



### Amanda Fitzsimmons CIPP/US

**Partner**  
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Amanda Fitzsimmons provides legal and strategic advice to domestic and multinational clients, both publicly and privately held, in a broad range of industries, including technology, healthcare, pharmaceutical, apparel, and consumer products regarding privacy, cybersecurity, antitrust and competition, and class action issues.

Amanda has more than a decade of experience defending clients targeted by litigation and government investigations stemming from major privacy and cybersecurity incidents and allegations of anticompetitive conduct. Amanda brings her litigation expertise to bear to advise companies involved in some of the highest-profile data security incidents or who seek advice on compliance with federal and state antitrust laws.

Amanda is a frequent writer and speaker on developments in data privacy and cybersecurity litigation, state privacy and data breach notification laws, including the California Consumer Privacy Act (CCPA), best practices in incident response, and regulations and litigation risks associated with drones.

In 2015, Amanda became a Certified Information Privacy Professional (CIPP/US) by the International Association of Privacy Professionals.

## EXPERIENCE

### REPRESENTATIVE ENGAGEMENTS

#### *DATA PRIVACY ENGAGEMENTS*

- Currently defending Fortune 10 consumer electronics company in putative class action pending in the United States District Court for the Northern District of California involving allegations that the company improperly allowed application developer to collect geolocation data from users without their permission
- Represented international telecommunications company in connection with an investigation conducted by the Federal Trade

### RELATED SERVICES

- Litigation, Arbitration and Investigations
- Product Liability, Mass Torts and Product Stewardship
- Antitrust and Competition
- Intellectual Property and Technology
- Cybersecurity
- Class Actions

### RELATED SECTORS

- Technology
- Healthcare

Commission arising out of allegations that the company misrepresented its certification under the E.U.-U.S. and Swiss-U.S. Privacy Shield Frameworks

- Successfully dissuaded well-known plaintiffs' firm from filing complaints against gaming app developer and mobile ad service provider based on allegations that their business practices violated the Children's Online Privacy Protection Act (COPPA), 15 U.S.C. §§ 6501-6506
- *In Re: Midland Credit Management, Inc., Telephone Consumer Protection Act Litigation*. Currently defending major debt collection company in multi-district litigation pending in the United States District Court, Southern District of California, against claims arising out of the Telephone Consumer Protection Act (TCPA)
- *Ronquillo-Griffin et al. v. TransUnion Rental Screening Solutions, Inc. et al.* Represented call center services provider in class action pending in United States District Court, Southern District of California alleging violations of the California Invasion of Privacy Act, Cal. Penal Code § 630 et seq. and Invasion of Privacy
- *Wuest v. Guitar Center, Inc. et al.* Represented national retailer in class action pending in the Superior Court of California, Sacramento County, alleging violations of the California Invasion of Privacy Act, Cal. Penal Code § 630 et seq.
- Successfully litigated writ of mandate proceeding against California Attorney General under California Public Records Act (CPRA), leading to compelled disclosure of documents improperly withheld by the office of the California Attorney General
- Ongoing advice to numerous companies regarding litigation and class action risk under the California Consumer Privacy Act (CCPA)

#### CYBERSECURITY ENGAGEMENTS

- Currently defending a global airline in a putative nationwide class action in the United States District Court for the Eastern District of New York asserting violations of New York consumer protection statutes and common law claims relating to criminal cyber attack on the company's systems
- Currently representing nation state and foreign diplomat in multiple federal court actions relating to alleged international cyber hacking incident
- Led internal investigation and incident response efforts on behalf of leading provider of physician peer review and related services arising out of data security incident implicating the Health Insurance Portability and Accountability Act (HIPAA) and all state data breach notification laws
- *In Re Sony Gaming Networks and Customer Data Security Breach Litigation*. Represented various Sony entities in Multi-District Litigation pending in the United States District Court, Southern District of California arising from the recent criminal cyber-attacks on certain of Sony's computer networks. The breach was, at the time, one of the largest recorded data security breaches, affecting more than 77 million users
- Representation of national and global companies in incident response, internal investigations following actual and alleged security incidents involving theft of corporate sensitive information and consumer information (including financial records, payment cards, SSNs, access credentials and other PII)
- Provided assessment of cybersecurity risks to national association of health plans with recommendations on cybersecurity protocols for association and member plans to implement

#### ANTITRUST AND COMPETITION MATTERS

- *Aya Healthcare et al. v. AMN Healthcare et al.* Ongoing defense of a leading provider of healthcare workforce solutions and staffing services to healthcare facilities across the nation, in a suit brought in the United States District Court for the Southern District of California by a local competitor, who asserts claims under federal and state antitrust lawS
- *Oracle America, Inc. v. Myriad Group AG*. Represented Oracle America, Inc. in licensing dispute involving breach of contract, trademark, copyright and unfair competition claims, including breach of purported FRAND obligations, pending in two district courts and in a London arbitration before an arbitrator appointed by the American Arbitration Association's International Centre for Dispute Resolution
- Represented client in case alleging vertical and horizontal antitrust conspiracy by union and hospital to eliminate or weaken non-union hospital competitor filed in the United States District Court for the Southern District of California
- *SMRT LLC v. ResMed Corp.* Represented ResMed Corp. in case involving allegations of retail price maintenance and group boycott in violation of California's Cartwright Act and Unfair Competition Law

- Advised major medical device manufacturer regarding minimum internet resale price and minimum advertised price policies
- Advised major manufacturer of sporting goods regarding minimum internet resale price and minimum advertised price policies
- Advised beverage maker regarding minimum and maximum resale price policies
- Advised land developer of various rights under state and federal antitrust laws against adjacent landowner engaging in anti-competitive conduct

## CREDENTIALS

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### Admissions

- California

### Clerk Experience

Prior to joining DLA Piper, Amanda clerked for the Honorable Michael M. Anello at the United States District Court, Southern District of California.

