

# Guarding the Gates: Cybersecurity and Privacy Strategies for Alberta Municipalities



A Presentation to the Alberta Municipalities  
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Lindsay Nilsson  
Mercy Iannicello



**Lindsay Nilsson**

**National Co-Chair –  
Municipal Defence  
Practice Group**



**Mercy Iannicello**

**National Co-Chair –  
Cyber and Liability  
Practice Group**

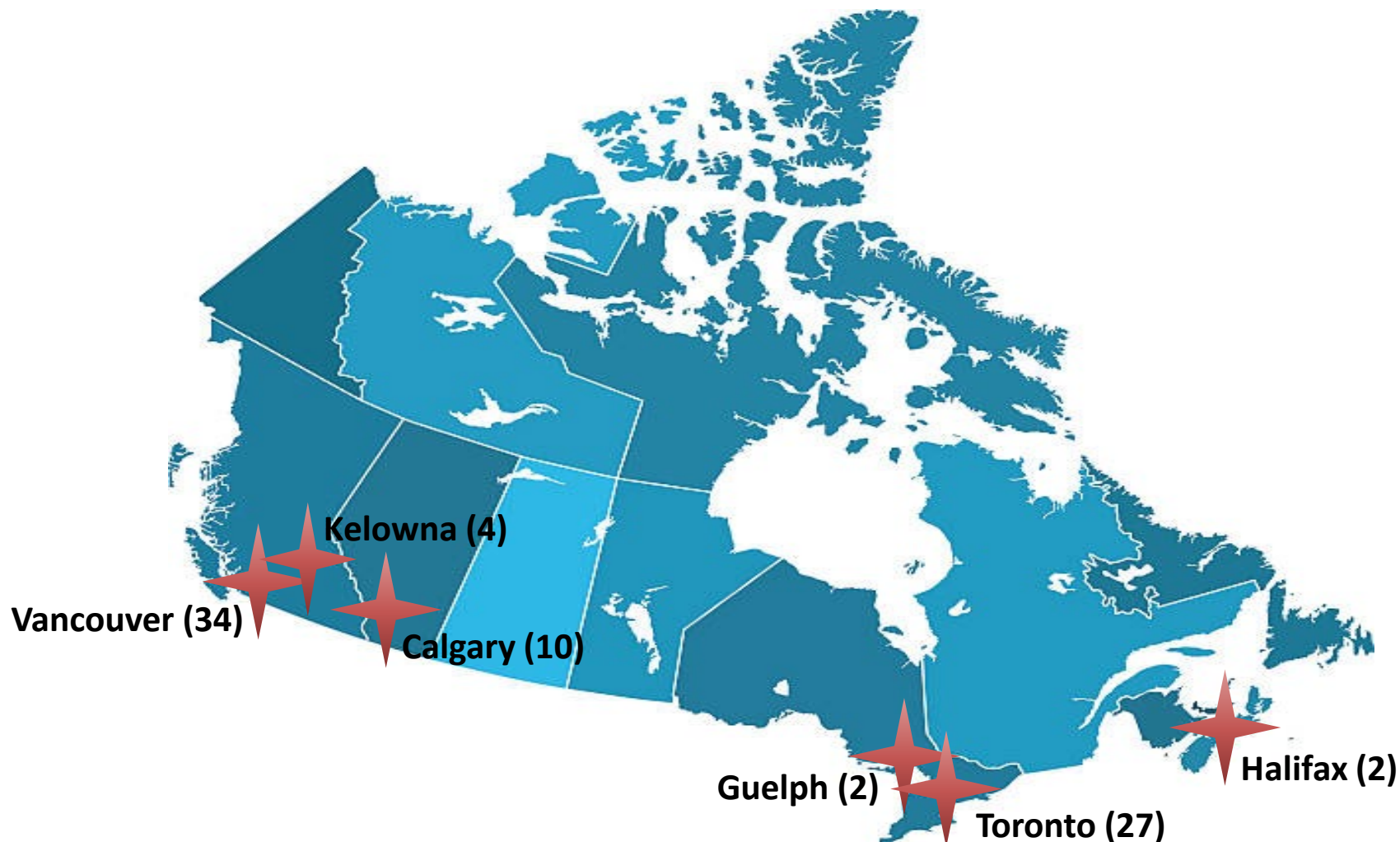
**Canada's Specialty Insurance Law Firm**

