

BLG'S CLIENT SUCCESS REPORT

AN OVERVIEW OF
RECENT LITIGATION WINS

BLG
Borden Ladner Gervais



EDITOR'S NOTE

We are excited to share this diverse selection of client success stories from our recent litigation case files. This report includes a wide assortment of high profile, bet-the-company, class actions, pro-bono and specialized litigation matters, and highlights the broad range and diverse skills our litigators use in protecting the rights and interests of their clients, no matter what is at stake.

The successful outcomes we have achieved for our clients reflect our standing as a front runner in Canadian litigation. While winning isn't everything, and a well-negotiated settlement can often be the fastest and most effective way to resolve a dispute, our team helps clients understand their options and make empowered decisions. As disputes become more nuanced, our lawyers are trained to focus on the details that matter and help our clients determine the right litigation strategy.

While there are many litigation firms, the BLG difference is our national client-centred approach and commitment to selecting the best team for each matter, combining the best legal talent with a purposeful understanding of our clients' priorities, budgets and ultimate goals, as well as in-depth understanding of the industries and environments in which they operate.

With 725 lawyers, patent and trademark agents, and other professionals in five offices across Canada, BLG provides business law, litigation and intellectual property solutions to a wide range of clients nationally and internationally in virtually every area of law. Even this partial sampling of our work underscores an expertise in many diverse areas of law including anti-piracy, aboriginal rights, government procurement procedures, energy law disputes, constitutional matters involving end-of-life and religious freedom rights, and tax.

We hope you enjoy this collection of some of our finest non-confidential client work, and we look forward to servicing your future litigation support needs.



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National Group Head,
Commercial Litigation



Cynthia (Cindy) Clarke
National Group Head,
Specialized Litigation

This publication is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP.

TABLE OF CONTENTS

03	Selected Notable Clients	22	Law Society Of Upper Canada
04	About BLG	23	Direct TV, Dish Network and Nagrastar
05	BLG's Commitment To Excellence and Innovation	24	The Guarantee Company of North America
05	Diversity & Pro Bono at BLG	25	Bell Mobility
06	BLG'S Representative Centres of Excellence	26	Eli Lilly Canada Inc.
08	Adobe Systems Incorporated	27	Ontario Hospitals
09	Pro Bono Spotlight – Aboriginal Rights	28	Intelliview Technologies Inc.
11	Montreal Gateway Terminals	29	Canadian National Railway Company of Canada
12	Directors And Officer's Liability Matter – Insured Client	30	K2wind Ontario Limited Partnership
13	Julie Snyder vs. Garda Corporation and John Doe	31	Ocean Choice International
14	Pro Bono Spotlight – Medical Assistance In Dying	33	Northland Power Inc.
15	The Bank Of Nova Scotia (Scotiabank)	34	York Regional Police Service and Toronto Police Service
16	Mcmaster Children's Hospital – Hamilton Health Sciences Corporation	35	Loblaw Companies Ltd.
17	Tangerine Bank	36	Investment Industry Regulatory Organization of Canada (IIROC)
19	Pro Bono Spotlight – Luka Magnotta Trial	37	Pro Bono Spotlight – Mental Trauma
20	Dolly Varden Silver Corporation	38	Litigation Overview – Our Recognized Areas Of Expertise
21	Altalink Management Ltd.		

SELECTED NOTABLE CLIENTS

AltaLink

Adobe Systems Inc.

Air Canada

Audi Canada Inc.

Bank of Canada

The Bank of Nova Scotia (Scotiabank)

Bell Canada

Bank of Montreal

Barclays

Boston Pizza International Inc.

British Airways

Canadian National Railway Company

CIBC World Markets Inc.

Chrysler (FCA Canada Inc.)

City of Toronto

Desjardins Insurance

EllisDon Corp.

Eli Lilly Canada Inc.

ENCON Group Inc.

Facebook Inc.

GlaxoSmithKline Inc.

General Motors Company

Google Inc.

The Hospital for Sick Children (SickKids)

Hudson's Bay Company

Kate Spade New York

Kia Canada Inc.

Loblaw Companies Ltd.

Louis Vuitton

Mazda Canada Inc.

Metrolinx

Ministry of the Attorney General

Montreal Gateway Terminals Partnership

Nestlé Canada Inc.

Nissan Canada Inc.

Northland Power Inc.

Porsche Cars North America

Region of York

Royal Bank of Canada

Samsung Electronics Canada Inc.

SNC-Lavalin

Staples Canada Inc.

State Farm

Sun Life Financial

Tangerine

TD Canada Trust

United Technologies Corporation Aerospace Systems

Volkswagen Group Canada Inc.

Whirlpool Corp.

Yamaha Motor Canada Ltd.

The bolded clients are featured in this publication.



ABOUT BLG

Borden Ladner Gervais LLP is recognized by clients, ranking agencies, courts and industry peers as one of Canada's leading dispute resolution firms, with a strong tradition of excellence in all manner of litigation and arbitration. Our litigators are amongst the most respected and successful in Canada and are routinely recognised for their skill and creativity in the most prestigious legal publications and rankings.

A recent independent survey of General Counsel and legal service decision makers from organizations with \$50m+ revenue, collectively spending ~\$1.2bn on legal services annually, concluded that:

BLG ranks First Choice among clients for "Bet-The-Company Litigation" © Acritas/Sharplegal

Our litigators are highly ranked in all of the leading national and international ranking publications including:

*The Canadian Legal
Lexpert® Directory*

*Lexpert®/American Lawyer
Guide to the Leading
500 Lawyers in Canada*

*The Best Lawyers
in Canada®*

Who's Who Legal Canada

*Chambers Global –
The World's Leading
Lawyers for Business*

*Benchmark Canada –
The Definitive Guide to
Canada's Leading Litigation
Firms & Attorneys*



BLG'S COMMITMENT TO EXCELLENCE AND INNOVATION

BLG is committed to providing clients with an opportunity to structure the fees for our professional services using alternatives to the billable hour.

- We were one of the first firms in Canada to introduce a significant, multi-year and performance based alternative fee arrangement which led to an award from the Association of Corporate Counsel (ACC).
- We continue to renew and evolve our alternative fee arrangements to place more emphasis on legal process management, responsiveness, predictable costs and results.
- We have shown how strong relationships between in-house counsel and law firms can lead to lower costs and successful legal outcomes.

In addition, we have invested in proprietary legal technology and e-discovery platforms which allow our team to provide sophisticated litigation support related to the collection, management, review and retention of many millions of documents at a fraction of the cost.

- We offer the complete spectrum of discovery services, from initial consultation, data collection, culling and document review, to the exchange of productions.
- We have been retained by several top tier companies to manage all discovery services in multi-year agreements.

BLG's commitment to client service standards includes continuously looking for ways to add value and to be responsive to our clients' demands for innovation and cost effective legal risk management.

- BLG was one of the first firms in Canada to develop service standards, and one of the few Canadian-based firms to be recognized for client service excellence (including being named in BTI's Client Service A-Team survey of law firm service performance).
- Through BLG's Service Standards, we offer a consistent firm-wide service experience – across offices, matter types and practices – working with any member of the BLG team.

DIVERSITY & PRO BONO AT BLG

Diversity and inclusion are key pillars of our talent strategy and BLG is a leader in gender diversity.

- 29% of BLG partners and 50% of BLG associates are women.
- BLG is a founding member of the Law Firm Diversity and Inclusion Network and a signatory to the Catalyst Accord.
- BLG was the first law firm in Canada to sign the International Arbitration equal representation pledge announced in the UK.
- BLG encourages each of its lawyers to engage in pro bono work, and has a formal pro bono policy that reflects the firm's commitment to help those in our communities who would otherwise be unable to obtain access to justice or legal services. In 2016, BLG received two awards from Pro Bono Ontario, recognizing our commitment to excellence in pro bono services.

Our dispute lawyers teach courses at leading Canadian law schools, and regularly speak at continuing legal education conferences and industry events as experts on dispute resolution topics.

