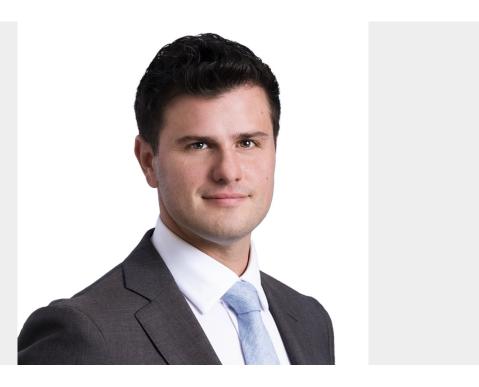


MITCH KOCZERGINSKI



Categories: People, Lawyers

Mitch Koczerginski is a highly skilled and strategic commercial litigator with a practice focused on privacy & data security issues. He also advises clients on a broad range of commercial matters.

As an experienced litigator with a deep understanding of the complex legal landscape surrounding privacy and data security, Mitch is uniquely suited to represent and advise clients on disputes about the protection and safeguarding of information, whether personal or commercially sensitive. Mitch has successfully handled a large number of disputes and administrative proceedings relating to claims of invasion of privacy, negligence and breaches of statutory and contractual confidentiality and data protection obligations. He also has extensive experience attacking and defending administrative decision making in connection with access to information requests relating to confidential commercial, financial, and technical information.

Mitch has appeared before the Federal Court, the Federal Court of Appeal, and all levels of court in Ontario, and



routinely represents clients in interactions with Canadian data protection authorities, including the Office of the Privacy Commissioner of Canada and its provincial counterparts.

In addition to his litigation expertise, Mitch provides strategic advice to clients in connection with data breaches involving sensitive personal and confidential information. He counsels through all aspects of the incident response process, including compliance with legal obligations, managing privilege issues, and implementing an effective communications strategy aimed at protecting both the legal interests and reputation of his clients. Mitch also regularly advises clients on the privacy law implications of new products, services, technologies and initiatives, and helps to develop privacy compliance programs and policies.

Always at the forefront of industry trends and emerging issues, Mitch is an active member of professional organizations dedicated to privacy and data security. He frequently speaks at conferences and seminars to share his knowledge and insights with fellow legal professionals. Mitch has been designated as a Certified Information Privacy Professional / Canada by the International Association of Privacy Professionals (IAPP) and is an executive member of the Ontario Bar Association's Privacy and Access to Information Law Section.

Mitch's clients also engage him to provide advice and representation on a variety of commercial matters, including in connection with commercial leasing, franchising and supplier-distributor disputes because he brings a strategic and creative approach to conflict resolution and has a proven track record of obtaining favorable outcomes. Mitch's advice is drawn from an in-depth understanding of his clients' business objectives and concerns, which leads to practical and tailor-made solutions to complicated legal issues.

Email: mitch.koczerginski@mcmillan.ca

Expertise: Privacy & Data Protection, Litigation & Dispute Resolution, Corporate Commercial Litigation,

Technology, Franchising & Distribution

LinkedIn: https://www.linkedin.com/in/mitch-koczerginski-47aaa98/

Location: Toronto **Phone:** 416.865.7262

Position/Title: Partner, Litigation & Dispute Resolution | Privacy & Data Protection

Directorships & Affiliations:

• OBA Franchise Law Section Executive for 2019-2020 (Technology Liaison), 2020-2021 (CPD Liaison), 2021-2022 (CPD Liaison) and 2022-2023 (Newsletter Editor).

mcmillan

- OBA Privacy and Access to Information Law Section 2022-2023 (Newsletter Editor)
- Franchise Law Section Executive for 2018-2019
- Appointed as Newsletter Editor

Publications:

- "The risks and rewards of empathy in data breach communication," by Mitch Koczerginski, Canadian Security (March 11, 2024)
- "Privacy Breaches in M&A Deals and the Importance of Data Security Diligence," Ontario Bar Association (April 20, 2023)
- "Franchising in Canada: 2022 Year in Review," (January 2023)
- "Canada now has an open banking lead here's why that matters" The Lawyer's Daily, This article was originally published by The Lawyer's Daily (www.thelawyersdaily.ca), part of LexisNexis Canada Inc. Coauthored with Darcy Ammerman and Robbie Grant (April 8, 2022)
- "<u>Canadian Courts Confirm Significant Limits on Privacy Class Actions</u>," Canadian Privacy Law Review, Vol. 19, No.4, (March 2022)
- "Canadian Centre for Cyber Security Releases Ransom Playbook" reproduced in LexisNexis' Internet and E-Commerce Law in Canada, Vol.22, No 11 co-author with Robbie Grant (March 2022)
- "Privacy implications of an open banking system in Canada", co-author with Darcy Ammerman and Robbie Grant, National Banking Law Review, Vol.40, No 6 (December 2021)

