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Attorney helps clients navigate ever-evolving cyber threat landscape

By Tom Kirvan



A native of Queens, N.Y., attorney Ken Rashbaum worked his way through high school, college, and law school with a series of jobs that included serving as a radio disc jockey at his college radio station, manager of newspaper delivery boys and girls, department store stock boy, lifeguard, swimming instructor, gas station attendant, taxi driver, bartender, and research assistant. His father worked in the garment district of New York City, while his mother spent much of her career as an interior decorator.



Kenneth N. Rashbaum
Partner
Barton LLP

In teaching data protection courses at Fordham University School of Law, New York attorney Ken Rashbaum tells students considering a career in the legal realm of cybersecurity that they will enter the “golden age” upon graduation from law school.

“They’re going to have a book of business probably like no other in the years ahead,” says Rashbaum, a partner with Barton LLP, where he advises multinational corporations, financial services companies, and life sciences organizations. “Even before the Supreme Court eviscerated precedent and *stare decisis*, I was telling students that you can’t really rely on ‘precedent’ in this space because there isn’t much of it. The technology evolves so much faster than the law that the cases you’re looking at generally won’t involve your technology or only will on a very early version.”

“For instance, there’s almost no case law on AI [artificial intelligence]. There’s very little on crypto, so how do you keep up with all that?” Rashbaum asks.

The challenge for law students and legal practitioners alike, Rashbaum says, is to develop “frameworks for analysis” when faced with thorny questions in the digital age.

“How do you approach the question? What questions do you ask? And, of whom do you ask them? These are the questions that you need to consider before you can even think of finding a solution to problems that a business or organization may face,” Rashbaum claims.

Rashbaum, an alumnus of Hofstra University School of Law, says he got his start in handling privacy and cybersecurity issues when the Health Insurance Portability and Accountability Act (HIPAA) became law, unexpectedly opening up

an area of practice that now dominates his attention.

“I was one of the first HIPAA counsels back in 2000 when I was with Sedgwick, Detert, Moran & Arnold and served as co-chair of the firm’s e-discovery, data management, and compliance practice,” he says of the firm where he spent 19 years. “I was primarily responsible for counseling corporations on compliance with federal, state, and judicial norms governing electronic data management, privacy, and security.”

When Rashbaum joined Barton LLP in 2014, his responsibilities in helping clients with their cybersecurity awareness continued to grow, particularly as cybercriminals ratcheted up efforts to exploit those unfamiliar with the online world.

“Some of these users often lack the knowledge to protect themselves from cyberattacks, making them easy targets,” Rashbaum says. “As access to electronic information expands, the cyber threat landscape evolves alongside it. New and naïve users are prime targets for a range of cyber threats, including ransomware, phishing, and nation-state attacks.”

Rashbaum has spent years counseling clients on how to mitigate these risks, teaching them how to strengthen their overall cybersecurity posture by reducing the likelihood of large-scale breaches caused by untrained users. He has written widely on such topics, and recently collaborated with his Barton colleague, Lani Medina, to explore “Key Considerations for an AI Strategic Plan: How to Acquire and Use AI Technology Safely to Grow and Protect Your Business.” The article was published by Bloomberg Law and urges corporate leaders to develop a sound strategy before implementing new artificial intelligence tools.



Ken and his wife, Elizabeth, a retired teacher and real estate agent who spent 25 years in the real estate profession. They are pictured with their granddaughters, Cassidy and Isabelle Ages.

“Recognizing AI’s complexities and legal uncertainties, a meticulously crafted business plan that includes how to negotiate a favorable agreement to obtain use of the AI tool serves as a roadmap to navigate these challenges by rendering the adoption of AI technologies innovative, legally sound, and closely aligned with the company’s broader goals,” Rashbaum and Medina wrote. “The strategic, or business, plan . . . seeks to answer questions likely to be posed by those who will decide whether to acquire the AI tool and, if so, how its acquisition will be budgeted and deployed.”

In fact, Rashbaum says a majority of his new clients come to him because

“someone is offering them a very lucrative contract” if they can meet the required privacy and cybersecurity standards set by the industry or required by contract.

“I will often be asked to review and negotiate the license or service agreement, draft policies and procedures, conduct the training, and prepare retention and deletion schedules,” he explains, noting that the compliance and legal departments may “no longer be seen as cost centers” but as “revenue facilitators” instead.

“If you go to the CFO of the company and say, ‘Company A is offering us an \$18 million contract if we can meet

their security standards and comply with applicable law, and it will cost us \$150,000 in legal services,’ then the return on investment is pretty easy math,” Rashbaum declares. “Unfortunately, the dark side of all this is that there are new threat actors coming up with new ways to break into systems every day.”

One of the unknowns in the data protection equation is AI, says Rashbaum.

“Nobody really knows where AI is going,” he says. “As a friend of mine who works in that field says, ‘If you don’t use the initials, AI, at least three times in a meeting, then it’s not a legitimate meeting and it doesn’t count.’ AI has enormous potential to

benefit companies and organizations of all kinds. It also poses many challenges and risks. If you don’t have the person power, then you’re going to have a hard time keeping this thing under control.”

Rashbaum, a summa cum laude graduate of the State University of New York at New Paltz, began his legal career as an assistant district attorney in Brooklyn, spending three years handling a range of felony cases that ran the criminal gamut. The challenges he faced then in countering crime in a big city are now perhaps even more imposing as he deals with the growing number of evil-doers in the digital world.