AFA's – emphasis on legal process management, responsiveness, predictable costs and *results*.

eDiscovery – examples of efficiencies:

\$200,000 savings on external processing and hosting costs;

40% reduction in volume of documents for analysis, a 30% cost savings.

LPOs, TPFs, LEAN and Six-Sigma Legal Project Management in addition to leading Service Standards.

BLG'S REPRESENTATIVE CENTRES OF EXCELLENCE



VANCOUVER



CALGARY



AREAS OF EXPERTISE

- Aboriginal Rights and Title Litigation
- Construction
- Class Actions
- Environmental
- Energy and Resources
- Fraud and Investigations
- Franchise Disputes
- Health Law
- Intellectual Property
- International Trade
- Insolvency
- Insurance Tort and Product Liability
- International Arbitration
- Labour and Employment
- Public Law Litigation
- Regulatory
- Securities and Financial Institutions
- Securities Litigation
- Supreme Court and Appellate



TORONTO

- Health Law
- Construction
- Securities and Financial Institutions
- Public Law Litigation
- Insurance Tort and Product Liability
- Class Actions
- Supreme Court and Appellate

OTTAWA

- Supreme Court and Appellate
- International Trade
- Intellectual Property
- Construction
- Public Law Litigation

MONTREAL

- Fraud and Investigations
- Class Actions
- Securities Litigation
- Construction
- Health Law
- Securities and Financial Institutions

ADOBE SYSTEMS INCORPORATED

At Stake:

\$6.8
Million

BLG obtained a judgment awarding Adobe Systems Incorporated \$6.8 million¹ in damages against a network of software pirates who were illicitly selling Adobe's popular software. The Québec Superior Court also ordered a permanent injunction against any further sales of Adobe products. Prior to the monetary judgement, BLG successfully argued for an interlocutory injunction and a number of seizure orders which shut down the defendants' infringing activities.

The Court maintained the judgment despite the defendants' last minute attempts to hinder the proceedings. It then held that Adobe was entitled to damages of \$4.2 million for violations of trademarks and copyright, which the Court accepted as proven based on the company's financial records. The Québec Superior Court also recognized and enforced a contempt order from the U.S. District Court granting Adobe USD\$1.9 million.

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¹ Except where noted otherwise - all figures in CAD

PRO BONO SPOTLIGHT – ABORIGINAL RIGHTS



At Stake:

Principle- Focused Case

BLG secured a decisive win for First Nations' client, Ian Campeau (a member of the Indigenous rap group, A Tribe Called Red), in his legal fight at the Ontario Human Rights Tribunal with the Nepean Redskins Football Club over its name and logo.

Campeau, an Ojibwa family man, filed a complaint with the Human Rights Tribunal, with support from the Assembly of First Nations, after two years of requesting the Ottawa football team change its name due to its derogatory racial connotation.

The matter was settled successfully, with the Ottawa football club officially changing its name to the Nepean Eagles and curtailing the use of the offensive logo. This case highlights the importance of racial sensitivity and due respect to the First Peoples of Canada.



Qajaq Robinson

Lead counsel in the case, **Qajaq Robinson**, a Nunavut-born lawyer who practices civil litigation at BLG with an emphasis on aboriginal law, was subsequently appointed to the commission of a national inquiry into Canada's missing and murdered indigenous women. \$53.8 million has been provided to the commission for its work investigating systemic causes of violence against indigenous women and girls in Canada.

Under the *Inquiries Act*, the commissioners have the same powers as any court in a civil case to enforce the attendance of witnesses and compel them to give evidence. They can also examine all papers, documents, vouchers, records and books belonging to a public office or institution.

The professionals in BLG's Litigation Groups are consistently recognized by:

CHAMBERS GLOBAL – THE WORLD'S LEADING LAWYERS FOR BUSINESS

THE BEST LAWYERS IN CANADA®

THE LEXPERT®/AMERICAN LAWYER GUIDE TO THE LEADING 500 LAWYERS IN CANADA

THE CANADIAN LEGAL LEXPERT® DIRECTORY

BLG IS RANKED **BAND 1** FOR
HEALTH, CONSTRUCTION, LABOUR AND
EMPLOYMENT, NORTHERN CANADA
AND ARCTIC, INTERNATIONAL TRADE,
PUBLIC PROCUREMENT, TRANSPORTATION:
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THE LEGAL 500 CANADA
and recognized in the **TOP-TIER**



MONTREAL GATEWAY TERMINALS

At Stake:

Competing Rights and Obligations

After a lengthy and hard fought dispute, the Québec Superior Court dismissed a Motion for Declaratory Relief instituted by Sikh truck drivers against BLG's client, Montreal Gateway Terminals (MGT).

The plaintiffs, all observers of the Sikh religion, alleged that a mandatory health and safety policy implemented by MGT obliging all individuals entering its Port of Montreal terminal to wear a hard hat infringed on their religious and equality rights. They asked the Québec Superior Court to exempt them from the policy, thus allowing them to access MGT's terminal wearing only their turbans.

This case was novel and legally complex, as it involved the obligations of institutions to oversee the health and safety of individuals who are not their employees, but who nevertheless have access to their site; the penal and criminal sanctions faced by these institutions for failure to ensure the health and safety of those individuals; religious freedoms and equality rights, and the limitations thereto; as well as questions concerning the applicability of the *Canadian Charter of Rights and Freedoms*, the Québec *Charter of Human Rights and Freedoms* and the *Canadian Human Rights Act*.

Although Justice Prévost did find that the policy was *prima facie* discriminatory in regards to the plaintiffs, he nevertheless held that its adoption was fully justified. The policy was designed to comply with legal obligations, was adopted in good faith by MGT and was reasonably necessary for the work of the truck drivers concerned. Although MGT had attempted to accommodate the plaintiffs, no other alternative measure could enable them to perform their work in safe working conditions. For those reasons, the policy was completely justified.

From the standpoint of its impact on the right to freedom of religion enshrined in the Québec *Charter of Human Rights and Freedoms*, Justice Prévost held that the beneficial effects of MGT's policy outweighed whatever adverse effects it had on the plaintiffs' religious freedom. In consequence, although the plaintiffs had demonstrated that the policy did in fact infringe their religious liberty, such infringement was justified under the *Charter of Human Rights and Freedoms*.

This is a judgment of major importance for employers. It maintains that the obligation to care for the health and safety of all concerned, and not merely of one's employees, may be incompatible with the requirements of any one religion. The judgment does not, however, change the state of the law concerning the duty of accommodation. It does, nevertheless, remind us that the obligation of reasonable accommodation is one that requires the cooperation of each of the parties involved; in other words, that they must all be proactive in seeking alternative solutions.

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DIRECTORS AND OFFICER'S LIABILITY MATTER – INSURED CLIENT

At Stake:

**\$3.6
Million**

In *Andrews v. McHale*, BLG acted for the Insured under a Directors & Officers liability policy underwritten by ENCON Insurance. BLG successfully defended the insured against an aggressive litigant in a highly contentious copyright matter in the Federal Court, in which a number of unsubstantiated fraud allegations were levelled by a former employee regarding his contribution and authorship of software.

The ex-employee claimed that his involvement in the software - which included gathering and inputting data, assistance with customer implementation and providing suggestions for functional improvements based on user feedback - constituted authorship. He even went so far as to register copyright in the company's flagship software products with the Canadian Intellectual Property Office and then sued his former employer for copyright infringement.

In a lengthy and scathing decision, the judge dismissed all three of the plaintiff's preliminary motions, as well as the application on the merits, and provided a hefty costs award to BLG's client. The court found that none of the plaintiff's contributions amounted to authorship for the purposes of copyright and in fact that a software programmer engaged by the employer, Dr. Xu, was the true author of the software.

This case is significant from a copyright perspective as it establishes the test for authorship of a computer program in Canada.

