

## Privacy Group of the Year: Ropes & Gray

By **Dan Packel**

*Law360, Philadelphia (January 21, 2016, 2:37 PM ET)* -- Ropes & Gray LLP returned to Law360's Privacy Groups of the Year for the fourth time in five years by making key hires that bolstered the compliance side of the practice and by securing Wyndham Hotels and Resorts a settlement in a rare contest against the Federal Trade Commission over data security.



The addition of a team led by former McDermott Will & Emery LLP practice leaders Heather Egan Sussman and Rohan Massey boosted the privacy group to nearly 80 attorneys. Sussman joined Ropes & Gray at its Boston headquarters, and Massey came aboard in London, strengthening the group's reach in Europe and beyond.

"We now have a robust nationwide and worldwide compliance side of the practice," said partner Douglas Meal. "We're marrying that to our already strong litigation and regulatory investigation defense capabilities."

This track record in litigation — demonstrated by work for clients such as Supervalu Inc., Target Corp. and Genesco Inc. — was a major attraction for the newly hired lawyers.

"Part of the reason that Rohan and I picked Ropes & Gray — when what we do is such a hot area — we picked it because of the strength of the litigation practice," Sussman said. "With our two combined teams, I don't think you'll see this capability anywhere else. It really does cover the complete spectrum."

The firm identified privacy and data security work as a key part of Ropes & Gray's future and was already hiring more associates in the area when the pair joined, Sussman explained.

"It's only going to become more important," she said.

Ropes & Gray also boosted its capacities in the area of health care privacy with the addition of former North Shore-Long Island Jewish Health System corporate privacy officer Ira Parghi, who joined the firm's San Francisco office in February.

“There’s no other firm that matches them in the depth and breadth of that subspecialty,” Sussman said.

The international reach of the practice, meanwhile, goes beyond lawyers in hubs like London and Shanghai, with Sussman and Massey working to establish a global network of privacy counsel.

“Even if we don’t have offices in every jurisdiction around the world, we’ve been able to find regional firms around the world that focus on this kind of work,” Massey said.

These efforts extend even beyond legal services.

“If there’s a breach in India, for example, we can have boots on the ground with local counsel within 24 hours,” Sussman said.

Massey described one incident when a client lost a laptop in that country, and a private investigator was enlisted to get on the train and ride up and down until it was recovered.

These interventions are bound to fall under the radar, especially compared with carefully watched legal battles like the FTC’s suit against Wyndham.

According to Meal, that dispute marked a novel attempt by the agency to hold Wyndham — a franchisor — liable on behalf of its franchisees for a data breach.

“It wasn’t Wyndham who lost the data,” Meal said.

The December settlement imposed audit requirements on the hotel chain, but did not hold it liable for any violations or require it to pay any monetary relief. The company also does not have to take any responsibility for data security at independently owned Wyndham-branded hotels.

Ropes & Gray also represented Media Innovation Group in a closely tracked Third Circuit case that saw one of the first federal appellate rulings on Internet advertisers’ online tracking practices. The court dismissed all claims against MIG and parent company WPP PLC in November, in a suit that accused companies of bypassing Internet browser privacy settings to track Internet usage.

“The court recognized that you couldn’t shoehorn what occurred here into any of the federal statutes that the plaintiffs are trying to rely upon,” Meal said.

The Wyndham and MIG matters demonstrate an increasing trend of regulatory interest and connected litigation that will undoubtedly keep the firm busy.

“The regulatory scrutiny that’s been given to companies both on privacy and on the data security front has been intense and continues to grow,” Meal said.

And these challenges are also becoming more international.

“The interaction between the European regulatory regime and the American regime is certainly something we are specializing in,” Massey added.

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