

CAFII ALERTS WEEKLY DIGEST: January 27 – February 3, 2023

February 3, 2023

The CAFII Alerts Weekly Digest is intended to provide a curated compendium of news on insurance, regulatory, and industry/business/societal topics of relevance to CAFII Members – drawn from domestic and international industry trade press and mainstream media – to aid in Members' awareness of recently published media content in those areas.

TABLE OF CONTENTS

Government/Legal/Regulatory Developments.....	2
Canadian Privacy Law 2022 Year In Review.....	2
FSRA Publishes Proposed Guidance For Managing Information Technology Risk.....	4
CLHIA Submits Budget Recommendations To Alberta	5
CLHIA Lobbies Alberta To Regulate Mental Health Professionals	6
CLHIA Continues Lobbying Provinces Ahead Of Provincial Budget Releases.....	7
Other CAFII Member-Relevant News.....	8
Canadian Premier Rebrands To Securian Canada, Following Acquisition Of Sun Life's Sponsored Markets Business.....	8
Companies Make Progress On Anti-Black Racism, But Workers Worry About Recession: KPMG Poll	9
Stable Outlook For Canadian Life Insurers Despite Clouds On The Horizon.....	10
Court Finds Murdered Man's Life Policy Was Valid, Again	12
New Insurance Bureau Of Canada President Outlines Priorities For 2023	13
Upcoming CAFII Member-Relevant Webinars and Events	14
Willis Towers Watson On "Enabling The Digital Journey Between Underwriting And Distribution Partners"	14
International Stakeholder Webinar On "IAIS' Work On Diversity, Equity and Inclusion In The Insurance Industry".....	14
The Fasken Spark Series Web Seminar: How to Be an Antiracist	15
Canadian Club Toronto Webinar Panel of Chief Executives on 'Securing Canada's Immigration Advantage'.....	16
Lavery French Webinar On 'Annual Review of Insurance Law: Key Judgments Rendered In Quebec In 2022'.....	17

GOVERNMENT/LEGAL/REGULATORY DEVELOPMENTS

Canadian Privacy Law 2022 Year In Review

By Wendy Mee, Ellie Marshall and Ronak Shah, Blake, Cassels & Graydon LLP, January 26, 2023

<https://www.blakes.com/insights/bulletins/2023/canadian-privacy-law-2022-year-in-review>

In 2022, the Canadian privacy and cybersecurity law landscape continued to see significant transformation. As with previous years, to mark Data Privacy Day, we have summarized the big stories from last year to help you stay up to date on the latest developments.

Federal Government Proposes New Privacy & Cybersecurity Legislation

On June 16, 2022, Canada's Minister of Innovation, Science and Industry introduced Bill C-27, the Digital Charter Implementation Act, 2022. Bill C-27 is the successor to the federal government's earlier proposal, Bill C-11, which was introduced in 2020 but died on the order paper following the 2021 federal election. Like the 2020 proposal, Bill C-27 would, if passed:

- Repeal parts of the Personal Information Protection and Electronic Documents Act that regulate the processing of personal information and enact a new Consumer Privacy Protection Act (CPPA)
- Enact the Personal Information and Data Protection Tribunal Act, which establishes an administrative tribunal to hear appeals of certain decisions made by the Privacy Commissioner of Canada under the CPPA and impose penalties for contravention of certain of its provisions
- Introduce rules to regulate "high-impact" artificial intelligence systems under a new Artificial Intelligence and Data Act (AIDA)

Bill C-27 is currently at second reading in the House of Commons. We expect the bill will be sent to committee for further consideration in the coming months.

To learn more about Bill C-27 and AIDA, read our June 2022 Blakes Bulletins: Privacy Reform Redux: New Federal Bill Set to Reform Canada's Private-Sector Privacy Law and Federal Government Proposes New Law to Regulate Artificial Intelligence Systems.

On June 14, 2022, Canada's Minister of Public Safety introduced Bill C-26, which would impose a series of cybersecurity-related obligations on designated organizations in four key federally regulated sectors: telecommunications, finance, energy and transportation. At a high level, the bill would enact the Critical Cyber Systems Protection Act, which aims to protect critical cyber systems considered integral to Canadian infrastructure and public safety. Bill C-26 is currently at second reading in the House of Commons.