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JULIE SNYDER VS. GARDA CORPORATION AND JOHN DOE

At Stake:

Fundamental
Rights to
Privacy

BLG represented Julie Snyder in a Motion to obtain a provisional injunction order and a Norwich order in order to force the disclosure of the identity of a person or company (John Doe) who hired a private investigator to tail Ms. Snyder. This case received heavy media and public attention and was aggressively contested by another leading national law firm.

BLG was successful in the first instance and obtained a Court Order requiring that John Doe's identity be disclosed within 48 hours. The next day, we received a Motion for Leave to Appeal from Groupe de Sécurité Garda Inc., presentable only two hours later before a judge of the Québec Court of Appeal. Up against multiple adversaries, the BLG team succeeded in having the Motion for Leave to Appeal dismissed by Honorable Justice Robert Mainville JCA in a decision that recognizes the efficiency and applicability of Norwich Orders in Québec law and their importance in facilitating access to justice.

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PRO BONO SPOTLIGHT – MEDICAL ASSISTANCE IN DYING (SUPREME COURT OF CANADA)



At Stake:
**Constitutional
Rights**

Carter v. Canada is a ground breaking litigation involving a constitutional challenge to the prohibition found in the Criminal Code of Canada on physician-assisted dying. BLG represented The Canadian Civil Liberties Association and The Alliance of People with Disabilities Who Are Supportive of Legal Assisted Dying Society in the Supreme Court of Canada. The first instance decision resulted in a declaration that Canada's ban on medical-assistance in dying (MAID) was unconstitutional. The declaration was set aside on Appeal, and the case proceeded to the Supreme Court, which held that sections 241(b) and 14 of the Criminal Code unjustifiably infringe upon section 7 of the Charter of Rights and Freedoms, and are of no force or effect to the extent that they prohibit medically assisted death for a competent adult person who clearly consents to the termination of life, and has a grievous and irremediable medical condition that causes enduring physical or psychological suffering that is intolerable in the circumstances of his or her condition.

The declaration of invalidity was suspended for 12 months to permit Parliament to consider any legislative response; a deadline that was later extended by an additional four months given the complexity of issues involved. At the same time, the Court also granted an exemption to those persons who wish to exercise their rights by allowing them to apply to the Superior Court in their home jurisdiction for relief.

Following on from this case, the federal Government's Bill C-14 received Royal Assent and became law. Physicians and nurse practitioners in Canada are now legally permitted to assist in the death of a competent and consenting adult with a grievous and irremediable medical condition who is suffering intolerably and whose death is reasonably foreseeable.

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THE BANK OF NOVA SCOTIA (SCOTIABANK)

At Stake:

In Excess of
\$5 Million

BLG secured a highly significant win for The Bank of Nova Scotia at the Ontario Court of Appeal. The plaintiff, pharmaceutical manufacturer, Teva, and the defendant banks, Toronto Dominion Bank and The Bank of Nova Scotia, were all victims of a fraud estimated to be in excess of \$5 million perpetrated by a former Teva employee.

The fraudster requisitioned and obtained fraudulent cheques from Teva which were made out to companies he registered with names similar to valid Teva customers. The cheques were negotiated by the defendant banks through accounts opened by the fraudster in the names of the bogus companies he had registered. Teva sued the banks for damages and brought a motion for summary judgment. The banks brought cross motions for summary judgment and argued that various statutory defences were available to them.

Teva was originally successful in its summary judgment motion, but the Court of Appeal allowed the banks' appeals and also dismissed Teva's action. The Court held that the cheques in question fell within a statutory defence which provides that banks are not liable for converting cheques made to non-existing and/or fictitious payees, and that the motion judge erred in holding that the defence was not available in the circumstances.

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McMASTER CHILDREN'S HOSPITAL – HAMILTON HEALTH SCIENCES CORPORATION

At Stake:

Aboriginal and Human Rights

BLG represented McMaster Children's Hospital (part of Hamilton Health Sciences) in this highly publicized consent case.

An 11-year-old First Nations child with acute lymphoblastic leukemia (ALL) was treated with chemotherapy for a number of days before her mother withdrew consent, having decided that she wanted to pursue only traditional aboriginal medicine to treat her daughter's cancer. The local children's aid society (CAS) decided not to intervene, which led the Hospital to bring an application to try to compel the CAS to intervene to resume chemotherapy treatment as soon as possible to save her life. The CAS opposed that application, as did the Indian Band, for different reasons.

We were successful in establishing that the mother's decision to discontinue chemotherapy was a child protection issue, and that its proper adjudication was before the Court, and not another administrative tribunal (as argued by the CAS). The Judge unexpectedly went on to find, however, that the decision to pursue aboriginal medicine was the child's mother's constitutionally protected right, and he therefore declined to find the child to be in need of protection.

When the child's condition deteriorated a few months later, and she resumed chemotherapy in conjunction with traditional indigenous medicines, the parties (now including the Attorney-General of Ontario), returned to Court before the same Judge and made a joint submission, which led to a clarification that with respect to any issue involving the health of a child, the child's best interests remain paramount. The finding that the right to use traditional indigenous medicine is constitutionally protected was preserved, but it was clarified that the right is not absolute when it comes to the treatment of children.

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BLG is known for the unrivalled strength of our healthcare law practice. According to Chamber's own research,

“They have the leading hospital practice in the country.”

Chambers Canada – Canada's Leading Lawyers for Business

We are honoured to be named as the **only firm in Canada** to achieve a **Chamber's Band 1** rating for healthcare law firms and lawyers.

TANGERINE BANK

At Stake:

Brand Equity

BLG represented The Bank of Nova Scotia (Scotiabank) and its subsidiary, Tangerine Bank, in defending an injunction application aimed at restraining our clients from using the name Tangerine.

Tangerine started life as ING Bank of Canada and was rebranded after Scotiabank bought the business from its Netherlands-based parent. An application was brought forward by a small Vancouver-based financial services company which had purchased certain assets, allegedly including intellectual property rights to the name, in a receivership proceeding in which the banks were never joined as parties. The case was dismissed and costs were awarded in favour of both Scotiabank and Tangerine Bank.

This litigation is of substantial importance as it addresses significant legal issues relating to the jurisdiction of the Court to grant injunctions against non-parties.

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**BLG IS RANKED #1 BY ACRITAS FOR
"BET-THE-COMPANY" LITIGATION,**
based on a survey of general counsel
across Canada

**CHAMBERS CANADA – CANADA'S
LEADING LAWYERS FOR BUSINESS**
recommended **38 practice areas**
and recognised **78 BLG lawyers**

**BENCHMARK CANADA – THE DEFINITIVE
GUIDE TO CANADA'S LEADING LITIGATION
FIRMS & ATTORNEYS**
Recognises **53 BLG lawyers as
Litigation Stars** and **13 as Future Stars**

For nine consecutive years, BLG
has had the **most lawyers selected
by their peers** for inclusion in
THE BEST LAWYERS IN CANADA®



PRO BONO SPOTLIGHT – LUKA MAGNOTTA TRIAL



At Stake:

Access to Justice

BLG lawyers provided pro bono assistance to the parents of Lin Jun, the victim of a horrific murder, carried out by Luka Magnotta.

The death of Lin Jun resulted in the loss of employment for his father, who expended significant time and energy seeking justice for his son's death. While neither parent spoke English, both of them came to Canada to attend the trial. In light of their circumstances and the gravity of this tragic situation, BLG also undertook fundraising efforts within the firm to provide financial relief, enabling the Juns to attend the proceedings and to engage a translator to assist them in their participation and understanding of the proceedings.

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DOLLY VARDEN SILVER CORPORATION

At Stake:

A “Bet the Company” Situation

“We commend our entire legal team at Borden Ladner Gervais, whose litigators deftly represented us at the hearings, resulting in favorable decisions on both matters.”

Rosie Moore,
Director and Interim
President and CEO,
Dolly Varden Silver
Corporation

In the first case to address the role of private-placements under Canadian takeover bid rules, BLG's client, Dolly Varden (a TSXV issuer with a market capitalization of less than US\$8.5 million at the time), prevailed over Hecla Mining (a senior silver mining company with a market capitalization of almost US\$2.4 billion) in a true David and Goliath success story.