Education & Admissions:

Degree: Certified Information Privacy Professional

University: IAPP

Year: 2020

Degree: Called to the Ontario bar

Year: 2015

Degree: J.D., cum laude

University: University of Ottawa

Year: 2014

Degree: J.D., cum laude



University: Michigan State University

Year: 2014

Degree: B.A. (Philosophy)

University: University of Western Ontario

Year: 2010

Rankings & Recognition:

 Recognized by Best Lawyers in Canada (2024) as a "One to Watch" in the area of Corporate and Commercial Litigation

- University of Ottawa Faculty of Law, Dean's list
- Michigan State University College of Law, Dean's list

Speaking Engagements:

- Osgoode Certificate in Privacy and Cybersecurity, Data Breaches Working with the Forensics and Communications Teams
- March 2, 2023
- https://www.cbapd.org/details_en.aspx?id=ON_ON22FRA03X
- 21st Annual OBA Franchise Law Conference, Changes to Privacy and Regulatory Laws Impacting Franchising in Canada
- November 29, 2022
- https://www.cbapd.org/details_en.aspx?id=ON_ON19CHA06T
- Recent Trends Regarding The Enforceability of Restrictive Covenants in Franchise Agreements
- June 7, 2022
- https://www.cbapd.org/details_en.aspx?id=ON_ON22FRA03X
- Access to Information Requests and Practical Considerations for Not-for-Profit and Charitable Organizations
- November 19, 2019
- https://www.cbapd.org/details_en.aspx?id=ON_ON19CHA06T

Representative Matters: Privacy & Data Security Litigation:



- Prosecuting and defending claims of liability for negligence and breach of contract relating to protection against cybersecurity attacks, including ransomware attacks.
- Defending employers in proceedings alleging breaches of privacy obligations of Canadian privacy legislation.
- Defending retail companies against allegations of invasion of privacy by consumers, including intrusion upon seclusion.
- Bringing and responding to urgent applications for injunctive relief relating to the protection of information assets.
- Representing organizations in access to information proceedings to secure the protection of confidential commercial, financial and technical information.

Data Breach Counseling:

- Counseling clients on regulatory notice obligations relating data breaches, whether resulting from inadvertent disclosure of personal information or malicious cybersecurity attacks.
- Advising clients on strategies to reduce exposure to liability arising from a data breach that requires notice to large numbers of affected parties and regulatory bodies.
- Advising clients on legal and reputational considerations when advancing payment to a ransomware threat actor.
- Representing clients in regulatory inquiries and investigations following data breach notification.

Privacy & Data Security Compliance:

- Conducting gap analysis to evaluate overall institutional compliance with Canadian privacy laws and developing recommended remediation measures.
- Conducting data privacy impact assessments (DPIAs) to evaluate the compliance of certain business processes with Canadian privacy laws.
- Drafting and revising privacy policies and notices for compliance with Canadian privacy laws, including Canada's Personal Information Protection and Electronic Documents Act and substantially similar provincial legislation.
- Drafting and revising data protection addendums to facilitate data sharing and/or data processing arrangements with affiliates and service providers in compliance with Canadian privacy laws.
- Providing advice and recommendations regarding compliance with Canada's Anti-Spam Law (CASL).

Commercial Advice and Representation:

• Providing advice, recommendations and litigation representation to commercial landlords and tenants



relating to rent-reset and renewal disputes, breaches of restrictive covenants, breaches of the common law duty of good faith and improper termination of.

- Providing advice, recommendations and litigation representation to commercial developers seeking to vacate leased premises for redevelopment.
- Prosecuting and defending actions on behalf of suppliers and distributors alleging unlawful termination of distribution agreements, including claims for payment in lieu of notice of termination.
- Providing advice, recommendations and litigation representation to franchisors relating to disputes with franchisees, including non-payment of royalties, breaches of restrictive covenants, breaches of the common law and statutory duties of good faith and improper claims of rescission or cancellation of the franchise agreement.

Industries: Technology, Franchising & Distribution

Practices: Privacy & Data Protection, Litigation & Dispute Resolution, Corporate Commercial Litigation