Gillian P. Kerr

Partner

Toronto

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t. +1 416-601-8226

Bar Admission

Ontario 2009

Law School

McGill University

Practices

Litigation and Dispute Resolution
Appellate Litigation
Class Actions
Corporate Commercial Litigation
Professional Liability
Competition Litigation
Public Law

Clients trust Gillian with the most complex and highest-stakes cases. Gillian provides creative and strategic roadmaps to deliver success on all fronts – in the courtroom and beyond.

Gillian is a partner in our Litigation Group in Toronto. Her practice focuses on class actions, privacy and defamation law, technology and complex commercial disputes.

Gillian represents a diverse set of clients, including disrupters in the tech industry multinational corporations and media entities. Their issues are unique, and Gillian finds tailor-made solutions for each of them.

An experienced trial lawyer, Gillian has argued lengthy trials, before both judges and juries. She has appeared before all levels of court, including the Supreme Court of Canada. She regularly represents clients in high-profile, sensitive regulatory investigations.

Clients value Gillian's dedicated advocacy and unparalleled judgement. With each case, Gillian looks beyond the immediate – she steps back with a wider-view lens to consider the different paths a file can take and how those choices can impact the long-term interests, reputation and prospects of the client. By basing her thinking on a broader perspective, Gillian is able to develop and pursue strategies that fit into the whole.

Class Actions

Gillian understands the significant risk class actions carry, both reputational and economic. She has the in-depth experience and the strategy acumen to minimize these risks for clients, and lead them to the right result.

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During her career, Gillian has represented a wide array of clients facing class action lawsuits. Among her cases, she represents Meta/Facebook /Instagram in defence of the high-profile teen mental health class actions, alleging, among other things, misleading advertising to minors. She represents Uber in multiple class actions, including those alleging wrongful and misleading advertising on its Uber Eats platform. She represents Intuit (TurboTax) in a class action alleging misleading advertising. She represents Bell in a misleading advertising/Consumer Protection Act class action. She has also represented Uber in a class action commenced by taxi and limo drivers, owners and brokers; a high-end European automaker in competition class actions and an environmental and conspiracy class action. She has also represented food manufacturers, Asian capacitor companies, auto-parts makers and large chemical companies. More of Gillian's class action cases are listed below under "Notable Experience and Decisions."

Privacy and Defamation Law

Gillian has advised and represented clients on a wide array of privacy disputes, including on class actions and other claims. Privacy disputes carry significant risk – both legal and reputational. Gillian brings the legal expertise and creative thinking clients need in the high-stakes matters.

Gillian successfully defended Facebook in the Federal Privacy Commissioner's application against it at Federal Court regarding allegations pertaining to Cambridge Analytica. She also defends Facebook in a class action arising from similar allegations. Gillian represented LifeLabs in a high-profile alleged data breach class action. She represented Desjardins in a class action rising from a decision by the OPC with respect to certain practices in the context of processing claims. Gillian has represented a variety of other clients facing privacy-related claims.

Few issues are as high stakes as a person's reputation and the right to free expression. Gillian addresses these problems with experience, knowledge and wide-lens strategic thinking. In defamation and media law, Gillian regularly advises clients in relation to a broad range of public statements. For example, Gillian successfully represented Canada's public broadcaster, CBC, on a 13-week jury trial alleging defamation and invasion of privacy, with the plaintiff seeking $132 million in damages. She also represented CBC in a high-profile $210-million action brought by Subway restaurants.

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Political Law

Political investigations and hearings often involve the most sensitive and multi-faceted issues. Gillian sees the big picture and knows how to get the results clients seek. Gillian is an experienced advisor of high-profile business and political leaders on legal obligations in the political sector, including ethical compliance, conflicts of interest and lobbying law. She has represented senior public office holders and major corporations before federal and provincial parliamentary commissioners. Her success rate is a result of her experience with and understanding of the personal, reputational and strategic significance of these proceedings.

She's a practical and calm litigator who fully understands the business considerations together with motivations on the other side. She's a pleasure to work with.

— CHAMBERS CANADA

Notable Experience and Decisions

- Successfully defended Facebook in the Federal Privacy Commissioner's application related to alleged privacy breaches arising from the Cambridge Analytica matter.