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**MONTREAL**

## Where Are We?



## Dolden's Municipal Team

- 24 lawyers across all offices in Canada
- Coverage and defence services for local governments and their insurers
- Municipal legal advice hotline
- Risk management seminars
- Class action defence expertise
- Public entity cyber breach services

## Dolden's Cyber Team

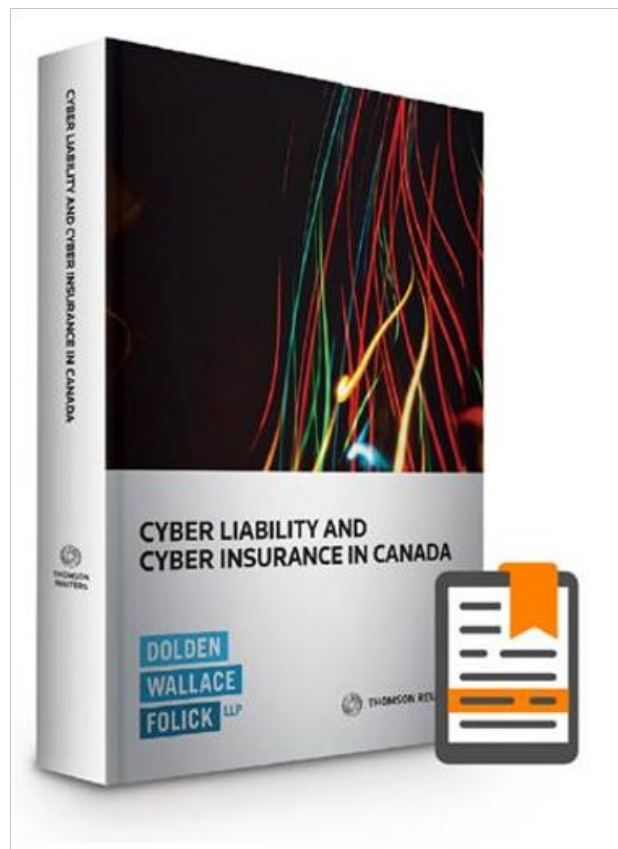


- 11 cyber lawyers, including 1 licensed to practice in Québec
- Act as breach coach on a variety of claims across Canada, including ransomware, business email compromise, social engineering, theft, etc.
- Report and negotiate with federal and provincial regulators
- Defend cyber class actions
- Designated Net Diligence Authorized Breach Coach®
- Authored the very first Canadian cyber textbook providing comprehensive review of cyber liability and insurance



# Dolden

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[miannicello@dolden.com](mailto:miannicello@dolden.com)

## Agenda

### 1. Cyber/Privacy Breach

- Governing Legislation for Manitoba Municipalities
- Duties/Obligation
- Common Cyber and Privacy Risks

### 2. Privacy Impact Assessments

### 3. Recent Canadian Cyber/Privacy Class Actions

- Trends from the Courts
- The Rise of Artificial Intelligence

### 4. Ransomware Case Study and Risk Management Tips

# Cyber/Privacy Breach



## What is a Cyber/Privacy Breach?

- When personal information is collected, retained, used or disclosed in a way that is not in accordance with legislation.
- What is personal information?



## Freedom of Information and Protection of Privacy Act (“FIPPA”)

- Regulates how municipalities collect, use, and disclose personal information.
- Provides individuals with the right to access their personal information.
- Covers all written records in the custody or under the control of the municipality, including minutes, agendas, letters, memos, reports, and notes.

## Freedom of Information and Protection of Privacy Act (“FIPPA”)

- Does Not Take Precedence Over:
  - *The Adoption Act*
  - *The Child and Family Services Act*
  - *The Mental Health Act*
  - *The Securities Act*
  - *The Statistics Act*
  - *The Vital Statistics Act*
  - *The Workers Compensation Act*
  - *The Youth Criminal Justice Act*

## Personal Health Information Act ("PHIA")

- Governs the collection, use, and disclosure of personal health information.
- Personal health information is information that can be linked to a specific person and relates to:
  - *the individual's health or health care history, including genetic information;*
  - *the provision of health care to that individual; and,*
  - *payment for health care provided to that individual.*



## Breach Notification Requirement

- **When:** if there is a “real risk of significant harm” (low hurdle)
- **How:** direct → mail/email/phone OR indirect
- **How Soon:** as soon as feasible
- **To Whom:**
  - *Privacy Commissioner(s)*
  - *Affected Individuals*
  - *Authorities/Organizations*
  - *Professional/Regulatory bodies*



## Common Cyber and Privacy Risks

- Employee Misconduct & Error
- Business Email Compromise
- Wire Fraud & Social Engineering Fraud
- Ransomware



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# Privacy Impact Assessments for Municipalities

## Privacy Impact Assessments

- **Purpose:** PIAs determine if new technologies, information systems, and initiatives or proposed programs/policies comply with privacy legislation/requirements.
- **Goal:** Manage privacy risk by identifying potential privacy risks and ensuring there are measures in place to mitigate the risk.



