Cyber, Information and Privacy Risk

Advances in technology continue to have profound effects for business, trade and communication, both globally and locally. Our Cyber, Information & Privacy Risk Group is proficient in the protection of our clients' interests by providing sound and proactive advice in respect of claims, insurance coverage, computer fraud, development of privacy, security and employment policies, and crisis and reputation management. We recognize that while information technology, social media and data collection offer great rewards and opportunities, they are accompanied by significant risk. Our lawyers assist clients in the navigation of these risks, and provide timely solutions to the dangers associated with emerging technology.

Our core areas of practice include:

- Litigation and Dispute Resolution
- Information and Technology Insurance Coverage
- Fraud Investigation Recovery and Enforcement
- Privacy, Crisis and Reputation Management
- E-Commerce, Technology Contracts and Transactions
- Employment & Labour

LITIGATION AND DISPUTE RESOLUTION

Blaney McMurtry's Litigation and Dispute Resolution Group provides advice and general litigation services to our commercial and insurance clients in respect of e-commerce risks and losses. Our litigators regularly represent clients in a variety of complex litigation, arbitration and mediation matters before courts, administrative tribunals, and arbitration panels. Blaney McMurtry continues to be a leader in developing innovative and practical solutions to disputes.

Our Litigation and Dispute Resolution services include:

- conducting and defending litigation, including claims arising out of negligence, breach of contract, defamation, privacy-based torts and class actions
- advising on and litigating jurisdictional issues
- advising on access to information requests in the context of civil litigation
- litigating and mediating copyright and trademark infringement claims
- providing risk management advice to avoid or reduce liability exposure for cyber incidents

Key Contacts: Larry Reimer, Sheldon Inkol, Andrea Rush, Gary Srebrolow, Lou Brzezinski and Jason Mangano.

INFORMATION AND TECHNOLOGY INSURANCE COVERAGE

Blaney McMurtry's Coverage Counsel Group is one of Canada's largest dedicated solely to the provision of coverage advice and advocacy, and is recognized as one of Canada's leading practice groups in this specialty area. The Coverage Group represents and advises insurers in respect of information and technology risks which arise not only under "cyber-risk" insurance, but also General Liability, Property, Errors & Omissions policies and Reinsurance agreements.

We act primarily on behalf of carriers and cedants. We are regularly consulted on policy response to claims arising out of loss of information and damage to electronically stored data, privacy breach, technology errors and omissions, and business interruption. Our advice is frequently sought on development of new policies and endorsements. Our practice is national, cross-border and international. We understand that while an insured may be local, the loss may be global. Our coverage counsel group is well-connected within the national and international coverage community and is able to rapidly consult with and obtain expertise in U.S., U.K., and other jurisdictions.

Services of our coverage counsel include:

- acting on behalf of carriers to protect their interests in the event of data breach by:
- advising carriers of their rights and obligations under policies issued
- representing carriers' interests through response, evaluation, and recovery stages of the breach event
- drafting reservation and position letters
- monitoring, and resolution of data breach claims
- acting on behalf of carriers and defend policies in respect of first party data and technology losses
- protecting the interests of carriers in technology errors & omissions policies
- protecting the interests of carriers in respect of technology business interruption and contingent business interruption claims
- drafting new policies and endorsements
- acting on behalf of cedants in e-commerce reinsurance recovery

Key Contact: David Mackenzie

FRAUD INVESTIGATION RECOVERY AND ENFORCEMENT

Blaney McMurtry's Fraud Investigation Recovery and Enforcement (FIRE) Group has proven expertise in dealing with issues of electronic and cyber fraud related to financial institutions and financial advisors, insurance cyber fraud, Ponzi schemes, and all aspects of litigation.

Beyond legal expertise, members of the Group have established relationships with forensic investigators, handwriting experts and police fraud investigators, and can work with investigators to address recovery of funds and mitigation where there is a duty to act promptly once a loss is discovered.

Our Fraud Investigation Recovery and Enforcement services include:

- providing coverage analysis and defence of first-party claims on computer fraud and funds transfer fraud claims
- litigating recovery actions in computer frauds and funds transfer frauds

PRIVACY, CRISIS AND REPUTATION MANAGEMENT

Blaney McMurtry's retail, banking, insurance, direct marketing, e-commerce and other clients of the firm, have sought our advice in complying with privacy regulations and industry guidelines. We have assisted our clients in finding solutions to privacy issues and in resolving privacy complaints.

With public and private sector privacy laws in effect in every Canadian jurisdiction, we can guide clients in complying with this expanding area of the law. Our risk management lawyers assist clients in managing their online and electronic presence both before and after incidents which impact their reputations.

With a view to facilitating our clients' businesses and effectively managing privacy, social media and other electronic risks, our lawyers:

- prepare and advise on privacy policies
- draft and review corporate social media policies
- assist in the implementation of supporting privacy procedures
- conduct privacy gap analysis
- resolve privacy complaints
- provide opinions on the permissible collection, use and disclosure of personal information
- assist in the event of a data/privacy breach
- advise on best practices for preventing breaches of personal information
- advise on data breach incidents, including notification and mitigation efforts
- work with marketing and public relations departments to secure, monitor and enforce reputation and brand management
- advise corporations on how to identify and resolve conflicts relating to reputation and brand management

Key Contacts: Andrea Rush and David Ma

E-COMMERCE, TECHNOLOGY CONTRACTS AND TRANSACTIONS

Our Technology Group is multi-disciplinary incorporating commercial, corporate, tax, litigation, and intellectual property. Our lawyers provide advice on technology related issues, electronic data interchange standards, authentication and certification techniques, and domain name regulation as well as the unique challenges technology poses for more traditional concerns, such as defamation, contract formation and regulatory compliance.

We represent companies who use and offer online services, in the B2B and B2C sectors. We have advised clients in the insurance industry regarding internet banking, online customer contracts, regulatory issues and jurisdictional issues.

Our E-Commerce, Technology Contracts and Transactions services include:

- drafting and advising on data security, contingency planning and breach management policies
- drafting terms of use documents for websites and online services
- outsourcing agreements
- providing advice regarding third party service agreements to ensure safeguards are in place for adequate protection of data
- advising on regulatory matters relating to online advertisements and contracts

Key Contacts: David Ma and Bruno Soucy

EMPLOYMENT & LABOUR

Blaney McMurtry's Employment and Labour Group have the expertise to help organizations establish, sustain and enhance the constructive workplace relationships which are the foundation of the most productive and profitable enterprises.

We are well-known to specialists in workplace law and to the administrative tribunals that govern it. We often speak to employer and employee organizations about the current developments in the law and the latest cases affecting it.

Our Employment and Labour services include:

- litigating employment-related claims involving allegations of employee involvement in privacy or data security breach incidents
- drafting:
- privacy policies
- inter-affiliate data transfer agreements
- employee policies relating to privacy, use of organization's technology, social media, and use of confidential and sensitive information
- notices to employees with respect to new policies, procedures and technologies that address cyber risk issues

- responding to privacy/data security breach incidents by:
- gathering information about a breach and providing recommendations to organizations on how to respond
- providing opinions to organizations regarding obligations to report privacy/data security breaches
- drafting communications to be sent by organization to parties affected by or involved in breach
- providing opinions on privacy implications of new technologies, policies and procedures intended to address cyber risk and data security issues

Key Contacts: D. Barry Prentice, Maria Kotsopoulos and Christopher McClelland

See also:
Information Technology
Legal Risk Management Services
Privacy

RELATED PRACTICES

- Litigation & Advocacy