For more information about Bill C-26, read our June 2022 Blakes Bulletin: House of Commons Introduces Bill C-26: Proposed Federal Cybersecurity Legislation.

Quebec Privacy Laws Continue To Develop

September 2022 saw the first of a series of amendments to Quebec's Act respecting the Protection of Personal Information in the Private Sector (Quebec Act) made as a result of Bill 64. Organizations must now (among other things):

- Delegate in writing the role of the person in charge of the protection of personal information (PIC). If no such delegation is made, the person exercising the highest authority within the organization will be deemed to be the PIC.
- Notify the Commission d'accès à l'information du Québec and affected individuals of any "confidentiality incident" involving personal information that presents a risk of serious injury.

Read our August 2022 Blakes Bulletin: Quebec Privacy Law: Is Your Organization Ready for New Rules in Force this September? To review all of the new obligations that came into force in Quebec as of September 2022.

Most of the amendments made by Bill 64 will come into force on September 22, 2023. These amendments will impose significantly enhanced obligations on private sector organizations and provide for stronger enforcement powers, including administrative monetary penalties of up to C\$10-million or, if greater, an amount corresponding to two per cent of the organization's worldwide turnover for the preceding fiscal year.

On December 12, 2022, the Government of Quebec tabled Bill 3, an Act respecting health and social services information and amending various legislative provisions before the National Assembly of Quebec. The bill addresses a legislative gap in Quebec's privacy infrastructure by introducing the first comprehensive legal framework specific to health and social services information with the stated purpose to better protect, use and manage health information. The bill proposes a framework similar to provincial health information privacy laws in other Canadian jurisdictions, but with obligations and penalties more aligned with recent amendments to Quebec privacy laws. The bill is expected to be debated at the national assembly.

Alberta PIPA Statutory Review Underway

On March 25, 2022, the Alberta legislature passed Government Motion 29, referring Alberta's Personal Information Protection Act (PIPA) to the Standing Committee on Alberta's Economic Future for legislative review. As a next step, the committee passed a motion to invite a technical briefing on PIPA from the ministry responsible for administering PIPA and the Office of the Information and Privacy Commissioner of Alberta.

Ontario's Employee Electronic Monitoring Policy Obligation Comes Into Force

As of October 11, 2022, employers in Ontario with 25 or more employees are required to have a written policy on the electronic monitoring of employees and provide all employees with a written copy of the policy. The policy must describe (among other things) whether employees are electronically monitored, the methods used, the circumstances in which the monitoring will occur, and the information collected.

For more information, read our October 2022 Blakes Bulletin: Ontario's Employee Electronic Monitoring Policy: October 11 Deadline Approaching.

Ontario Court Of Appeal Limits Intrusion Upon Seclusion Claims In Cybersecurity Cases

On November 25, 2022, in *Owsianik v. Equifax Canada Co. (Owsianik)*, the Ontario Court of Appeal held that intrusion upon seclusion is not a viable cause of action against a defendant who has been the victim, rather than the perpetrator, of a cyberattack. Owsianik confirmed that a defendant's alleged failure to prevent a breach of privacy by an outside party will not give rise to a claim for intrusion upon seclusion. For more information, read our November 2022 Blakes Bulletin: Court of Appeal for Ontario Limits Intrusion Upon Seclusion Claims in Cybersecurity Cases.

Public Sector Breach Reporting Requirements In Force In B.C.

As of February 1, 2023, public bodies in British Columbia will be required to report privacy breaches and have privacy management programs. These obligations stem from amendments made to B.C.'s Freedom of Information and Protection of Privacy Act in November 2021. For more information, read our January 2023 Blakes Bulletin: Mandatory Privacy-Breach Reporting Coming to B.C. Public Sector.

FSRA Publishes Proposed Guidance For Managing Information Technology Risk

By Insurance Portal Staff, January 24, 2023

The Financial Services Regulatory Authority of Ontario (FSRA) has published proposed guidance on information technology (IT) risk management for entities in the sectors it regulates, "to help the sectors and individuals it regulates effectively manage a threat to their IT systems, infrastructure, and data."

The consultation period to address the proposed guidance and submit feedback is open until March 31, 2023.

"Regulated entities must comply with existing requirements related to IT risk and the protection of personal information, including the requirements of the Personal Information Protection and Electronic Documents Act (PIPEDA). The guidance is applicable to all FSRA-regulated sectors," they write. In addition to credit unions and mortgage brokering, FSRA also regulates insurance, pensions, financial planners, and advisors.