## Privacy Impact Assessments

- Municipalities are required to conduct PIAs when...
  - *designing a new program or service*
  - *changing a program or service*
  - *changing the collection, use or disclosure of personal information*
  - *changing business systems or infrastructure architecture that affect the physical or logical separation of personal information or the security mechanisms used to manage and control access to personal information*
  - *anticipating that the public may have privacy concerns regarding a new or modified program or service*

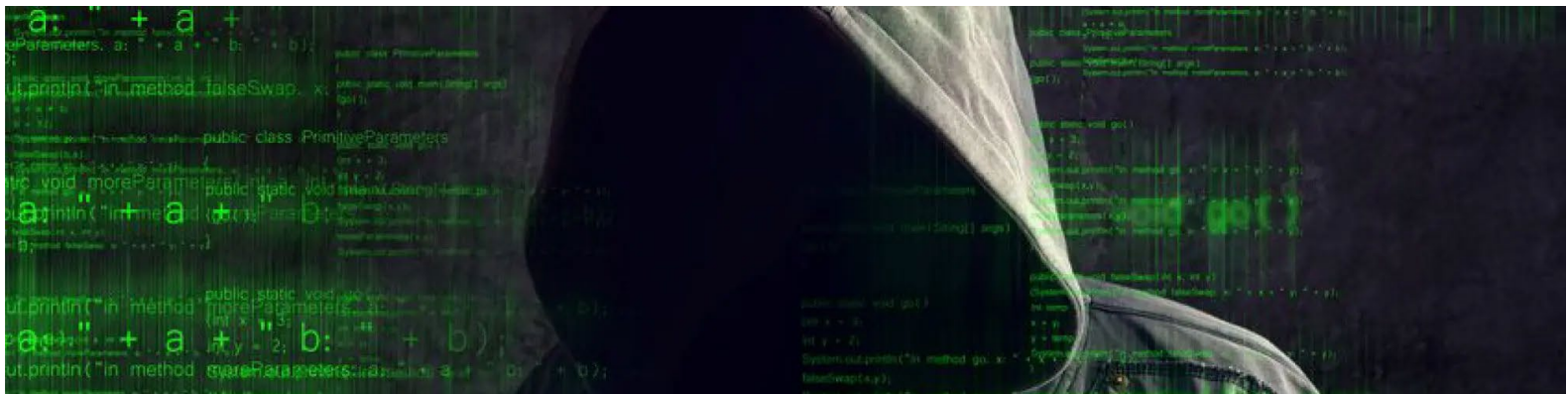
# Recent Canadian Cyber/Privacy Class Actions

## Class Actions: Trends

- Number of cases each year is increasing
- Bifurcation: harm based torts vs negligence re: proof of harm
- Settlement values are increasing

## *Boulay et al v. Federation des Caisses Desjardins 2022 - Quebec*

- Employee exfiltrated information and sold on dark web
- Settled for \$200,852,500
- Credit monitoring for 5 years