### Prior Experience

During law school, Amanda served as an extern for the Honorable William Q. Hayes at the Southern District of California. Amanda also clerked for the Civil Division of the United States Attorney's Office, Southern District of California and an administrative law judge in the Federal Hearings Unit of the Equal Employment Opportunity Commission.

### Education

- J.D., University of San Diego School of Law  
*cum laude*  
Lead Articles Editor, *San Diego Law Review*
- B.A., Journalism, San Diego State University  
*cum laude*

### Memberships

- Federal Bar Association, San Diego Chapter (past Treasurer, Member)
- Lawyer's Club of San Diego (Member, 2008-current)
- Association of Business Trial Lawyers, San Diego Chapter (Member, 2010-current)
- American Bar Association (Member, 2010-current)
- Lawyer Representative for the United States District Court, Southern District of California (2015-2018)
- International Association of Privacy Professionals (Member, 2014-current)

## INSIGHTS

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### Publications

#### **Ninth Circuit finds Article III standing in case alleging Facebook violated the Illinois Biometric Information Privacy Act**

9 Aug 2019

The Ninth Circuit will likely continue to be a hotbed of privacy litigation for years to come.

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## **DC Circuit's ruling in OPM data breach case deepens circuit split on Article III standing**

10 July 2019

The court finds a heightened risk of identity theft alone can provide data breach litigants with standing.

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## ***District of Columbia v. Facebook*: General Consumer Protection Statute can serve as vehicle for state attorney general seeking redress for data privacy violations**

12 June 2019

This case should be carefully examined by entities that collect data for a number of reasons.

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## **Supreme Court requires explicit consent to arbitrate claims on classwide basis**

25 APR 2019

Another significant decision by the high court limiting the ability of plaintiffs bound by arbitration agreements to pursue their claims on a classwide basis.

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## **CCPA: risk of class actions makes early preparation imperative**

21 DEC 2018

Failure to address risk mitigation now could lead to significant liability if a company is breached following the CCPA's January 1, 2020 effective date.

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## **Ninth Circuit concludes threat of future harm is sufficient for Article III standing, joins Sixth, Seventh and DC Circuits**

21 MAR 2018

However, all is not lost for companies facing class actions following a data breach.

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## **Federal court finds that federal law preempts local drone ordinance**

26 SEP 2017

The decision may persuade other cities and states to think twice before enacting UAS laws that go beyond those already promulgated by the FAA.

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- Ninth Circuit finds Article III standing in case alleging Facebook violated the Illinois Biometric Information Privacy Act, 9 August 2019
  - DC Circuit's ruling in OPM data breach case deepens circuit split on Article III standing, 10 July 2019
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- *District of Columbia v. Facebook*: General Consumer Protection Statute can serve as vehicle for state attorney general seeking redress for data privacy violations, 12 June 2019
- Supreme Court requires explicit consent to arbitrate claims on classwide basis, 25 Apr 2019
- CCPA: risk of class actions makes early preparation imperative, 21 Dec 2018
- Ninth Circuit concludes threat of future harm is sufficient for Article III standing, joins Sixth, Seventh and DC Circuits, 21 Mar 2018
- Federal court finds that federal law preempts local drone ordinance, 26 Sep 2017
- US lawmakers introduce bill to address cybersecurity flaws in the Internet of Things, 4 Aug 2017
- Co-author, "COPPA: The Latest Chapter in Consumer Class Actions," *Law360*, November 29, 2017
- Author, "FAA \$200K settlement with UAS operator: before you take flight, do you know the rules?," *Thomson West's Cyberspace Lawyer*
- Co-author, "What Companies Need to Know about Current and Proposed Drone Laws," *American Bar Association*, May 23, 2016
- Co-author, "Drones in California: The Laws, The Proposal," *Law360*, March 8, 2016
- Co-author, Seventh Circuit: victims of data breaches have Article III standing to litigate class action lawsuits, *DLA Piper Client Alert*, July 23 2015
- Author, "National Security or Unnecessary Secrecy? Restricting Exemption 1 to Prohibit Reclassification of Information Already in the Public Domain," 4 ISJLP 479 (2008)

## Events

- Speaker, "Privacy Incident Response Operationalization in a GDPR World," International Association of Privacy Professionals KnowledgeNet, San Francisco Bay Area Chapter, January 28, 2019
- Podcast Presented, "Data Breach Class Action Cases," ABA's Section of Litigation's Sound Advice, January 2016
- Speaker, "Certifying A Data Breach Case," HarrisMartin's Data Breach Litigation Conference: The Coming of Age, San Diego, Calif., March 25, 2015
- Speaker, "Data Protection – Risk Assessment and Mitigation Strategies," Association of Corporate Counsel – San Diego Chapter, March 12, 2015

## NEWS

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### DLA Piper announces partnership promotions for 2019

1 APR 2019

DLA Piper is proud to announce that 77 lawyers have been promoted to its partnership. The promotions are effective as of April 1, 2019 in the United States and May 1, 2019 for EMEA and Asia Pacific. The promotions were made across many of the firm's practice areas in 43 different offices throughout 20 countries.

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## PRO BONO

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- Representation of veterans in applications to receive Combat Related Special Compensation