The guidance sets out seven practices including those affecting governance, risk and data management, outsourcing, incident preparedness and continuity, along with the steps required to notify the regulator in the event of a material IT risk incident.

"The guidance describes practices and desired outcomes for regulated entities and individuals, but does not prescribe how to achieve them. This principles-based approach offers regulated entities and individuals the flexibility to achieve the outcomes in a manner that is suitable for the size and nature of their business," FSRA writes in the guidance document.

Broken down, the document includes information and approach guidance which do not create any compliance obligations, but also interpretation guidance which sets out FSRA's requirements under its legislative mandate. "Non-compliance can lead to enforcement or supervisory action," the regulator writes.

"FSRA defines IT risk as the risk of financial loss, operational disruption or damage, or reputational loss resulting from the inadequacy, disruption, destruction, failure, or damage by any means to a regulated entity or individual's IT systems, infrastructure, and data," the regulator states.

"IT risk can be external or internal to a regulated entity or individual. IT risk encompasses, but is not limited to, cyber risk. While cyber risk specifically relates to deliberate or accidental breaches of security, IT risk also includes any risk extending from the use of IT," including aging digital infrastructure, FSRA indicated.

Read Story (Subscription Required): [Regulator publishes proposed guidance for managing information technology risk - Insurance Portal \(insurance-portal.ca\)](#)

CLHIA Submits Budget Recommendations To Alberta

By Insurance Portal Staff, January 24, 2023

The Canadian Life and Health Insurance Association (CLHIA) is making several recommendations to the Ministry of Finance in Alberta, ahead of the release of that province's 2023 budget. "The CLHIA believes that these recommendations will help support the Albertan economy as the province faces added pressures from higher inflation and recent natural events," the industry Association writes.

CLHIA's 2023 Provincial Budget Submission discusses the COVID-19 pandemic, saying that in 2021 the industry added 5,200 jobs across the country, including 1,000 in Alberta, as its members shifted to remote work and as Canadians made increased use of health benefits. It further discusses the development of dental care, pharmacare, and rare disease strategies occurring at the federal level. "This is work of interest to the government of Alberta, as the province has its own programs," CLHIA writes. "Collaboration with our sector and the province is essential."

CLHIA advocates for new programs to expand dental care coverage, but with eligibility criteria targeting those without existing coverage through workplace plans. "The program should not result in fewer Canadians accessing dental benefits through their workplace plans," the Association writes.

With respect to pensions, CLHIA further lobbies for the Alberta government to explicitly allow employers to deduct employee contributions to plans automatically. It also addresses *Variable Payment Life Annuities* (VPLAs), allowed by the federal government in 2021.

"The CLHIA continues to believe the VPLA legislation, as enacted, would only enable a select minority of Canadians participating in defined contribution registered pension plans (DC plans) or pooled registered pension plans (PRPPs), which is an issue, as we estimate it requires at least 10,000 plus active members to provide the scale for a stable VPLA solution," the submission states.

“The current measures do not take into consideration many other retirees who are members of smaller DC or PRPP plans that lack scale for a standalone VPLA solution.” It goes on to encourage Alberta to monitor and parallel federal measures to introduce new retirement income options, and to encourage the federal government to permit stand-alone VPLAs.

The submission also encourages the government to leverage the industry’s investment capacity in infrastructure projects.

Notably, it concludes with a discussion about premium taxes – Alberta currently imposes a three per cent tax on life, health and disability insurance premiums. Those taxes totalled more than \$203 million in 2021, according to the Association.

“The premium tax is outdated – it predates corporate income taxes and imposes a supplemental tax burden five times the \$42 million in corporate income taxes levied on life and health insurance companies in Alberta in 2021. Canada’s life and health insurers oppose any form of consumption tax on insurance premiums,” CLHIA writes. “An aging population and escalating health care costs are increasing Alberta residents’ need for income security and supplementary health care. We believe that discouraging individual responsibility for these benefits by taxing the purchase of insurance coverage is not sound public policy.”