Dolly Varden's board approved a \$6 million proposed private placement of shares to raise much-needed capital shortly after Hecla Mining announced a \$10 million hostile bid to take control of the company. Hecla challenged the private placement, alleging it was being used as an abusive defensive tactic. The case has special significance because securities regulators recently changed Canadian takeover bid rules to address and weaken the ability of acquisition targets to employ poison pill tactics to thwart hostile bids.

After a rare simultaneous hearing of the British Columbia and Ontario Securities Commissions, the regulators agreed that the private placement could proceed despite Hecla Mining's objections. They also determined that Hecla Mining's bid should be cease-traded until amended to include a formal valuation. Hecla Mining responded by withdrawing its bid. Within a short period of time, the reaction of the market was reflected in an almost-tripling of Dolly Varden's market capitalization.

BLG regularly advises clients on complex disputed issues arising out of proposed mergers and acquisitions.

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ALTALINK MANAGEMENT LTD.

At Stake:

**\$330
Million**

BLG represented AltaLink Management Ltd., Alberta's largest electricity transmission company, in a lengthy proceeding before the Alberta Utilities Commission (AUC).

Our lawyers have enormous breadth of experience in energy disputes in Alberta and elsewhere, and regularly represent leading companies before the multiple boards and tribunals regulating those industries. This particular dispute involved justifying various construction costs AltaLink had incurred and which it sought to recoup through its transmission rates. In its application, AltaLink sought approval of costs incurred for constructing a number of transmission projects. Under Alberta's legislative framework, transmission projects are assigned to AltaLink by the Alberta Electric System Operator. AltaLink then plans and constructs the assigned projects and subsequently seeks approval of the actual costs incurred through "deferral account reconciliation".

In the proceeding, AltaLink was seeking approval of costs in relation to 103 transmission projects representing \$1.4 billion in gross capital additions to its rate base. Intervenor sought disallowances totalling approximately \$330 million. The hearings included both a public and confidential module followed by the Filing of Argument and Reply. In its decision, the AUC determined that the projects were prudently planned and executed with minimal disallowances. In the result, substantially all of AltaLink's capital expenditures were included in its rate base.

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LAW SOCIETY OF UPPER CANADA

At Stake:

Constitutional Rights

BLG represented the Law Society of Upper Canada (Law Society) in defending its decision to deny accreditation to Trinity Western University (TWU) to operate a prospective law school. Accreditation was denied on the basis that TWU required its students and faculty to sign a code of conduct which includes a prohibition against “sexual intimacy that violates the sacredness of marriage between a man and a woman.”

The Ontario Court of Appeal and the Divisional Court upheld the Law Society’s denial of accreditation to TWU. The case engaged fundamental issues of constitutional, human rights and administrative law – including the delineation of equality rights, religious freedoms and the Law Society’s jurisdiction as an administrative decision maker.

The key issue before both Courts was whether the Law Society’s decision to deny accreditation reasonably balanced TWU’s freedom of religion with the Law Society’s public interest mandate; in particular, the public interest in ensuring LGBTQ students have access to every accredited law school. Writing for a unanimous Court of Appeal, Justice MacPherson held that the Law Society’s balancing in the circumstances was reasonable, and upheld all aspects of the Divisional Court’s decision.

This outcome considers the balance between the rights of religious freedom that an institution or individual might assert against competing rights. As Canada becomes increasingly multicultural, such questions are likely to arise in many contexts.

The Court of Appeal and Divisional Court decisions may not be the last ones in this case either. The British Columbia and Nova Scotia law societies also denied TWU’s request for accreditation. The Nova Scotia Court of Appeal sided with TWU and granted accreditation. The British Columbia Court of Appeal has not released its decision yet. TWU has sought leave to appeal to the Supreme Court from the Ontario decision. Stay tuned.

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DIRECT TV, DISH NETWORK AND NAGRASTAR

At Stake:

Millions
of Dollars
in Lost
Revenue

For many years, BLG's National Anti-Piracy and Anti-Counterfeiting Team has acted for DIRECTV and DISH Network (the largest satellite television broadcasters in the U.S.) and NagraStar (the encryption security provider for DISH Network) in numerous actions across Canada against individuals and businesses that sold circumvention technology to permit end-users to steal DIRECTV's and DISH's encrypted satellite television programming.

The defendants in these cases provided equipment, software, and services to tens of thousands of end-users in Canada, the U.S., and elsewhere, to facilitate the theft of DIRECTV and DISH Network programming, resulting in millions of dollars in losses to the plaintiffs. BLG obtained more than 80 civil search and seizure orders (Anton Piller Orders) to seize evidence, and recover proprietary technology and information; and interim, interlocutory and permanent injunctions to shut down the piracy businesses. BLG also obtained asset freezing (Mareva) injunctions and numerous equitable discovery (Norwich Pharmacal) orders against third party service providers, and prosecuted several contempt motions resulting in jail time for defendants who failed to comply with these orders. The judgments and settlements that BLG obtained in these cases resulted in payments of millions of dollars to DIRECTV and DISH Network, and shut down many notorious piracy dealers and piracy web sites.

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THE GUARANTEE COMPANY OF NORTH AMERICA

At Stake:

Rights
of Trust
Claimants in
Bankruptcy

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largest and
best ranked
construction
group in Canada.

The **ONLY**
CHAMBERS
BAND 1
RANKED FIRM
IN CANADA

This case relates to a lengthy dispute between the surety, The Guarantee Company of North America ("The Guarantee"), subrogated to the rights of *Alberta Builders' Lien Act* ("BLA") trust claimants, and the Trustee, over entitlement to unpaid contract funds. The Supreme Court of Canada was asked to weigh in on a decision made at the Alberta Court of Appeal relating to whether a trust created by s. 22 of the Alberta BLA conflicted with the priority regime of the federal *Bankruptcy and Insolvency Act* ("BIA") and, if not, whether a proper common law trust was created on the facts of the case. BLG represented The Guarantee.

Where a conflict exists between a provincial statute (in this case the BLA) and a federal statute (the BIA), the federal statute usually prevails. However, on this note, the majority of the judges of the Alberta Court of Appeal had previously concluded that "Merely noting that a provincial law has some effect on priorities is not determinative". In other words, the fact that the trust provisions in the BLA could indirectly affect the priorities of creditors contemplated in the BIA is not enough to establish a paramountcy conflict such that the BLA is ineffective. In addition, the majority of the judges in the Court of Appeal determined that, based on the facts of the case, a valid common law trust was created considering the three common law requirements for the creation of a valid trust: (i) certainty of intention; (ii) certainty of object; and (iii) certainty of subject matter. The Court of Appeal held that the unpaid contract funds were trust funds under the BLA and, therefore, not property of the bankrupt, Iona Contractors Inc. As a result, the Court ordered that the trust funds be paid to the Guarantee in its subrogated capacity.

In its own decision, the Supreme Court of Canada dismissed an application by the Trustee in Bankruptcy of the bankrupt, Iona Contractors Inc. finding that the Iona decision did not warrant further consideration. This provides a strong endorsement of the reasoning of the majority of the Alberta Court of Appeal. The extensive (and often contradictory) commentary on the lower Court decisions will now have to be considered in the context of the guidance provided by the Supreme Court of Canada. One likely implication is that the reasoning of the Court of Appeal will be applied across Canada and give direction on the operations of the statutory trust provisions.

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“The Construction group at Borden Ladner Gervais LLP is the best I have ever worked with.”

Client quote from *Chambers Canada – Canada's Leading Lawyers for Business*

“The group continuously gives great service. They provide consistent quality across their offices when defending our interests.”

Client quote from *Chambers Canada – Canada's Leading Lawyers for Business*

BELL MOBILITY

At Stake:

Tens of Millions of Dollars

BLG acted for Bell Mobility in a proposed class action against Canada's national telecommunications companies (Bell, Rogers and TELUS) for charging cellphone users a "system access fee".

