



*Disponible en Anglais seulement*

## **Gillian assists high-profile clients facing complex issues and reputational risk, offering considered, thoughtful, creative roadmaps to deliver outcomes that are right for them.**

Gillian is a partner in our Litigation Group in Toronto. Her practice consists of complex commercial and professional liability disputes, with a focus on class actions, privacy & defamation law, and public sector & political law.

An experienced trial lawyer, Gillian has argued lengthy trials, before both judges and juries. She has appeared before the Supreme Court of Canada, the Ontario Court of Appeal, the Superior Court of Justice and administrative tribunals. She regularly represents clients in high-profile, sensitive regulatory investigations.

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

Clients value Gillian's dedicated advocacy and unparalleled judgement, which is a by-product of her holistic approach. 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 has a depth of experience in class-action defence. She understands the significant risk class actions carry, both reputational and economical. Gillian has the experience and the strategy acumen to minimize these risks for clients, and lead them to the right result.

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, represent, she represents Uber in in a class action alleging wrongful and misleading advertising on its Uber Eats platform, and 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 large Canadian corporation in an ongoing class action regarding breach of privacy allegations; 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".

## **Gillian P. Kerr**

**Associée**

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### **Admission au barreau**

Ontario 2009

### **Faculté de droit**

McGill University

### **Domaines de pratique**

Litige et résolution des différends

Litiges en appel

Actions collectives

Litige en droit commercial et en droit des sociétés

Responsabilité professionnelle

Litige en concurrence

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## Privacy and Defamation Law

Gillian has advised and represented clients on a wide array of privacy disputes, including on class actions and other claims. Gillian is counsel to Facebook in the Federal Privacy Commissioner's Federal Court Application regarding allegations pertaining to Cambridge Analytica. Gillian represented The Personal in a class action arising 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 a wide-lens strategic thinking.

When the issues cannot be resolved, Gillian sees them through to trial. Among her cases, 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 is currently representing CBC in a high-profile \$210-million action brought by Subway restaurants.

In defamation and media law, Gillian represents both plaintiffs and defendants. In addition, she regularly advises clients in relation to a broad range of public statements.

## Political Law

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.

## Notable Experience and Decisions

- Counsel to Meta/Facebook/Instagram in defence of the high-profile teen mental health class actions, alleging, among other things, misleading advertising to minors
- Counsel to Uber in a class action alleging wrongful and misleading advertising on its Uber Eats platform
- 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
- 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 Facebook in *OPC v. Facebook*, in the OPC's Application against Facebook proceeding in Federal Court.
- Counsel to Bell in a misleading advertising/Consumer Protection Act class action

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- 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.*, an ongoing putative class action alleging anti-competitive conspiratorial conduct.
- Counsel to BMW in *Johnson et al. ats BMW et al.*, an ongoing putative class action involving environmental breach allegations.
- 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 2020 ONSC 6809. The decision is under appeal.
- 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.
- Trial counsel to the Canadian Broadcasting Corporation (CBC) and three of its journalists 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*:
  - the claim was dismissed in its entirety following a 13-week jury trial in 2015,
  - the CBC was awarded more than \$1.6 million in costs (*Chandra v. CBC*, 2015 ONSC 6519 (CanLII)), and
  - Gillian successfully argued various pre-trial and trial motions, including a motion to allow the CBC's evidence to be called by videoconference (*Chandra v. CBC*, 2015 ONSC 5385 (CanLII)).
- Counsel to a large energy company, successfully obtaining emergency injunctive relief removing trespassers from the client's property and preventing other disruptive actions.
- Counsel to corporations in mining, auto-parts and industrial product industries, including successfully negotiating settlements of class actions.

## Community Engagement

Giving back to her profession and community is important to Gillian. At McCarthy Tétrault, she spearheads a diversity and inclusion project that orchestrates speaking events, mentoring and support for diverse associates within the firm. Gillian is equally committed outside of the office. She is the Secretary of the Board and Chair of the Governance

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Committee of West Neighbourhood House, an established charity in Toronto's west end. 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.

Gillian is a member of the Law Society of Ontario, the Ontario Bar Association, the Canadian Bar Association and The Advocates' Society. She was called to the Ontario bar in 2009.

## Prix et distinctions

### Benchmark Litigation Canada

Future Star

## Mandats récents

- **Meta Platforms, Inc. se défend avec succès contre la plainte du CPVP alléguant la non-conformité à la Loi sur la protection des renseignements personnels et les documents électroniques (LPRPDE)**  
13 avril 2023
- **Maple Leaf Sports & Entertainment reçoit les approbations des mesures sanitaires contre la COVID-19 de la part des autorités fédérale, provinciale et municipale en vue du retour des Raptors de Toronto au Canada pour la prochaine saison de la NBA**  
10 septembre 2021
- **La Cour suprême du Canada a rendu un jugement phare relatif à la renonciation d'une action collective sur les jeux électroniques.**  
24 juillet 2020

## Publications récentes

- **Leçons tirées de la victoire de Meta contre le Commissaire à la protection de la vie privée du Canada devant la Cour fédérale**  
05 mai 2023
- **Virtual Advocacy: Litigating from a Distance (Disponible en anglais seulement)**  
28 février 2023
- **2021/2022 Bilan et perspectives en Cyber/Données: Actions collectives et litiges en matière d'atteinte à la protection des données au Canada**  
16 février 2022

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- **Bilan et perspectives en Cyber/Données (2021-2022): Prendre une longueur d'avance en matière de protection de la vie privée, de gestion des données et de cybersécurité**

25 janvier 2022

## Événements

- **Ruptures dans la chaîne : Symposium sur la perturbation de la chaîne d'approvisionnement, la réglementation et les perspectives d'avenir**

30 novembre 2021

- **#ELXN44 : Quand le passé redevient le futur : les répercussions du « nouveau » gouvernement Trudeau sur votre entreprise**

05 octobre 2021

- **La réforme du droit de la protection de la vie privée au Canada : Une analyse des éléments clés (série en deux parties)**

24 février 2021