Read Story (Subscription Required): [Insurance association submits budget recommendations to Alberta - Insurance Portal \(insurance-portal.ca\)](#)

CLHIA Lobbies Alberta To Regulate Mental Health Professionals

By Insurance Portal Staff, January 25, 2023

The Canadian Life and Health Insurance Association (CLHIA) is working in Alberta to encourage that province to regulate its mental health professionals.

The Association of Counselling Therapy of Alberta’s (ACTA) transition to a regulated profession, the Association says, will provide a layer of oversight and an avenue for patients to file a complaint, with the knowledge that the regulatory college has the ability to discipline its members. The submission also discusses liability insurance and the importance of having a code of ethics.

“On behalf of the Canadian life and health insurance industry, I am writing to encourage the province of Alberta to move forward with the proclamation of the College of Counselling Therapy of Alberta,” writes CLHIA’s vice president, group benefits, Joan Weir. “Our understanding is that all required elements of a regulatory college have been developed. By doing so, Alberta would follow the lead of those provinces which have already regulated some or all mental health professionals.”

The submission goes on to point out that most insurance plans funded by employers do not reimburse the services of unregulated providers. “Public plans also do not fund these services,” Weir writes, adding that the lack of regulation reduces access and increases wait lists for mental healthcare. “Regulation will broaden the choice of mental health services that are available to the public.”

Read Story (Subscription Required): [Insurance association lobbies province to regulate mental health professionals - Insurance Portal \(insurance-portal.ca\)](#)

CLHIA Continues Lobbying Provinces Ahead Of Provincial Budget Releases

By Insurance Portal Staff, January 26, 2023

The Canadian Life and Health Insurance Association (CLHIA) is continuing its lobbying efforts across the country, this time sending a submission to the Minister of Finance in Prince Edward Island (PEI), outlining the industry's concerns about dental and rare disease strategies being contemplated by the federal government.

"Collaboration with our sector and the province is essential," the submission states, adding that governments and the industry need to ensure that as federal programs are expanded to more individuals, that these efforts do not put existing benefits plans at risk. "We believe that providing targeted support to those who do not have coverage helps fill the gaps and is fiscally responsible," they add.

Like an earlier submission made to the government of Alberta, the CLHIA submission also calls on PEI to eliminate its tax on life, health and disability insurance premiums. In PEI, those amounted to \$7.8-million in 2021. It also recommends amendments to the Employer Standards Act to permit the use of automatic features in voluntary workplace pension plans.

Repeating its call also for governments to look more seriously at the industry as a long-term partner in infrastructure development as well, the CLHIA points out that the nature of life and health insurance products and their long-term liabilities make life insurers ideal financial backers for long-term infrastructure projects, including public-private partnerships. "This inherent structural advantage makes the industry an important and stable investor," they write. "The industry is able and wants to do more."

The submission concludes with a call for the province to update its Insurance Act, alongside similar developments occurring in New Brunswick and Nova Scotia, to harmonize the legislation with other provinces. "Given that CLHIA members have business all across the country, it is important that there is consistency in the rules governing the insurance business."

Read Story (Subscription Required): [Association continues lobbying provinces ahead of provincial budget releases - Insurance Portal \(insurance-portal.ca\)](#)

OTHER CAFII MEMBER-RELEVANT NEWS

Canadian Premier Rebrands To Securian Canada, Following Acquisition Of Sun Life's Sponsored Markets Business

By Rosie Iskander, Director, Marketing and Communications, Securian Canada, February 2, 2023

<https://securiancanada.ca/news/canadian-premier-rebrands-to-securian-canada-following-acquisition-of-sun-lifes-sponsored-markets-business/>

Today, Canadian Premier Life Insurance Company and Canadian Premier General Insurance Company ("Canadian Premier") announced its rebrand to Securian Canada[1] following its completed acquisition of Sun Life's Sponsored Markets business. After more than doubling its position in the Canadian market, Canadian Premier, along with Valeyo, Inc. (a sister company to Canadian Premier, and provider of technology and services for financial institutions), will now collectively do business as Securian Canada.

"The successful acquisition of Sun Life's Sponsored Markets business provides scale to our services and is a catalyst to optimize all Securian Canada assets under one umbrella," said Nigel Branker, Chief Executive Officer, Securian Canada. "We have strengthened our position, and through our combined offering, will now bring one voice and one brand to market. With an enhanced presence in the Canadian insurance industry, Securian Canada emerges as a leading insurance provider and progressive employer of choice in the Canadian Financial Institution (Creditor) and Association & Affinity markets."