The plaintiff attempted to certify a class action against Bell and its competitors on the premise that the defendants represented to consumers that a system access fee is charged and collected by them on behalf of a third party agency or body, or alternatively that it is a government regulatory cost recovery charge. BLG successfully argued on behalf of Bell that there was no cause of action from the use of the phrase "system access fee", as that phrase did not have the capability of leading consumers to believe that the entirety of the fee was required to offset the defendants' costs paid to government. Had this case been certified, the potential exposure to Canada's three major telecommunications companies would have been in the tens of millions of dollars.

The Chambers judge dismissed the application for certification. The Court of Appeal dismissed the appeal. The Supreme Court of Canada dismissed the application for leave to appeal with costs payable to the respondents.

This case is one of the leading authorities on the availability of restoration remedies under the British Columbia *Business Practices and Consumer Protection Act*.

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ELI LILLY CANADA INC.

At Stake:

The Canadian market for CIALIS® tadalafil

In *Eli Lilly v. Mylan* and *Eli Lilly v. Apotex*, BLG successfully represented Eli Lilly Canada and ICOS (Lilly) before the Federal Court in two proceedings brought pursuant to the *Patented Medicines (Notice of Compliance) Regulations*. Lilly was successful in obtaining Orders prohibiting the Minister of Health from issuing a Notice of Compliance (NOC) or marketing approval to Mylan Pharmaceuticals ULC (Mylan) and Apotex Inc. (Apotex) in relation to their generic tadalafil products, until the expiry of Lilly's patent claiming the use of tadalafil to treat erectile dysfunction. Tadalafil is the active ingredient in Lilly's CIALIS®, which is used to treat erectile dysfunction and benign prostatic hyperplasia.

As a result, Lilly was able to enjoy the full term of its patent without early generic entry into the market. This amounted to the remaining 17 months of the patent term.

Infringement was not at issue. However, Mylan and Apotex brought numerous validity challenges to the patent. All were unsuccessful.

Both Mylan and Apotex appealed. The Federal Court of Appeal (FCA) dismissed the appeal as against Mylan, providing valuable jurisprudence on the judge-made doctrine of double patenting and the date at which an analysis of this attack should take place. The FCA also confirmed that when sound prediction is being used as a defence to an inutility allegation, the patentee does not need a guarantee of success, just a *prima facie* reasonable inference of it. The FCA in the Apotex appeal reached the same outcome, and dismissed the appeal.

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ONTARIO HOSPITALS

At Stake:

Limitation of Hospital Liability in End-of-Life Decisions

BLG has been retained by numerous hospitals in cases involving issues at the end of life, including cases that have gone all the way to the Supreme Court of Canada.

These extremely sensitive and urgent cases include decisions about whether there is an obligation to obtain consent to withdraw or withhold a particular life-supporting treatment, such as where that intervention is considered by the physician to have become inappropriate for the patient's medical condition. If the patient or the patient's family opposes a medical recommendation to withdraw or withhold treatment, is that reviewable? If so, by which court or tribunal? Can hospital staff be compelled to perform CPR on a patient, even though the patient's condition would prevent the intended physiologic goals of CPR from being achieved, and would cause suffering? Where there has been a neurological determination of death ("brain death"), can the mechanical ventilator be disconnected without the family's consent even though the patient's heart is still beating? What if a child's parent can't or refuses to engage in end-of-life decision-making for the child, because it's just too difficult – who then makes those decisions? What if family members of a patient not capable of making personal care decisions refuse to consider a transfer from an acute care hospital to a more appropriate living environment? Can a person with a serious mental illness continue to refuse treatment including nutrition to the point of death?

While we are often able to assist hospitals in dealing with these complex issues in a timely and effective way so as to resolve the situation without litigation, there are rare cases where courts or tribunals have had to become involved. BLG has successfully guided our clients through these difficult processes, including before Ontario's Consent and Capacity Board, Superior Court judges, the Court of Appeal, and the Supreme Court of Canada. Important legal principles have been recognized and precedents established to guide similar cases in the future including the extrication of hospitals from cases more properly to be determined between the physicians and the patient/family.

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INTELLIVIEW TECHNOLOGIES INC.

At Stake:

Control of Digital Assets

BLG was successful in obtaining an interlocutory mandatory and prohibitive injunction on behalf of Intelliview Technologies against a former director, employee and consultant of the client who had re-directed the client's website to an unrelated company's website and had locked the client out of its website, email server and social media accounts.

The Order provided that, among other things, the rogue was prohibited from accessing the client's website and email servers, and that the rogue was required to turn over all of the usernames and passwords to the client's website and social media accounts to the client. The Order went further, requiring that any and all legal entities in control of the client's website and social media accounts shall allow the client to change the username and passwords to the same without the rogue's authorization, and that they must prohibit the rogue from dealing with the client's website and social media accounts in any way whatsoever.

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“ From the outset, we work with clients to mitigate risk and develop litigation readiness, and bring a strong team of lawyers with expertise in virtually all areas of law. We are proud of the recognition we achieve, because it comes directly from clients operating in Canada and globally. Whether the matter involves a trade secret dispute, intellectual property injunction or shareholder lawsuit, clients know we pull together the best team and strategy. ”

John Blair, QC, Partner,
National Commercial Litigation Group Leader

CANADIAN NATIONAL RAILWAY COMPANY OF CANADA

At Stake:

Application of Federal Labour Legislation

This was a constitutional case which raised the issue of inter-jurisdictional immunity. The genesis of the case is a female employee's exercise of her right to stop working during her pregnancy on the basis of risks recognized by her doctor. Such an absence is not remunerated under federal law, but it is under Québec provincial legislation.

The plaintiff was a team leader for Canadian National Railway Company – a federal undertaking. As a result of a report from her physician, the plaintiff (then seven weeks pregnant) asked for a modification to her job functions or to be granted the leave of absence provided in the Canada Labour Code for employees who are pregnant or nursing. The respondent informed her that it was unable to reassign her. Consequently, the plaintiff chose to go on leave. The Canada Labour Code is silent, however, on whether employees receive pay for the duration of this leave. The plaintiff therefore turned to the Commission des normes, de l'équité, de la santé et de la sécurité du travail (formerly the Commission de la santé et de la sécurité du travail) in order to obtain the income replacement indemnity provided under the Act respecting occupational health and safety. The Commission informed her that she was not entitled to this indemnity since her employer is a federal undertaking.

BLG was successful before the provincial workers' compensation tribunal and also in Québec Superior Court on judicial review.

The Superior Court's decision was upheld by the Québec Court of Appeal. The plaintiff's application for leave to appeal to the Supreme Court of Canada was successfully resisted.

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K2WIND ONTARIO LIMITED PARTNERSHIP

(Limited Partnership between Capital Power, Samsung Energy and Pattern Energy)

At Stake:

Advancement
of the
Canadian
Renewable
Energy Sector

BLG successfully represented K2Wind Ontario Limited Partnership in this seminal case regarding the construction of alternative energy projects in the Province of Ontario.

The Ontario Divisional Court dismissed the Appeals of three families who objected to wind turbine developments. The appellants appealed Renewable Energy Approvals ("REAs") issued by the Ministry of the Environment (and upheld on Appeal by the Environmental Review Tribunal), which granted permission to the respondents on Appeal to construct three wind projects in the province. The appellants' grounds of Appeal were rejected by the Divisional Court, and costs were granted in favour of the respondents. Leave to Appeal was denied. The decision is a significant victory for the wind industry.

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OCEAN CHOICE INTERNATIONAL

At Stake:

A “Bet the Company” Matter

BLG was successful in persuading the Supreme Court of Newfoundland and Labrador to dismiss an oppression claim by activist shareholders to secure control of one of Canada’s leading seafood companies.