- Counsel to Meta/Facebook/Instagram in the ongoing defence of the high-profile teen mental health class actions, alleging, among other things, misleading advertising to minors

- Successfully defended Uber in *Lewis v. Uber*, a class action alleging wrongful and misleading advertising on its Uber Eats platform

- Counsel to Uber in *Lin v. Uber*, an ongoing class action alleging drip pricing on the Uber Eats Platform

- Counsel to Intuit (TurboTax) in *Spagnuolo v. Intuit*, an ongoing class action alleging misleading "free" advertising

- Counsel to Maple Leaf Sports & Entertainment in its complex regulatory approvals processes for the return of the Toronto Raptors to Canada for the upcoming NBA basketball season

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- Counsel to CBC in *Subway v. CBC*, responding to a defamation case brought by Subway with respect to a program which aired on Marketplace dealing with the composition of chicken in various fast food sandwiches. The action was dismissed by the motion judge under Ontario's anti-SLAPP legislation, but reversed on appeal.

- Counsel to Bell in *Corless v. Bell*, an alleged misleading advertising/Consumer Protection Act class action

- Counsel to Uber in *Konjevic v. Uber*, a putative class action currently proceeding at the Superior Court of Justice.

- Counsel to BMW in *Quenneville et al. ats Audi et al.*, a putative class action alleging anti-competitive conspiratorial conduct.

- Counsel to BMW in *Johnson et al. ats BMW et al.*, a putative class action involving environmental breach allegations related to "defeat devices".

- Counsel to Desjardins in *Wakeling v. Desjardins*, a claim alleging the privacy tort of intrusion upon seclusion, among other claims. The privacy claim was struck out without leave to amend.

- Counsel to the Personal in *Haikola v. The Personal*, a class action pertaining to privacy claims (2019 ONSC 5982).

- Counsel to Paldo Co. Ltd. and Korea Yakult Co. Ltd., two large Korean food and beverage makers, in a class action alleging anti-competitive conduct, successfully obtaining a without costs dismissal against those defendants.

- Counsel to various high-profile public office holders and corporations in investigative hearings involving ethics and lobbying.

- Counsel to defendants in a professional negligence claim on a lengthy jury trial, *Cheung v. Samra*, successfully arguing that the jury verdict against the defendants not be entered in the Court.

- Successfully defended Canadian Broadcasting Corporation (CBC) and three of its journalists in a 3 month jury trial, in an action brought by Ranjit Chandra, seeking $132 million in damages for defamation and breach of privacy arising out of a three-part documentary program broadcast on *The National*

- Counsel to a large energy company, successfully obtaining emergency injunctive relief removing trespassers from the client's property and

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preventing other disruptive actions.

- Counsel to corporations in mining, auto-parts and industrial product industries, including successfully negotiating settlements of class actions.

She is very hardworking and diligent. She leaves no stone unturned... She is an excellent advocate...

— CHAMBERS CANADA

Community Engagement

Giving back to her profession and community is important to Gillian. At McCarthy Tétrault, she spearheaded a diversity and inclusion project, Mentorship Plus, which delivers mentoring and support for diverse associates within the firm. She is Law Firm Leader in the Hospital for Sick Children's fundraising campaign.

Gillian obtained her BA (with distinction) from McGill University, double-majoring in Economics and Political Science, and her LLB (common law) and BCL (civil law) from McGill University's Faculty of Law.

Awards & Rankings

Thomson Reuters

Stand-out Lawyer

Benchmark Litigation Canada

Future Star

The Canadian Legal Lexpert Directory

Class Actions; Litigation - Corporate Commercial

Benchmark Canada Awards

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Impact Case Award, 2024 – Canada (Privacy Commissioner) v. Facebook, Inc., 2023 FC 533

Canadian Law Awards

Commercial Litigation Team of the Year, 2024 – Canada (Privacy Commissioner) v. Facebook, Inc., 2023 FC 533

Lexpert Special Edition: Technology and Health Sciences

Leading Lawyer

Recent Experience

- **Meta Platforms' successful defence against PCC's PIPEDA challenge**
  April 13, 2023

- **Maple Leaf Sports & Entertainment receives federal, provincial and municipal COVID-19 safety approvals for the return of the Toronto Raptors to Canada for the upcoming NBA basketball season**
  September 10, 2021

Recent Insights

- **Technology Perspectives Outlook 2024**
  February 12, 2024

- **Key Lessons from Meta's Victory Against the Privacy Commissioner of Canada in the Federal Court**
  May 2, 2023

- **Virtual Advocacy: Litigating from a Distance**
  February 28, 2023

- **2021/2022 Cyber/Data Outlook: Data Breach Class Actions and Litigation in Canada**
  February 8, 2022

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Events

- **Breaks in the Chain: A Symposium on Supply Chain Disruption, Regulation and Ways Forward**
  November 30, 2021

- **#ELXN44: What Is Old is New Again – The "New" Trudeau Government's Impact on your Business**
  October 5, 2021