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TOP CYBER LAWYERS 2020

Kristin A. Linsley

Linsley has extensive experience defending clients against claims involving data privacy, cybersecurity and technology. Recent cases for clients Salesforce.com Inc., Facebook Inc. and Amazon.com concerned allegations over human trafficking, terrorism and Covid-19.

“It’s been an interesting set of cases with a lot of buzz around them,” Linsley said.

She leads the Gibson Dunn team representing Salesforce in claims brought by alleged human trafficking victims seeking to impose liability on the software company over its customer relationship management software as used by an affiliate of the classified advertising website backpage.com. The theory was that Backpage used the software tools to expand its customer base and market to new customers, with the result that Backpage increased its trafficking business. *Does #1 through #90 Sex Trafficking Survivors v. Salesforce.com Inc.*, CGC-19-574770 (S.F. Super. Ct., filed March 25, 2019).

In October 2019, San Francisco County Superior Court Judge Ethan P. Schulman dismissed all the claims in the 90-plaintiff case with prejudice, agreeing with Linsley that the claims were barred by section 230 of the Communications Decency Act because the plaintiffs were seeking to hold Salesforce liable for third-party content posted by others.

The plaintiffs sought to apply a 2018 exception to the CDA known as FOSTA,

the Fight Online Sex Trafficking Act, but Schulman held that it does not apply to state law claims, Linsley said.

“Bottom line: you can’t sue the messenger,” she added.

Linsley leads a Gibson Dunn team representing Amazon in cases arising from allegations that sellers have engaged in price-gouging for consumer products during the Covid-19 pandemic. In one case involving egg prices, the plaintiffs have dropped Amazon from the list of defendants. In another, she is pursuing motions to compel individual arbitrations.

She represents Facebook in nearly a dozen federal cases arising from the 2016 Paris ISIS attack, the 2016 Orlando, Fla., Pulse nightclub shooting, the 2016 shooting of Dallas, Tex., police officers and other terrorist attacks worldwide. The complaints alleged that Facebook and other social media sites failed to monitor their content or institute controls to prevent postings by terrorist groups or sympathizers and that the groups were strengthened by their access to global media platforms. The suits also name Twitter Inc. and Google LLC.

To date, courts have dismissed the complaints. Her successful defense argument has been that offering a neutral platform to connect people and allow them to share information does not constitute “material support” for terrorists and that, again, section 230 of the Communications Decency Act shields her client from liability. One suit that ended with dismissal was



GIBSON, DUNN & CRUTCHER LLP SAN FRANCISCO

Practice: Litigation Specialties:
Cybersecurity; privacy, appellate
law, transnational litigation

Palmucci v. Twitter Inc., Google LLC and Facebook Inc., 4:18-cv-03947 (N.D. Cal., filed Feb. 14, 2018).

“All the defendants have policies against such posts,” Linsley said. “The chain of causation is very attenuated.”

— John Roemer