

Rising Star: Ropes & Gray's Michelle Visser

By Allison Grande

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From helping TJX Cos. Inc. handle the unprecedented legal fallout from one of the first major reported data breaches to advising Target Corp. and Sony Corp. on more recent intrusions, Ropes & Gray LLP partner Michelle Visser has played a vital role in shaping the relatively nascent data breach litigation landscape, earning her a spot among Law360's top three privacy attorneys under 40.

The 35-year-old Rising Star, who is based in the firm's San Francisco office, joined Ropes & Gray in 2006 with the intention of focusing on general complex business litigation. But her plans quickly changed when less than a year later, she was presented with the opportunity to work on litigation arising from the breach of more than 45 million payment cards belonging to TJX customers, which was one of the first intrusions to spark multiple class actions and regulatory investigations.



Michelle Visser

"At the time, it would be fair to say that there weren't many privacy and data security practices and it was a relatively new field, so I was lucky to be given the chance through our firm's work on the TJX litigation to be apart of the emergence and watch the area grow," Visser told Law360.

Her early exposure to complex data breach issues allowed her to not only expand her litigation skills, but to build a valuable knowledge base and gain leadership experience that has served her well in advising future clients such as Sony and Target on recent headline-grabbing breaches.

"I've been practicing for about 30 years, and Michelle is one of the best all-around attorneys that I've worked with," Target's vice president of law Terri Simard said. "She's extremely knowledgeable about matters in the privacy area, and has the ability to take an issue that's really complicated and break it down into common sense parts that are digestible."

Simard's assessment is based on her work with Visser during the past 18 months, since the retail giant tapped

Ropes & Gray to work on litigation brought on behalf of financial institutions that say Target should be liable for costs of replacing millions of customer payment cards that were affected by the retailer's massive 2013 breach.

While a \$10 million deal to resolve separate legal claims brought on behalf of the 110 million consumers affected by the intrusion gained preliminary approval last month, the financial institution litigation being handled by Visser and her team is still going strong, following a December ruling rejecting most of Target's bid to dismiss the case.

Besides leading the firm's day-to-day representation of Target in defending the consolidated class actions filed by the financial institutions, Visser has also been tasked with the responsibility of taking the reins in responding to card brand inquiries and advising the retailer on the nuances of the card brands' complicated information security requirements, a weighty task at which Simard said Visser excels.

"There was a fast learning curve, and Michelle was right there by my side to take me through it in a considerably short period of time and get me where I needed to go," Simard said. "She is somebody who knows all about her field and is entirely confident and comfortable in a variety of situations, and she's always reachable and has never disappointed me on deadlines or any other aspect of her work."

Between her time working on her first data security case involving the TJX breach and her most recent work for Target, Visser — who was named partner in November — has honed her skills by taking a leading role in legal and regulatory disputes over several other headline-grabbing intrusions, including a 2011 hack that affected millions of Sony PlayStation network users and a massive 2009 breach that affected 100 million payment cards held by Heartland Payment Systems Inc.

Visser took on a wide range of roles in these matters, from leading the firm's day-to-day efforts to respond to inquiries from payment card brands and conduct forensic analyses to dealing with questions from the Federal Trade Commission and other regulators, allowing her to further strengthen her grasp of the complex and constantly-evolving practice area.

"One of the reasons I've stayed interested in these types of cases is because I've had the chance to be heavily involved in helping our entire group learn about this area," Visser said.

Her work on data security issues has also enabled her to draw on some of the core research and writing elements that attracted her to general litigation work in the first place during her time at Stanford Law School and her subsequent clerkship with First Circuit Judge Bruce Selya.

"Because the underlying facts and issues in the data security field can be complex and completely new for a judge, being able to take the issue and put it in a form that is both clear and convincing takes a lot of legal writing skills that are crucial to the success of the litigation," she said, adding that younger attorneys shouldn't hesitate to take the time to "gain that core level of knowledge that you need to speak intelligently in this space."

Although Visser is less than a decade into her career, she already appears to have a firm handle on how to navigate the unsettled waters of data breach litigation, leading her colleagues to predict more success for her in the near future.

"I've worked with really experienced partners, and Michelle carries that right level of confidence where you don't question at all how many years she's been doing it," Simard said. "She knows the area, and you can count on her."

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