"We are proud and excited to combine our talent, expertise and commitment to further grow and lead within the markets we serve as an agile, innovative and digitally focused Canadian insurance provider," said Branker. "We are committed to providing specialized experiences and creating practical, life-ready insurance products and partnerships to help Canadians and their families feel secure."

With offices in Toronto, Montreal, Burnaby, Waterloo and Winnipeg, Securian Canada brings together strong local roots and expertise, a North American footprint through its Fortune 500[2] parent, Securian Financial Group, Inc. (Securian Financial[3]), and a global perspective. Securian Canada's unique focus on innovation, digital technology, and diversity, equity and inclusion enables the organization to offer its partners, clients, and more broadly, Canadians and their families, insurance solutions that fit.

About Securian Canada

We're here for all Canadians and their families – however they define family. Everything we do helps build secure tomorrows, including our life-ready insurance and protection solutions designed to help provide financial security.

For over 65 years, we've been providing protection to Canadians and their families, giving Canadians the confidence to face life's uncertainties. Today, Securian Canada brings together strong local roots and expertise, a North American footprint, and a global perspective – all while innovating at the speed the markets we serve expect.

Together with our U.S. parent company – Securian Financial – we offer insurance solutions and build them with genuine care, providing specialized experiences to those we serve.

Companies Make Progress On Anti-Black Racism, But Workers Worry About Recession: KPMG Poll

Concerns About What An Economic Slowdown Could Mean For Black Canadians Weighed On Many Of Those Surveyed

By The Canadian Press, January 30, 2023

<https://www.investmentexecutive.com/news/research-and-markets/companies-make-progress-on-anti-black-racism-but-workers-worry-about-recession-poll/>

Most Black Canadians feel their employers made progress addressing anti-Black racism last year, but they worry about what a recession could mean for those gains, a KPMG survey indicates.

The report found that 90% of the 1,001 Black Canadians surveyed in December and January said their employers made progress on efforts to be more equitable and inclusive for Black employees in 2022.

About 59% of respondents said their employer's efforts to hire more Black people improved, while 54% said efforts to promote more Black people into leadership roles was also better.

However, concerns about what an economic slowdown could mean for Black Canadians weighed on many of those surveyed.

The KPMG study found that 73% of respondents believe that anti-Black racism efforts and broader diversity, equity and inclusion initiatives will be "put on the back burner" by their employer during an economic downturn.

Some 77% were concerned that a recession will hurt the career and promotion prospects of their Black and racialized colleagues harder than others.

Studies have long found that Black Canadians working in many sectors are less likely to receive promotions, reach executive ranks, and garner mentorship or board seats, and are more likely to experience discrimination in the workplace.

Since the death of George Floyd, a Black man in Minneapolis killed by police during the COVID-19 pandemic, sparked global fury over systemic racism, there has been added pressure for companies to diversify and rectify issues which Black employees face as they seek employment and promotions.

Some companies took Floyd's death as a catalyst for change. They formalized diversity policies and looked more closely at the makeup of their workforce.

But there is still room for improvement with many companies yet to act and others with further steps to take.

“While it’s encouraging to see that Canadian organizations have continued to make progress on addressing anti-Black racism over the past year, it’s imperative to keep building on that momentum, even in the face of economic headwinds, labour market fluctuations, and inflationary pressures,” said Elio Luongo, chief executive and senior partner of KPMG in Canada, in a news release.

While unemployment has been low for much of the pandemic, inflation has remained stubbornly high in the last year and some economists foresee a recession materializing.

As a result, companies have been hiking prices, being careful with hiring, and, in some cases, even resorting to layoffs.

Luongo hopes those actions don’t sideline diversity efforts.

“As a business community, we must not lose sight of what’s important — people,” he said.

Of the respondents whom KPMG surveyed, 52% were male and 48% female. Some 83% worked full-time, 12% worked part-time or on contract, and 5% were self-employed. The survey cannot be assigned a margin of error because online polls are not considered truly random samples.

Stable Outlook For Canadian Life Insurers Despite Clouds On The Horizon

By Alain Thériault, Insurance Portal, January 25, 2023

Rating agency DBRS Morningstar predicts a bright sky for the Canadian life and health insurance industry, despite inflation and the economic slowdown.