BLG acted on behalf of three of the defendants. The plaintiffs included a limited partner with a 49 percent interest in Ocean Choice International (“OCI”) and a subordinated creditor of OCI controlled by an Icelandic seafood company, Visir, which was seeking to gain majority control of OCI and prevent the re-financing of OCI’s operations. BLG’s recommended strategy was to try to defeat the claim at the outset by arguing that it did not meet the complex legal tests required to establish oppression. This strategy was successful. The Court agreed that in the law, the plaintiffs’ allegations did not support a finding of oppression. In particular, there were no assertions of specific prejudicial consequences suffered by a particular plaintiff as a result of specific oppressive conduct.

The decision of the Court is noteworthy for its determination that the Court did not have the jurisdiction to remove the general partner and for its emphasis on the importance of holding commercially sophisticated parties to their bargain.

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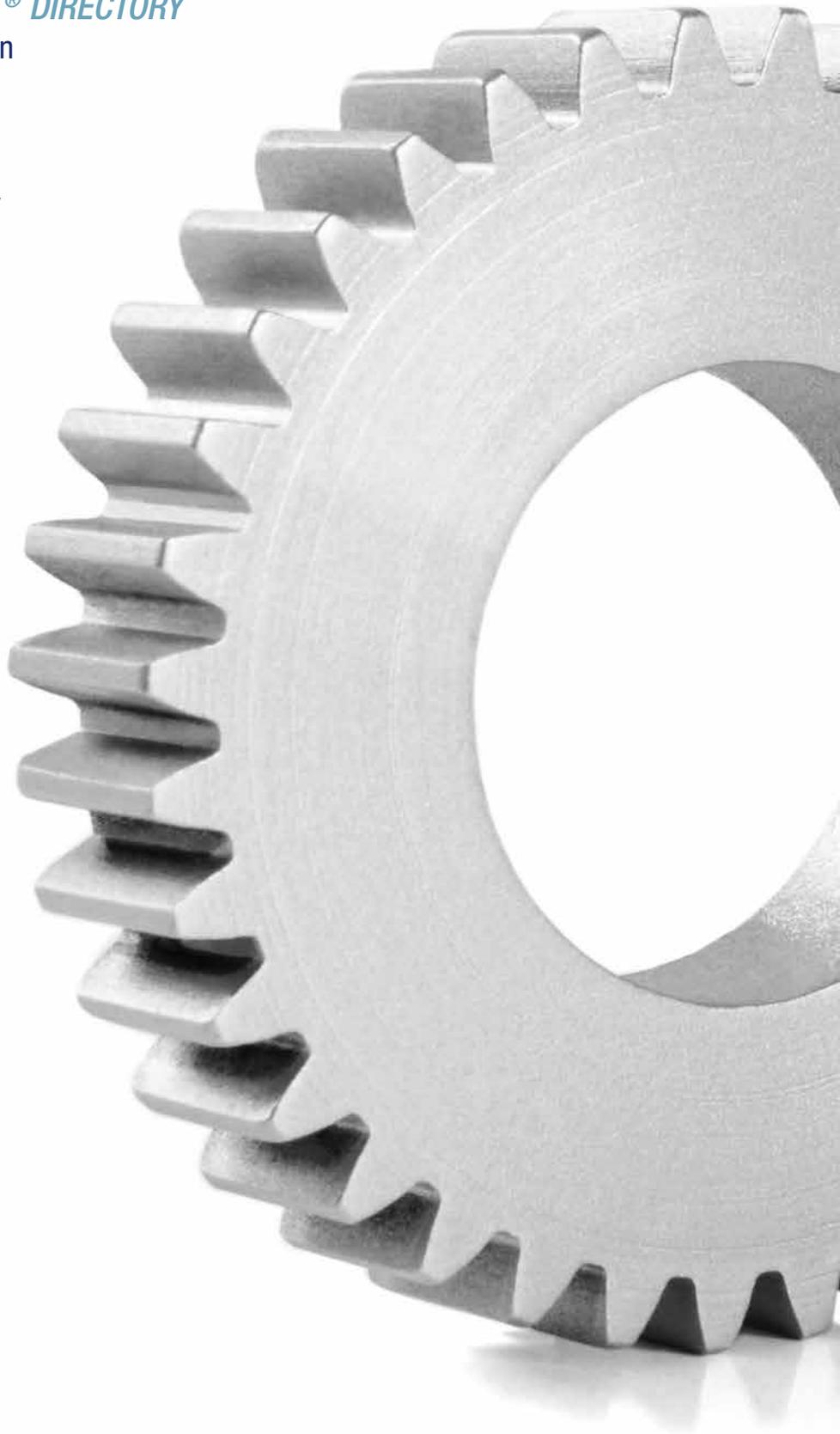
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- Investment Funds & Asset Management
- Litigation: Commercial Insurance
- Litigation: Product Liability
- Shipping & Maritime Law



NORTHLAND POWER INC.

At Stake:

\$380
Million
Project

BLG acted as counsel to Toronto-based Northland Power in responding to an Appeal against its \$380 million Grand Bend Wind Farm project. This 100 MW wind generation facility hugging the Lake Huron shorelines has 40 turbines and is under contract with the Independent Electricity System Operator (IESO). The project, which is now operational, consists of 2.483 MW Siemens turbines with towers that are 99.5 metres tall and 55 metre long blades.

The Renewable Energy Approval (REA) is the streamlined environmental assessment approval that is required for large renewable (wind, solar and biogas) energy generation projects in Ontario. The project had been approved by the Ministry of the Environment and Climate Change, but the Appeal of the REA approval to the Ontario Environmental Review Tribunal by John Gillespie and the Municipality of Bluewater caused Northland to delay construction until a decision was made.

The appellants' claim that the project would "*cause serious harm to human health*" was dismissed. In addition, the Tribunal dismissed the applicant's allegations that the Renewable Energy Approval "*violates his right to security of the person under section 7 of the Canadian Charter of Rights and Freedoms.*"

In today's environmental climate in particular, matters such as this are contentious and often acrimonious processes which attract extensive public and NGO attention.

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YORK REGIONAL POLICE SERVICE AND TORONTO POLICE SERVICE

At Stake:

\$5.8
Million

BLG was successful in defending both the York Regional Police Service (YRPS) and Toronto Police Service (TPS) against claims of malicious prosecution, negligent investigation and invalid wiretaps.

The plaintiff's claim specifically attacked the validity of wiretap authorizations obtained by police services during a criminal investigation and sought aggravated and punitive damages of several million dollars. BLG's cross-examination drew out a number of inconsistencies from the plaintiff's statements, which highlighted his questionable reliability and the Superior Court of Justice dismissed the claims in full.

This lengthy trial involved a number of very complex evidentiary issues and questions of process regarding wiretap authorizations in the civil arena.

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LOBLAW COMPANIES LTD.

At Stake:

Reputation and Market Standing

BLG defended this large Canadian retailer in a proposed class action, which arose from an unsubstantiated claim of deceptive advertising.

The action, commenced in Saskatchewan, alleged that Loblaw Companies Ltd. had labelled its President's Choice "low sodium" soft drinks in a misleading way. The recommended strategy was to apply to dismiss the action outright on a factual basis even before a certification motion. The BLG team and their Saskatchewan co-counsel were able to convince the judge to grant a summary judgment motion prior to certification, on the basis that "there was nothing misleading about the packaging." This case is part of a growing trend of class actions challenging the accuracy of health claims on consumer products. Although the decision was appealed, the Merchant Law Group ultimately abandoned its appeal, with the result that the summary dismissal was final.

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INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (IIROC)

At Stake:

Limitation of Liability

BLG's client, The Investment Industry Regulatory Organization of Canada (IIROC), faced a potential \$52 million class action suit on behalf of investors whose personal financial data was contained on an unencrypted mobile device lost by an IIROC employee. On discovering the breach, IIROC notified affected clients. It also set up a dedicated call center to help answer client questions and arranged for a six-year alert to be placed on client credit files through credit reporting services Equifax Canada and TransUnion along with a year of free credit monitoring.