Which may explain why Rashbaum seeks frequent refuge from such concerns, enjoying his time as a founding member of the “Jersey Swamp Dawgs,” a passionate group of senior cyclists in New Jersey.

“We’re a loose knit group of guys in their 50s, 60s, and 70s who typically meet Sundays for 30- to 50-mile rides and usually end up riding in or near the Great Swamp of New Jersey,” Rashbaum says.

“We have members who are 76 and 77 and they are still very strong riders. We also sometimes do weekday rides of about 35 to 40 miles.”


A former marathon runner, with such notable races as Boston and New York to his credit, Rashbaum still runs but primarily turned to cycling nearly 25 years ago when the wear and tear of running began to take a toll on his legs.

“The group has done a number of multi-day rides outside the United States,” he notes. “We were in Italy last year for six days, and we did another one in Chile in 2019. In 2001, we did a charity ride from Montreal to Portland, Maine, which was about 400 miles, and in 2002 from New York to Boston. We’ve had some great discovery and bonding experiences on the bikes.”

His passion for fitness is something that Rashbaum shares with his daughter, Alyssa Ages, a Toronto-based author, public speaker, and journalist whose work has appeared in Elle, GQ, Self, Slate, and other publications.

“She went to school at McGill in Montreal, which is where she met her husband, who is a graduate of the NYU Journalism School and now coaches entrepreneurs,” Rashbaum relates. “She has written a book, ‘Secrets of Giants: A Journey to Uncover the True Meaning of Strength’, that was published by Random House. Alyssa has run six marathons, completed an Ironman triathlon, and written fitness columns that have been published in The New York Times, The Globe and Mail (Toronto), and Outside Magazine. She does all that in addition to being a mom to two kids, ages 4 and 6. I’m very proud of her.”

Just as he is of his two stepdaughters, Jamie Silver and Samantha Rudolph. Jamie is a legal recruiter and summer camp consultant, while Samantha is commencing a position in a well-known New York museum to assist in constructing exhibits.

“We have been blessed by them and our four grandchildren,” he says. 



Ken with his daughter, Alyssa Ages, who did a book reading presentation at Barton LLP for her book, “Secrets of Giants.”

A 9/11 survivor put his memories of the tragic day into book form

By Tom Kirvan

Ken Rashbaum was “one of those people you saw covered in dust” on 9/11, minutes after the South Tower of the World Trade Center collapsed on that fateful September morning in 2001.

An attorney specializing in cybersecurity and data privacy matters for Barton LLP in New York, Rashbaum admits that he will never shake the memories from that late summer day in 2001 when America came under attack by an al-Qaeda terrorist network headed by Osama bin Laden.

“I lost a friend in the 9/11 attacks that day, so even though it happened a long time ago, the anniversary of it is never an easy

day no matter how many years go by,” says Rashbaum, a born New Yorker.

Like thousands of other commuters on 9/11, Rashbaum feels fortunate to have survived the terrorist attacks that claimed more than 2,700 lives in New York.

“My commuter train came into the station below the Twin Towers, but I was out of there before the first plane hit,” Rashbaum recalls. “I was working in an office about six blocks away and when the first plane hit, one of my law partners came over and told me about it, and we saw the flames and the huge hole in the North Tower. Our building was evacuated after that. We were

standing around when the first tower fell, and that’s when the cloud (of dust and debris) came down on us. We were just engulfed by it. It was frightening and it’s certainly something I’ll never forget.”

Several years later, Rashbaum decided to put his first-hand 9/11 experience to literary use, writing a fictionalized account of a man who miraculously survived the attacks when the two jetliners slammed into the World Trade Center complex.

The book, which was published in 2006, is titled “Someone Else Ago,” and recounts the tale of a man lost in the rubble of 9/11,

according to Rashbaum, who also is the author of two full-length screenplays.

“The man was in one of the towers when it collapsed and survived by literally riding down a hunk of concrete from one of the stairwells, but his memory was impaired from all of the blows to his head,” says Rashbaum. “It’s kind of a tone poem for New York in those days, and how he managed to find his way home and the different people he meets along the way.”

Available on Amazon, the e-book is promoted online by asking the poignant question, “What if someone you love



A gifted writer, New York attorney Ken Rashbaum earned his law degree from Hofstra University on Long Island. He is pictured at a Yankees game with his step-grandson, Chase Silver.

disappears after your last words to him were, ‘I hate you?’”

In the book, Martha Backman, 19, is the one who shouted the hate-filled phrase after learning that her father, Bob, is engaged and about to move in with his girlfriend.

“She flies into a rage, tells him she hates him and storms out of the house,” Rashbaum writes in an overview of the book. “It’s the morning of September 11, 2001.”

“Later that day, Bob is listed among the dead,” Rashbaum notes. “Martha,

remembering what she said, can’t accept that he’s gone. She recruits his fiancée, Jen, to scour the hotlines and hospitals and missing persons centers and police stations.

“Bob has escaped the falling Towers, but wanders the city disoriented and in shock,” Rashbaum writes. “Will Jen and Martha find him, and will he be the same person who left that morning?”

For the modest sum of \$9.99, you can find out. [P](#)



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