Financially strong and diversified in their business, life insurers will also benefit from high interest rates, DBRS Morningstar said in its commentary published on January 18, 2023, signed by Komal Rizvi, Vice President, Insurance, and Marcos Alvarez, Senior Vice President, Global Head of Insurance, both from DBRS' Global Financial Institutions Group.

For January 2023, the agency assigns a stable outlook to both the financial strength and securities issuer ratings of seven life insurance companies in Canada: Equitable Life, Canada Life, Empire Life, Foresters Financial, iA Financial Group, Manulife, and Sun Life.

"Despite headwinds, the outlook for the Canadian life insurance industry is expected to remain broadly stable for the remainder of 2023. The stable outlook primarily reflects high levels of capitalization, including strong regulatory solvency ratios, moderate levels of leverage, and high debt coverage ratios," the rating agency said.

Prudent Management

The agency also pointed out that insurers' business models are widely diversified, "both in terms of product lines and geography." According to DBRS Morningstar, this diversification is combined with prudent risk management practices. Those factors also support the Agency's predictions of stability.

The primary measure of insurers' financial strength, the Life Insurance Capital Adequacy Test (LICAT) has remained stable since its implementation in 2018, notes the rating agency. The agency believes it should remain so, as the industry transitions to the IFRS 17 insurance accounting standard.

High Levels of Capitalization

DBRS Morningstar anticipates that insurers' equity will be affected (by IFRS 17). However, some of those funds will be redeployed to create a new liability called the contractual service margin. The agency explains that this margin will count as Level 1 available capital for the purposes of the LICAT capital adequacy test.

"The life insurance industry is very well capitalized, as evidenced by the continued excess capital due to significant market volatility in 2020 and 2021, as well as disruptions caused by COVID-19," the agency wrote in its commentary. It also notes that in the third quarter of 2022, LICAT ratios for the four largest operating life insurance companies in Canada remained "comfortably above the prudential total capital target of 100%":

- Manulife: 136%
- iA Financial Group: 124%
- Sun Life: 123%
- Canada Life: 118%

In addition, DBRS Morningstar believes that rising interest rates are a welcome development for life insurance companies. That trend should increase their profitability in the longer term, the agency predicts. It also noted that, to a large extent, insurers invest premiums written in fixed-income instruments to pay insurance claims.

Pitfalls

Life insurers' assets under management and administration have grown for years, driven by market growth and net sales. Those tailwinds weakened in 2022, pushing insurers' assets down. "Growth in assets under management and administration is expected to remain moderate in 2023, as long as market volatility continues and high inflation persists," the rating agency predicted. According to the Bank of Canada, inflation stood at 6.3% in December 2022, according to the Consumer Price Index.

The reduced purchasing power of consumers could affect the demand for life and health insurance products, and thus affect the growth in gross premiums written by life insurers.

Read Story (Subscription Required): [Stable outlook for life insurers despite clouds on the horizon - Insurance Portal \(portail-assurance.ca\)](#)

Court Finds Murdered Man's Life Policy Was Valid, Again

Desjardins' Appeal Rejected As Insurer Failed To Prove Fraud On Life Application

By James Langton, Investment Executive, January 27, 2023

<https://www.investmentexecutive.com/news/from-the-regulators/court-finds-murdered-mans-life-policy-was-valid-again/>

An Ontario appeal court upheld a lower court's ruling that an insurer was wrong to deny a \$500,000 life insurance payout to the son of a murdered man on the basis that the man had lied about his criminal history on his insurance application.

The Court of Appeal for Ontario rejected an appeal from Desjardins Financial Security Life Assurance Company seeking to overturn a Superior Court of Justice decision from January 2022, which ruled that a life policy taken out by Dean Costanza in 2012 was valid, despite his failure to properly disclose a past criminal conviction.

Costanza was found murdered outside his home in 2017. The company declined to pay out on his life insurance policy, stating that the client's failure to disclose a 2009 conviction for assault constituted a material and fraudulent misrepresentation. The insurance application required him to disclose any convictions in the previous three years.

However, the lower court found that the insurer failed to prove that Costanza lied on the application, taking the position that while he could have been sentenced within the three-year window, that didn't mean the conviction fell within that time frame.

The judge said the insurer's evidence of a misrepresentation fell "woefully" short of adequate proof of fraud, and that it's possible he made a mistake on the dates or was negligent in filling out the application.