In the first instance, the Superior Court of Québec dismissed the Motion for Authorization finding that the plaintiff had not met the "arguable case" criterion set out at article 575 (2) of the Code of Civil Procedure of Québec (C.C.P.), given that the damages he claimed only constituted ordinary annoyances.

BLG also resisted an appeal of the judgment, with the Court of Appeal holding that while the loss of personal data is concerning, ordinary life annoyances such as fear, stress, inconvenience and loss of time due to monitoring of monthly account statements do not constitute "compensable damages", at least in Québec. This case will make it more difficult for privacy class actions to be certified in Québec following a personal data breach.

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PRO BONO SPOTLIGHT – MENTAL TRAUMA



At Stake:

Access to Justice

BLG attained a win for a former Canadian military woman stationed in Germany during the 1980s who suffered sexual assault at knife-point. The plaintiff suffered post-traumatic stress disorder as a result of the assaults. The military refused to recognize her trauma as a disability and consequently did not provide her with a disability pension. Thirty years later, BLG brought a judicial review to the Veterans Review and Appeal Board (VRAB) and the judge agreed with all the arguments presented. The case was remitted to VRAB to have a full hearing de novo and our client received her due pension.

With this win, BLG brought to light the disabling effect that mental trauma has on survivors of sexual assault. Disability pensions should not solely be constrained to those with a physical disability.

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BLG has been recognized by Pro Bono Ontario (PBO):

Excellence in Services to Self-Represented Litigants:

awarded to BLG's Toronto and Ottawa offices in recognition of our longstanding participation in PBO's Law Help program.

Excellence in Services to Children and Youth:

awarded to BLG's Ottawa office for volunteer legal assistance to patients and their families at the Children's Hospital of Eastern Ontario.

LITIGATION OVERVIEW – OUR RECOGNIZED AREAS OF EXPERTISE

Anti-Trust/Competition: We provide experienced counsel for a wide range of situations including class actions, mergers, acquisitions, litigation, dominance and marketplace competition and compliance, along with all issues related to the *Competition Act*. Our expertise includes representation before the Competition Bureau and the Competition Tribunal, and all civil courts and governmental boards in relation to issues under the *Competition Act* and with respect to personal criminal liability under the *Act*. We regularly assist clients with private claims for damages that arise from unfair competition and provide counsel to domestic and foreign businesses, non-profit organizations and trade associations in all aspects of competition law.

Aboriginal: Leveraging our substantial expertise in Aboriginal law, BLG provides advice and legal representation with respect to all areas of Aboriginal law, including major Aboriginal title litigation, the duty to consult and accommodate, on-reserve financing, resource development joint ventures, equity participation in development projects, treaty land entitlement, Aboriginal governance disputes, labour relations in Aboriginal businesses, and First Nation membership and status applications.

Appeal and Review: Our team of leading practitioners includes retired appellate judges and former judicial law clerks. We offer a fresh look at existing disputes from an appellate perspective, using incisive analysis to identify what is essential and set aside the rest. Our Group represents clients in every area of substantive law and level of court including the Supreme Court of Canada.

Arbitration: We represent private and public corporations, governments and industry groups in fields including energy, oil and gas, forestry, telecommunications, software and pharmaceutical licensing and development, insurance, banking, securities, medical and healthcare, maritime and construction. Our arbitration lawyers are experienced in arbitrations administered by all of the leading international and foreign arbitral institutions including the ICC, LCIA, SCC, ICDR, ICSID, AAA, SIAC and others, and are well-versed in all forms of domestic commercial arbitration proceedings.

Banking: Our national team of trial and appellate advocates have a broad range and depth of experience and expertise in representing banks and other financial institutions. The group's lawyers work closely with members of BLG's other practice groups including Financial Services, Insolvency and Restructuring, Commercial Fraud, Corporate, Commercial Transactions, Technology, and Environmental Law groups to provide the highest quality litigation services to banks and financial institutions in all manners of dispute, before all levels of court, and in any forum both nationally and internationally

Construction: As the largest and most highly ranked construction practice in any law firm in Canada, BLG's Construction Group brings together a dedicated team of expert practitioners, including litigators, solicitors and engineers, to provide result-driven legal strategies. Our group has the knowledge and dedication to achieve the best possible outcomes in any matter relating to contracts, dispute resolution and international construction projects.

Class Actions: Whether it is risk management to avoid class actions, settlements or defence of claims that is required, BLG provides sophisticated, bilingual class action advice and representation on a seamless national basis through our five offices across Canada. By combining our strengths in substantive areas of litigation and our experience with the complex procedural aspects of class actions, we bring to bear innovative approaches and considerable resources to address our clients' needs.

Cybersecurity: Failures in cybersecurity, whether physical or electronic, set up a wide variety of litigation claims, depending on the circumstances. These can include negligence, the tort of "intrusion upon seclusion," breach of fiduciary duty, breach of the duty of good faith, breach of contract, and breach of statutory duty. BLG combines expertise in class actions, information technology, privacy law, fraud and white collar crime, insurance law and intellectual property to help manage, respond and remediate cyberattacks and data breaches.

Defamation and Media: Our lawyers are leaders in matters related to publication bans, libel, privacy, access to information, internet defamation and freedom of the press. With the deepest defamation and media teams of any national firm, BLG provides experienced counsel to everyone who communicates: businesses; print, Internet, radio and broadcast media; and individuals.

Energy and Resources: Organizations in the energy sector face a complex regulatory landscape involving federal and provincial bodies, and other approval organizations. BLG provides tailored advice and litigation expertise to oil and gas companies, provincial and federally regulated pipeline companies, investor-owned and government-owned electric utilities, major petrochemical companies and service companies that support the sector, in a full range of applications and proceedings.

Environmental: We have extensive experience in representing government, corporations and individuals in successfully dealing with all aspects of environmental litigation and regulation. We have experience with complex matters before all levels of court and administrative bodies, including litigation relating to contamination, the defense of environmental charges, and other permitting and compliance proceedings.

Estates and Trust Litigation: BLG has represented beneficiaries, individuals as trustee, trust companies as trustee, substitute-deciders, charities and foundations, bonding or surety companies, and other financial institutions in all manner of claims involving estate, trust and/or capacity issues including will challenges and power of attorney disputes, mediations and arbitrations, estate administrations, contested passing of accounts, removals and substitutions of trustees, and determination of trustee or beneficiary status and rights.

Fraud: Fraud is a growing and costly problem for financial institutions, commercial operations and individuals alike. BLG's core of experienced fraud litigators, coupled with a select multi-disciplinary team provides advice and pro-actively assists organizations with prevention, detection and recovery. We quickly assess situations arising from fraud, and formulate an aggressive action plan to effectively maximize recovery and implement solutions.

Healthcare: As the legal counsel to over 250 hospitals, health service providers and associations, BLG provides specialized healthcare law expertise in areas such as physician licensing, mental health, capacity and consent, systems integration, privacy and record management, medical device product liability, and class actions. Our extensive experience acting for hospitals in the defence of medical malpractice claims provides us with a broad knowledge of situations involving patient safety and risk management issues, and we routinely make recommendations with respect to changes to policies or practices to reduce risk, as well as advice on responding to incidents in order to reduce the risk of future litigation.

Insurance and Tort Liability: With extensive experience defending complex insurance claims, our clients include many of the largest national and global insurers, reinsurers, reciprocals, brokerage firms and regulatory bodies. Our practice also includes the drafting of policy wordings, the interpretation of all types of insurance policies, coverage opinions, the defence of direct actions against insurers, prosecution of subrogated claims, and participation in negotiation, mediation and arbitration procedures.

Intellectual Property: BLG understands the value of IP assets and the importance of enforcing your IP rights. Our IP litigators bring together the best of both worlds – trial experience to communicate highly technical and legal issues to judges and juries, and the technical prowess to field any IP issues. We assist local, national and international companies in a variety of industries.

