

## Bethany Lobo

### Of Counsel



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San Francisco

Cyber/Data/Privacy  
Internet and Social Media  
Ecommerce + Marketplace  
Class Action Litigation  
Virtual Reality/Augmented Reality  
Commercial Litigation  
CooleyREG

Bethany's practice centers on defending companies facing artificial intelligence (AI), wiretapping, data scraping, biometrics, data breach and cybersecurity disputes, whether presented as consumer class actions, mass arbitrations or complex commercial (business-to-business) disputes. She has successfully litigated for prominent companies, including OpenAI, Coinbase, Zoom, Meta, Oculus, eBay, Niantic, Turo, Snap, Verra Mobility and King.com.

In addition to her litigation practice, Bethany is experienced in counseling social media and other technology companies on a diverse array of cyber, data and privacy issues, including data scraping, wiretapping (e.g., session replay, chatbot, pixel, and trap and trace issues), biometrics, incident response, and enforcement of online terms of service. She also serves on Cooley's AI task force.

In 2022, Bethany and the Cooley team received The American Lawyer's recognition as a Litigator of the Week Runner-Up for establishing on appeal, in a case of first impression, that Turo – a peer-to-peer car-sharing marketplace – is not a "rental car company" under California law. The case has broader importance for other online platforms and "sharing economy" companies that enable or facilitate users' transactions and might otherwise be subject to inappropriate fees, regulations and liability risks.

In 2024, Bethany and the Cooley team again received The American Lawyer's recognition as a Litigator of the Week Runner-Up on two occasions. First, they were recognized for obtaining a dismissal of a consumer class action alleging Racketeer Influenced and Corrupt Organizations Act (RICO) and tort violations based on the hack of a cryptocurrency transmission bridge after a routine code update introduced a vulnerability into the system – because the underlying theory of liability would have improperly reached cryptographic keyholders and investors in the company offering the transmission bridge. Second, they were recognized for winning the dismissal of a wide-ranging class action against OpenAI, claiming that the company violated the privacy and property rights of internet users when training its large language models, including ChatGPT – because the plaintiffs' novel theory would have led to the result that overreaching privacy and property claims attach to public information that individuals have voluntarily posted online.

Bethany is active in the San Francisco Bay Area legal community, where she has served on the privacy law committee of the California Lawyers Association, on the boards of the South Asian Bar Association of Northern California (SABA-NC) and the American Constitution Society's Bay Area Legal Chapter, and as co-chair of the judicial endorsements committee for SABA-NC. She also maintains an active pro bono practice focused on asylum and immigration law.

Outside of work, Bethany is an animal rescuer who specializes in rescuing Siberian huskies and Alaskan malamutes from high-kill shelters in California, Oklahoma and Texas.

**Bethany's representative experience includes:**

### *Artificial intelligence*

- Defended OpenAI, a technology company at the forefront of the burgeoning AI industry, in a landmark privacy class action alleging more than 10 causes of action dealing with legacy statutes and common law claims applied to novel generative AI technology. Obtained complete dismissal of all claims following pleading-stage motion practice
- Represented an AI technology developer in a prelitigation dispute in which the claimant challenged the developer's alleged scraping of data on the claimant's platform to train the developer's generative AI models

### *Data tracking*

- Currently defending AARP in a consumer class action alleging improper disclosure of information to Meta about website users' viewing of video content, by way of the Meta Pixel code installed on the AARP website, in violation of the Video Privacy Protection Act and state unfair competition and deceptive trade practices statutes
- Currently defending multiple companies in arbitrations under the California Invasion of Privacy Act (CIPA), based on their use of chatbot or Meta Pixel technology
- Defended a company in a class action alleging CIPA violations due to integration of third-party chatbot functionality on the company's website, followed by allegedly improper transfers of users' personal information and communications to that third party
- Represented an online custom printing company against a prospective plaintiff threatening a class action alleging that the company's use of a TikTok-developed web beacon, or tracking pixel, on its website violated CIPA's prohibition on installation of a "trap and trace" device without first obtaining a court order or user consent

### *Biometrics*

- Currently defending a short-term rental company in a class action under the Illinois Biometric Information Privacy Act (BIPA), alleging improper use of facial recognition technology without user consent
- Defended a leading videoconferencing platform in a mass arbitration with 40,000+ claimants alleging BIPA violations
- Defended an identity verification platform in a consumer class action under BIPA alleging improper use of facial recognition technology without user consent

