging health plan administrator AmeriBen unlawfully revealed patients' information, ruling the disclosures were enough to sustain a lawsuit even if the underlying information might seem "mundane."

In a published **opinion**, a three-judge panel reversed an Idaho federal district judge's order that dismissed a negligence lawsuit filed by Melissa Black and Miles Black, who received health insurance benefits from a plan administered by EIC Group Inc., which does business as AmeriBen.

The opinion by U.S. Circuit Judge Eric C. Tung pointed out that the Blacks allege a confidential relationship grounded in promises that the AmeriBen made and a breach of its promises when their health information was disclosed without their authorization.

"Congressional judgment further confirms that the disclosure of this information is a concrete injury," the panel said. "Congress passed the Health Insurance Portability and Accountability Act (HIPAA) and subsequent amendments to protect certain sensitive health information from disclosure."

While HIPAA itself doesn't provide a private cause of action, it bars disclosure and imposes criminal liability against anyone who knowingly shares individually identifiable health data, the Ninth Circuit found. And the parties do not dispute that the data at issue here is covered under HIPAA.

"However mundane such disclosed data might seem to some — e.g., the patient's name, the provider's name, the dates of service, the amounts billed — Congress made a judgment that such information was sensitive enough to entitle it to statutory protection," the opinion said.

"Such information, no matter how seemingly benign, can reveal one's most private health concerns—for example, others might learn that a patient is suffering from a debilitating mental illness because he has been seeing a psychiatrist for daily therapy sessions for the past three months, or that a patient is struggling with infertility given the amount of time spent at a fertility clinic," it said.

The Blacks filed the suit in August 2023, shortly after they received a letter from AmeriBen explaining some of their information was disclosed to unauthorized parties when an associate emailed a spreadsheet containing their sensitive health data to one or more plan members.

The Blacks argue that they entrusted their health information to AmeriBen and that AmeriBen breached its promise to protect it.

In October 2024, AmeriBen moved to dismiss the suit, claiming lack of standing, arguing the Blacks didn't allege that third parties ever accessed or misused their personally identifiable information or personal health data, or that they fell victim to identity theft or any other financial fraud crimes.

U.S. District Judge Amanda K. Brailsford did throw out the case, saying the Blacks did not show the disclosure alone was enough to show they were injured. Judge Brailsford said the Blacks don't say how the information at issue would help hackers commit identity theft or other fraud crimes.

While passwords, Social Security numbers and dates of birth could pose inherent risk of fraud, the information at issue in this case doesn't raise similar concerns, Judge Brailsford ruled. She further

concluded the Blacks hadn't explained how the patient information at issue would be used for nefarious purposes or why it would likely be misused.

Neither the nature of the information that was disclosed, nor the context in which it was disclosed, demonstrated that the Blacks were subject to imminent risk of harm that is not hypothetical or conjectural, the judge said.

But on Friday, the Ninth Circuit disagreed.

Nobody can dispute at this juncture that the information — which involves when the Blacks received health treatment, how much they or their insurer paid for that treatment, and the providers they visited — is sensitive to the appellants, the Ninth Circuit said.

There's also no dispute that AmeriBen promised the Blacks it would protect that information, which AmeriBen obtained while administering their insurance claims, the opinion said.

Nor can anyone disagree that AmeriBen failed to keep that information confidential, the opinion said, and the Blacks' alleged harm from that disclosure is akin to a breach of confidence and breach of contract that courts have traditionally recognized as providing a basis for suing.

"In short: a trust betrayed is harm," the panel said. "Beyond concerns of 'property' or 'due process,' the 'hostility' made upon the relationship itself, the 'abuse' of the 'trust reposed' in another, is itself the harm."

Thomas A. Zimmerman Jr. of Zimmerman Law Offices PC, counsel for the Blacks, told Law360 that Friday's decision was an important precedent.

"Companies that mishandle private health information have argued that the consumers must wait until they become victims of identity theft before they can seek justice, and today, the Ninth Circuit rejected that argument and recognized that when a company betrays the trust that a consumer placed in it, that betrayal itself is a harm," Zimmerman said.

"We're delighted that the Ninth Circuit has issued this important precedent ... and has rejected the narrow standard that the district court used, and this is going to allow millions of victims to now seek justice for a company's release of their private health information," he said.

Representatives for AmeriBen did not immediately respond to requests for comment Friday.

U.S. Circuit Judges Michael Daly Hawkins, William A. Fletcher and Eric C. Tung sat on the panel for the Ninth Circuit.

The Blacks are represented by Bonner C. Walsh of Walsh PLLC, Thomas A. Zimmerman Jr. of Zimmerman Law Offices PC and Marc E. Dann, Brian D. Flick and Marita I. Ramirez of DannLaw.

AmeriBen is represented by Kandi K. Hidde and Darren A. Craig of FBT Gibbons LLP and Nicole C. Hancock and Bradley Prowant of Stoel Rives LLP.

The case is Melissa Black et al. v. IEC Group Inc. dba AmeriBen, case number 25-5952, in the U.S. Court of Appeals for the Ninth Circuit.

--Editing by Amy French.