International Trade: We have extensive experience in multilateral, regional and domestic trade regulation from both governmental and private sector perspectives. BLG has the largest private sector WTO law practice outside of the United States and the European Union. Members of our group have represented governments and private interests in WTO proceedings, NAFTA dispute settlement proceedings and domestic trade agreements. We have advised on all aspects of Canadian law applicable to trade in goods including customs issues, anti-dumping, countervailing and safeguard measures, trade in services, trade-related aspects of intellectual property rights, government procurement, import/export restraints, trade sanctions, domestic internal measures and inter-provincial trade issues.

Investigations and White Collar Defence: We represent clients through all phases of investigation and prosecution of white collar and regulatory offences, beginning with the execution of search warrants, production orders or documentary summons right through to the hearing and sanction phases of administrative or court proceedings. BLG defends clients charged with criminal and regulatory offences, advises those who may be targets and/or parties to future or existing criminal or regulatory prosecutions and investigations, represents parties subject to complex, multi-jurisdictional prosecutions and clients facing joint cross-border investigations involving multiple regulatory and law enforcement agencies. We also assist clients in commencing criminal proceedings against third parties by filing private criminal complaints with the courts.

Labour and Employment: We litigate in the areas of wrongful dismissal, constructive dismissal, just cause dismissal and other civil litigation, as well as before administrative tribunals, such as human rights tribunals, labour relations boards, employment standards adjudicators, workers compensation boards, pay equity tribunals and occupational health and safety adjudicators. We also advise and litigate on cases resulting from mergers, acquisitions, outsourcing transactions, relocations and closures.

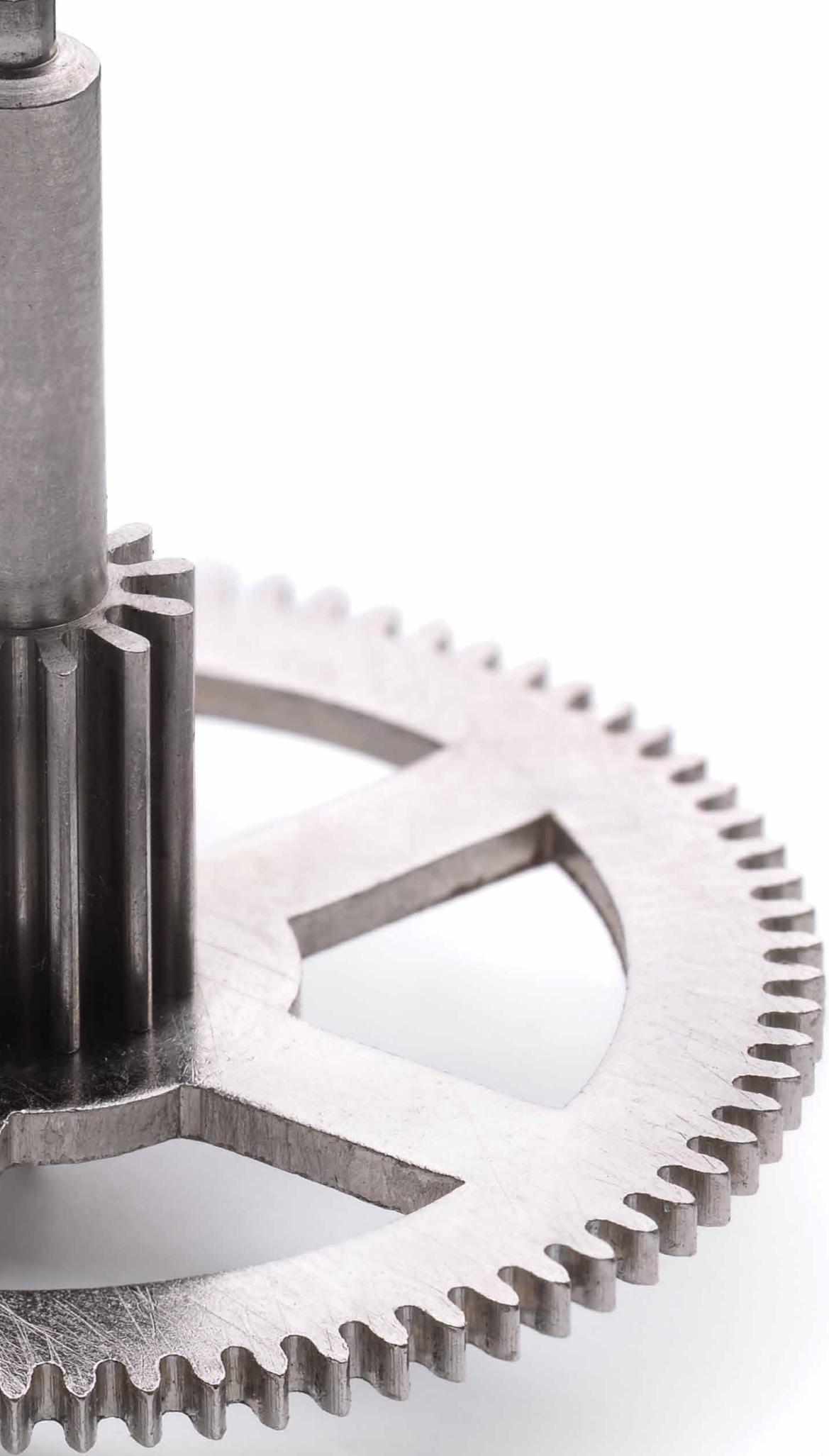
Municipal Liability: We are uniquely positioned to assist our municipal clients with dispute resolution and litigation matters; defending them and their respective agencies, boards, commissions and employees against all manner of liability claims including police, personal injury, building and building inspections, and infrastructure. We have experience with both regional and local tier municipalities, as well as the various available municipal insurance arrangements including coverage issues and self-insured retentions. Our expertise also includes the defence of class actions against municipalities, as well as representing municipalities at coroner's inquests, and administrative and Human Rights tribunals.

Product Liability: BLG offers significant expertise in product liability disputes – from class actions, crisis management and product recalls to regulatory issues. As many cases involve complex technical issues, a number of our lawyers offer expertise drawn from their backgrounds and experience with various engineering disciplines. Whether dealing with consumer product litigation, obligations under the *Canada Consumer Product Safety Act*, government regulations, or client representation at a coroner's inquest or commission of inquiry, we deliver service to maintain a positive brand image for your products.

Privacy and Data Security: Clients in the public and private sectors, and across a range of industries, look to BLG's national Privacy and Data Security Group for its multi-jurisdictional perspective and unsurpassed insight into the legal, practical and ethical issues relating to the protection of personal information in Canada. We are home to some of Canada's foremost lawyers on privacy and access to information law. Our lawyers help shape the privacy and cybersecurity landscape in Canada, testifying at standing committees, advising on the drafting of legislation and appearing before the Supreme Court of Canada.

Public Law: The work of our Public Law Litigation and Arbitration Group encompasses advice and litigation services in a variety of areas including constitutional law, administrative law, Aboriginal rights, professional discipline, judicial ethics and government contracts. Our lawyers have argued some of Canada's leading constitutional, administrative and Aboriginal cases before various levels of court, including the Supreme Court of Canada.

Securities Litigation: This group mixes local knowledge with national reach and is seasoned in dealing with multi-jurisdictional securities-related proceedings before courts and securities regulators across Canada. We have litigated a number of the most significant securities civil cases and regulatory proceedings in Canada. We are also regularly engaged by clients to oversee or conduct investigations relating to governance and compliance matters, whether initiated by clients or in response to enquiries from securities regulatory or criminal investigative agencies.



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About Borden Ladner Gervais LLP

Borden Ladner Gervais LLP (BLG) is a leading, national, full-service Canadian law firm focusing on business law, commercial litigation and arbitration, and intellectual property solutions for our clients. BLG is one of the country's largest law firms with more than 725 lawyers, intellectual property agents and other professionals in five cities across Canada. We assist clients with their legal needs, from major litigation to financing to trademark and patent registration.

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