It also rejected the allegation that Costanza failed to disclose a criminal background that would have been material to the application for life insurance.

On appeal, the insurer sought to introduce new evidence that Costanza's assault conviction did occur within the three-year window before he applied for life insurance and that the insurance application contained a misrepresentation.

The appeal court rejected the insurer's bid to introduce new evidence to establish the date of Costanza's conviction.

"Although the fresh evidence could affect the issue of whether there was a material misrepresentation, it could not reasonably be expected to affect the result of the application, because it could not reasonably be expected to affect the application judge's finding that the insurer had failed to establish the intent required for civil fraud," Justice Jill Copeland wrote for the appeal court in its decision released on Thursday, January 26.

The appeal court concluded that Superior Court judge Erika Chozik did not err in applying the standard of intent required to prove fraud.

As a result, the appeal court rejected the insurer's effort to introduce new evidence, and dismissed its appeal.

New Insurance Bureau Of Canada President Outlines Priorities For 2023

By Kate McCaffery, Insurance Portal, February 3, 2023

[Association's new president outlines priorities for 2023 - Insurance Portal \(insurance-portal.ca\)](https://insurance-portal.ca)

The Insurance Bureau of Canada (IBC) has a new President and CEO, appointed to begin in the role at the start of this year, replacing outgoing President and CEO Don Forgeron.

Celyeste Power, formerly IBC's executive vice-president of strategic initiatives and advocacy, is the association's seventh President and CEO and the first woman to hold the position.

She made a statement on January 31, outlining key areas of focus for the organization going forward. Calling 2023 an "exceptionally important year," Power said she remains committed to sharing the property and casualty industry's story with governments, consumers, and stakeholders.

"IBC will address broken auto insurance systems across the country," Power asserted. "The best way to keep auto insurance affordable is to reform systems across the country." The statement goes on to say that the IBC will also keep advocating at all levels of government for climate change adaptation.

Power added that the IBC will continue to help the federal government make its commitment to a national flood insurance program a reality in 2023. Once the public-private partnership is established, she indicated that it could be extended to address earthquake-related insurance gaps and other climate protection gaps that emerge in the future.

Inflation, labour shortages, global supply chain disruptions, and a challenging reinsurance market, and their impacts on the industry will also be addressed with consumers and stakeholders, and commercial insurance will remain a focus. "Cyber risk posed by cyber-attacks is a growing threat to businesses across the country," Power wrote. "IBC will continue to convey to governments the urgent need to play a role in encouraging businesses to improve their cyber defenses to manage and reduce the risk before cyber insurance is needed."

Power's progressively more responsible positions with the IBC, prior to her becoming President and CEO, included work as the Association's national corporate spokesperson, executive director, and chief strategy officer.

"I am honoured to lead one of Canada's pre-eminent industry Associations. I look forward to working with the IBC team and our members to advance public policy solutions to address some of the most urgent challenges facing Canadians," she stated.

UPCOMING CAFII MEMBER-RELEVANT WEBINARS AND EVENTS

Willis Towers Watson On “Enabling The Digital Journey Between Underwriting And Distribution Partners”

Dates: Wednesday, February 8, 2023

Time: 1:00 – 2:00 p.m. EST

With the rise of artificial intelligence and machine learning, insurance companies are assessing the impact of market disruptors across products, segments and channels to prepare for future underwriting capabilities and solutions. In this digital age, chief data officers, chief underwriting officers and chief distribution officers will need to collaborate and take proactive steps to harness the data required to optimize and simplify their operating models and drive positive outcomes.

In this webinar, we will discuss how digitally connecting distribution partners to underwriters requires sophisticated technology platforms with the ability to digitize and share data that will result in faster decisions and end-to-end risk-to-capital matching.

Learn how using the right technology will:

- Enhance the trading relationship
- Improve quality and efficiency in the exchange of data
- Reduce friction and lower the cost of transactions

[Register Here](#)

International Stakeholder Webinar On "IAIS' Work On Diversity, Equity and Inclusion In The Insurance Industry"

Dates: Thursday, February 9, 2023

Time: 7:00 a.m. – 8:00 a.m. EST

On February 9, 2023 at 13.00 – 14.00 CET (7.00 AM – 8.00 AM EST), join

- the Financial Services Regulatory Authority (FSRA)'s Mark White, Chair of the Market Conduct Working Group at the International Association of Insurance Supervisors (IAIS);
- Helen Rowell - IAIS DEI Champion; and
- Anna Jernova - IAIS Chair of the Governance Working Group

at an international stakeholder session on diversity, equity and inclusion (DEI) in the insurance industry.

