

# Defending Breach-of-Contract Claims in Data-Breach Litigation

A post on the **What's Fair?** blog on the Ellis & Winters LLP website discusses a recent federal appellate decision that shows how data-breach lawsuits premised on overpayment theories – which often assert claims sounding in contract – still face an uphill battle.

**Alex Pearce** explains that the overpayment theory rests on the premise that the price of a product or service includes a payment for data security measures. He outlines the recent ruling in *Kuhns v. Scottrade*.

“In that decision—a boon for data-breach defendants—the Eighth Circuit employed a demanding test for the pleading of facts that give rise to an overpayment claim,” Pearce writes.

**[Read the article.](#)**