1. Prepare Solid Foundation for Privilege

* Convene a data breach response team at request of inside/outside counsel
  + Data breach response team provides information to inside/outside counsel to advise on legal ramifications of breach
  + Document. Document. Document.

1. Verify the Data Breach
   * No notice given unless breach is confirmed
2. Identify and/or Convene A Data Breach Response Team
   * IT Personnel
   * Chief Privacy Officer
   * Security
   * HR
   * The leader of the business unit affected by the breach
   * A member of risk, internal audit or compliance team
   * PR/Communications team member
3. Conduct An Investigation
   * What type of breach occurred
   * How it occurred
   * The duration of the breach
   * What information was put at risk
   * The identity of the individuals affected by the breach
4. Assess Risk
   * Consider insurance
   * Review third party vendor contracts
   * What data breach notification laws apply to the information that has been compromised
   * Consider disciplinary action
   * Assess risks of litigation
5. Develop A Notification Plan
   * Distinguish between required and/or discretionary notice
   * Decide if a vendor is needed
   * Draft notice – consider all state content requirements
   * Make a list of the individuals and/or entities to whom notice must be sent
   * Maintain a list of the individuals notified – who, when and where
6. Develop A Communication Plan
   * Internal and external
   * Transparency and consistency is key
   * Identify point of contact for questions
7. Decide Whether Remediation Services Will Be Offered To Affected Individuals
   * California and Connecticut have requirements
   * Consider generating goodwill in the wake of a breach and in turn reducing potential damages
8. Taking A Step Back
   * Analyze the breach itself and the company’s response to the breach
   * How could it have been avoided
   * What proactive steps can be taken going forward
9. Have A Written Data Breach Response Plan
   * Serves as a guide for the team
   * Serves as Exhibit A for the company’s defense in the event litigation