



# Michelle Visser

Partner

SAN FRANCISCO

T +1 415 315 6347

F +1 415 315 4875

Michelle.Visser@ropesgray.com

## Practice

Michelle Visser focuses her practice on complex business litigation matters. She has extensive experience assisting companies in responding to the variety of legal issues that can result from data security breaches, including experience in overseeing forensic investigations and defending against claims made or threatened by credit card companies, financial institutions and regulators. She also regularly represents companies in defending against class actions, with experience in class actions involving securities, antitrust and data security claims.

## Experience

- **LabMD.** Represents LabMD in its petition to the U.S. Court of Appeals for review of the first ever FTC decision holding a company liable for allegedly having unreasonable data security practices in violation of Section 5 of the FTC Act.
- **Target.** Represented Target in responding to card brand inquiries and defending card issuer class action litigation stemming from the data security breach that Target announced in 2013.
- **Sony.** Represented Sony and its various entities in investigating the data security breaches announced in 2011 and in responding to regulatory and card brand inquiries stemming from those security breaches.
- **Hitachi-LG Data Storage.** Represents the Korean-Japanese joint venture in defending civil class actions, opt-out actions, and a state action alleging price-fixing in the optical disk drive industry.
- **Heartland Payment Systems.** Represented Heartland in the FTC investigation stemming from the data security breach announced by Heartland in 2009, which the FTC closed without taking any action against the company.
- **American Dental Partners Inc.** Represented ADPI in securities fraud and derivative litigation stemming from ADPI's announcement of a prior

## Education

- JD, Stanford Law School, 2005; Order of the Coif; Symposium Editor, *Stanford Law Review*; Managing Editor, *Stanford Journal of Law, Business & Finance*
- BA (Mathematics & Economics), (Honors degree, with greatest distinction), Calvin College, 2002

## Bar Admissions

- California, 2011
- Massachusetts, 2005

## Court Admissions

- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Northern District of California
- U.S. District Court for the Central District of California
- U.S. District Court for the Southern District of California

litigation loss, not litigated by Ropes & Gray. Secured dismissal of the derivative action and settlements within insurance policy limits to terminate the securities actions.

- **The TJX Companies Inc.** Represented TJX in securing a favorable settlement to terminate the investigation of a multi-state working group of 40 Attorneys General into the data security breach announced by TJX in 2007.

- U.S. District Court for the District of Massachusetts

## Awards

- *The San Francisco Recorder* Women Leaders in Technology Law (2015)
- *Legal 500* (2015-2017)
- *Law 360* Rising Star (2015)
- *San Francisco Daily Journal* "20 under 40" (2015)
- *Northern California Super Lawyers, Rising Star* (2015)

## Publications

- Co-author, "With 'LabMD' Decision Looming, FTC Workshop Delves into Privacy & Data Security Harms," *The WLF Legal Pulse* (December 21, 2017)
- Co-author, "FTC's First Foray into Gig Economy Data Security," *Law360* (August 28, 2017)
- Co-author, "A Rigorous Analysis of Class Certification Issues in Consumer Data Breach Litigation," Bloomberg BNA *Privacy and Security Law Report* (January 16, 2017)
- Co-author, "Spokeo Decision Narrows the Path for Data Breach Plaintiffs," *The Daily Journal (San Francisco)* (July 1, 2016)
- Co-author, "Data Breach Plaintiffs Invoking Tyson May Face Difficulties," *Law360* (April 13, 2016)
- Co-author, "FTC Study Could Lead To Changes In PCI DSS Certification," *Law360* (April 6, 2016)
- Co-author, "Oracle Case Expands Pool Of Potential Data Security Defendants," *Law360* (Jan. 14, 2016)
- Co-author, "Wash. Decision Illustrates Challenges For Breach Plaintiffs," *Law360* (April 13, 2015)
- "Rising Star: Ropes & Gray's Michelle Visser" *Law360* (April 9, 2015)
- Co-author, "When it happens to you: How to navigate a payment card breach," *InsideCounsel* (March 31, 2014)

- Co-author, "More Regulations to Come," *The Recorder* (February 22, 2013)

## Presentations

- Panelist, "Data Privacy & Protection," PWC Regulatory Briefing Series, San Francisco, CA (May 23, 2017)
- Panelist, "It's a Hack! Data Breach Incident Response, Preserving the Attorney-Client Privilege, and Ethical Obligations with Litigation on the Horizon," ABA Litigation Annual Conference (May 2017)
- Panelist, "Rethinking Information and Data Governance in Light of Multiplying Regulatory Requirements," Sandpiper/PwC Governance Briefing (May 2017)
- Speaker, "Cyberattacks: Incident Response Strategies to Reduce Legal Exposure," ACC-SFBA CLE Lunch Seminars (May 2017)
- Panelist, "Hackers, phishers and squatters, oh my! Dealing with Cyberspace when lots of folks spy," U.S. Court of Appeals Fifth Circuit Judicial Conference (May 2017)
- Speaker, "Cyber Security and the Move to the Cloud: The Practical and Legal Challenges of Securing and Controlling Data," ACC-SFBA CLE Lunch Seminars (July 2016)
- Panelist, "Cybersecurity: the new reality," San Francisco Regional Compliance & Ethics Conference (May 2016)
- Panelist, "Sleuthing: Investigation & Evidence Collection in a Cyber World," HB Litigation Conference (February 2016)
- Speaker, "Practical Tips from 2015 Data Breach Litigation Decisions and Enforcement Actions," ACC-SFBA CLE Lunch Seminars (January 2016)
- Panelist, "Protecting Information Assets in the Face of More Vexing Cyber Attacks," 12th Annual Stanford E-Commerce Best Practices Conference, Stanford, CA (June 2015)
- Speaker, "Best Practices in Dealing with Post Cyber Attack Litigation Risk in 2015," Knowledge Congress Live Webcast Series (June 2015)
- Panelist, "Data Security: Are There (Legal) Solutions?," 4th Annual BCLT Privacy Law Forum: Silicon Valley (March 2015)
- Speaker, "The Internet of Things and United States Data Handling and Protection Laws: Risk & Opportunity in Big Data," Ropes & Gray Tokyo Morning Briefing Teleconference (February 2015)
- Speaker, "Sensitive Data & the Business Judgment Rule," ACC-SFBA CLE Lunch Seminars (February 2015)
- Speaker, "Medical and Lifestyle Devices and Apps: Who Says You Can't Collect That Data?" IAPP Global Privacy Summit, Washington DC (March 2014)

- Speaker, “When it Happens to You: How to Navigate a Payment Card Breach,” West Coast Lunchtime Legal Briefing Teleconference (February 2014)
- Speaker, “By Design – Why Smart App Developers Don’t Wait Until Launch Before Thinking About IP and Data Privacy Matters,” West Coast Lunchtime Legal Briefing Teleconference (September 2012)