# **A Canadian First: A Merits Decision in a Privacy Class Action**

## *Lamoureux v. OCRCVM* Quebec CA – 2022

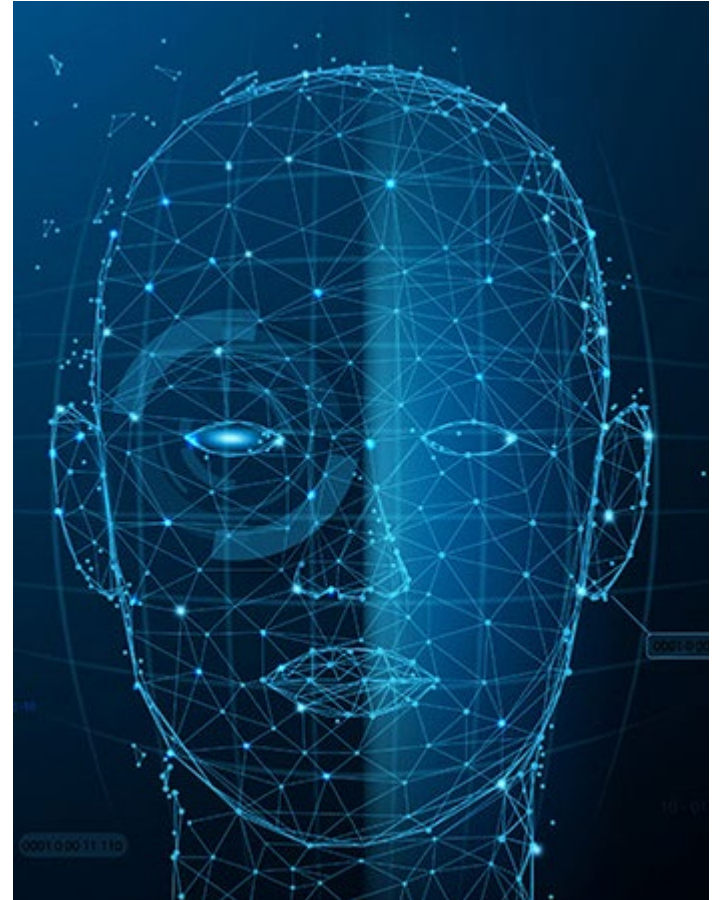
- Claim against IIROC inspector who oversees investment dealers
- Unencrypted laptop left on a train and was stolen
- Contained PII: names, address, date of birth, name of broker, account #; banking info
- Laptop never found
- After loss breach notice given to affected parties and voluntary offer of one year of credit monitoring

## *Lamoureux v. OCRCVM* Quebec CA – 2022

- Action dismissed following common issues trial (ie certified and goes to trial on the merits)
- Reason:
  - No damages incurred by class members beyond ordinary inconveniences of life – no evidence of psychological harm
  - No evidence of improper use of data
  - Monitoring of financial accounts is not compensable damage
  - What would allow for damages is either:
    - Psychological harm across the class
    - Setting up credit monitoring, obtaining credit reports and cancelling credit cards

## The Rise of AI

- Biometric data
- Facial Recognition Technology
- *Sitamarong v. Google*
  - Upload of photos to Google
  - Lack of adequate disclosure and consent
  - Appeal allowed



## SPOTLIGHT: Ransomware Case Study



## Facts:

Company X, with an annual revenue of \$25 million, discovers their entire computer systems, including all servers, have had malware installed. Company X cannot get back into its systems, and company operations have come to a halt.

The well-known group, Blackcat, leaves behind a ransom note telling Company X that Blackcat has accessed their network and exfiltrated sensitive data related to their employees, vendors and customers. Blackcat makes a demand for \$5 million. Payment is required within 48 hours, or Blackcat has threatened to publish the data on their leak site.



## What now?!

- Report the Breach
- Get Breach Coach involved immediately
  - Investigate the circumstances around the breach
  - Coordinate Response

## FORENSICS: The What? When? and How?

- Scoping Call
- Ransom Negotiation
- Containment
- Investigation
- Restoration

## Notification

### Notification and Negotiation:

- Legal and regulatory compliance, law enforcement, public/client relations
  - Privacy Commissioner(s)
  - Law Enforcement
  - Affected individuals, clients and business partners

## Costs and Ransomware Considerations

Average costs to respond to “modest” cyber incident:  
**\$150k-\$200k**

Forensic Investigation:	\$50,000-\$150,000
Threat Negotiation:	\$8,500
Notification Expenses	\$5,000-\$10,000
Credit Monitoring & ID Theft Expenses:	\$10 per person
Crisis Management/PR	\$10,000
Breach coach/legal	\$20,000-\$30,000

Any BI loss?

Repair/Restoration/Replacement Costs?

## Risk Management Tips

- Pre-Breach Preparedness Plan
  - *Train Employees and Staff*
  - *Encrypt and Back Up Critical Data*
  - *Manage your Vendors*
  - *Have a Data Protection and Destruction Policy*
  - *Consider Cyber Insurance*
- Breach Counsel
  - *Crisis Management + Coordinate Response + Notification and Negotiation*
- Incident Response Plan
- Updated/Backed up IT Systems



## Questions?