### *Other privacy and data security disputes*

- Currently defending two companies in litigation under New Jersey's Daniel's Law, a statute requiring prompt deletion or suppression of certain personal information of enumerated categories of public servants that the legislature has deemed to be at heightened risk of violence
- Defended an investor in a company offering cryptocurrency transmission bridge in a consumer class action alleging RICO and tort violations based on the hack of that bridge by third-party threat actors, and obtained complete dismissal of all claims against client following pleading-stage briefing
- Defending eBay in a class action arising from a breach of eBay's systems, which resulted in the theft of millions of eBay users' names, encrypted passwords, email addresses, physical addresses, phone numbers and dates of birth, and obtained complete dismissal of all claims following pleading-stage motion practice

### *Complex commercial litigation*

- Represented Turo, an online platform for peer-to-peer car-sharing, in multiple cases against government

entities that operate airports in San Francisco, Los Angeles, Tampa, Boston, Nashville and Dallas/Fort Worth; with each airport claiming that without a rental car company permit, Turo users' car-sharing activities constituted a violation of airport regulations, trespass, and/or unfair competition laws; these cases also presented issues of immunity under Section 230 of the Communications Decency Act, and various federal and state constitutional defenses and counterclaims based on unequal treatment of various business entities

#### *Other*

- Served as a prosecutor in the San Francisco District Attorney's Office as part of a firm-sponsored program, obtaining jury verdicts for the prosecution in each of three assigned trials

#### **Publications**

- Co-author, "[Washington State's My Health My Data Act FAQ, Part Three – Enforcement Risks](#)," Cooley cyber/data/privacy insights, April 2, 2024
- Co-author, "[Inundated With Requests Under New Jersey's Daniel's Law?](#)" Cooley alert, February 12, 2024
- Co-author, "[California Supreme Court Boosts Policyholders Seeking Coverage for Privacy Class Actions](#)," Cooley alert, January 4, 2023
- Co-author, "[California Supreme Court Boosts Policyholders Seeking Coverage for Privacy Class Actions](#)," cyber/data/privacy insights, January 6, 2023
- Co-author, "[Second Circuit Rules Individuals Have Standing to Sue for 'Increased Risk' of Identity Theft](#)," Cooley alert, April 30, 2021
- Co-author, "[California Voters Pass the California Privacy Rights Act of 2020](#)," Cooley cyber/data/privacy insights, November 4, 2020
- Co-author, "[LinkedIn Data Scraping Case Shows 9th Circ. Shift on CFAA](#)," Cooley cyber/data/privacy insights, November 5, 2019
- Co-author, "[Nevada Privacy Law Gives Consumers Right to Opt Out of Sale of Personal Information, Following California's Lead in CCPA](#)," Cooley cyber/data/privacy insights, June 12, 2019

#### **Speaking engagements**

- Speaker, "AI Talks Series: AI + Cyber/Data/Privacy," Cooley webinar, November 8, 2023
- Speaker, "Generative AI: Overview of Legal and Practical IP Considerations," National Association of Women Lawyers 2023 General Counsel Institute, November 8 – 10, 2023
- Speaker, "AI & Privacy: Training and Use of Generative AI Tools," 2023 TechGC AI Conference – Navigating the AI Frontier: Law at the Crossroads of Innovation, October 5 – 6, 2023
- Speaker, "Privacy Talks Series: Trends in Biometrics Legislation, Regulation and Litigation," Cooley webinar, February 16, 2023
- Panelist, "Top Things You Should Know About AI, Biometrics and Privacy," 2022 Association of Corporate Counsel New York City Technology Summit, July 13, 2022
- Panelist, "Biometrics: Litigation, Legislative and Regulatory Trends in 2022," LexisNexis webinar, June 29, 2022
- Panelist, Cooley's 2022 Fintech Forum, June 7, 2022
- Panelist, "Preparing for Litigation in the Era of COVID-19," Cooley webinar, July 9, 2020
- Panelist, "CCPA Litigation Is Here – Are You Ready?" Cooley webinar, June 30, 2020

- Panelist, "Creating Data-Powered Products and Services in the Age of Privacy," Cooley event, June 5, 2019

## Education

University of Cambridge

LLM high honors, 2011

Harvard Law School

JD cum laude, 2006

The College of William & Mary

BS summa cum laude, 2003

## Admissions & Credentials

California

District of Columbia

New York

## Court Admissions

US Supreme Court

US District Court for the Central District of California

US District Court for the Eastern District of California

US District Court for the Northern District of California

US District Court for the Southern District of California

US Court of Appeals for the Ninth Circuit

## Rankings & Accolades

Law360: Privacy Practice of the Year