Bring your expertise and Canadian presence to the international stage with the opportunity to influence discussions on DEI. Stakeholders will be invited to raise ideas and feedback to help the IAIS take forward the two new projects on DEI in 2023 that intend to examine:

- the link between DEI within an insurers' institution and its governance, risk management and corporate culture; and
- how DEI considerations in insurers' conduct of business, and in their supervision, may result in fairer treatment of consumers who are vulnerable, under-served or have different needs in comparison with a normative or majority consumer profile.

The purpose of this session is to give an overview of the IAIS' work on DEI in the insurance sector and to receive input from stakeholders to inform the IAIS' next projects on DEI. The IAIS recently published a [DEI 'stocktake report'](#) in December 2022 which highlights DEI work being undertaken by insurance supervisors and industry members across the world. An overview of the report and planned future DEI projects will be given at the session.

The session will be interactive and invite comments from participants. A small number of questions will be circulated in advance to registered participants.

[Register here](#)

The Fasken Spark Series Web Seminar: How to Be an Antiracist

Dates: Monday, February 13, 2023

Time: 11:50 a.m. – 1:05 p.m. EST

08:05 a.m. – 10:05 a.m. PST

This Fasken Series brings notable guests to share their experiences and explore ideas around equity, diversity and inclusion in the legal industry and beyond.

As part of our efforts to honour Black History Month and move towards a more equitable future, we invite you to join us for a conversation with New York Times best-selling author and activist Dr. Ibram X. Kendi.

Dr. Kendi has written several best-selling books on equity, race and justice. In 2020, he was named as one of the 100 Most Influential People in the world by Time Magazine. He is a Professor at Boston University, as well as the Founding Director for the University's Center for Antiracist Research.

How to Be an Antiracist, Kendi's award-winning memoir first published in 2019, with an updated edition coming in early 2023, has been called "the most courageous book to date on the problem of race in the Western mind" by the New York Times.

In a conversation hosted by Sandeep Tatla, Chief Equity, Diversity, and Inclusion Officer at Fasken, Dr. Kendi will share:

- What it means to be antiracist
- How to go beyond an awareness of racism to the next step of uprooting racism
- The growth in his thinking since 2019, including his work at the Center for Antiracist Research, and
- How members of the legal profession can help address systemic racism

Please note that the session will be held in English. Live French translation will be available.

To learn more about **Dr. Kendi**, [click here](#).

[Register Here](#)

Canadian Club Toronto Webinar Panel of Chief Executives on 'Securing Canada's Immigration Advantage'

Dates: Tuesday, February 14, 2023

Time: 11:45 a.m. – 1:30 p.m. EST

Canada's ability to attract talent from every corner of the globe is one of our country's greatest competitive advantages.

But are we doing enough to ensure newcomers can contribute to their full potential?

Join Canadian Club Toronto on February 14th for a timely discussion with three leading chief executives on how their businesses support newcomers and what the private sector, communities and governments can do together to secure Canada's immigration advantage, featuring:

- Victor Dodig (CIBC),
- Penny Wise (3M Canada),
- Martin Basiri (ApplyBoard),
- Goldy Hyder (Business Council of Canada), with
- Patrick Brethour (The Globe and Mail)

For further information and to obtain a virtual ticket (\$0)/register, [click here](#).

Lavery French Webinar On 'Annual Review of Insurance Law: Key Judgments Rendered In Quebec In 2022'

Dates: Thursday, March 9, 2023

Time: 8:00 a.m. – 9:30 a.m. EST

This hybrid conference will summarize and discuss the key judgments rendered in Québec in 2022.

The two Lavery presenters will be:

- **Jonathan Lacoste-Jobin:** a member of the Litigation group and practices primarily in the areas of insurance law, professional liability, and commercial litigation; and
- **Bernard Larocque:** a partner whose practice focuses primarily on civil litigation, including defamation law, insurance law, class actions, professional liability, and administrative disputes. He frequently appears before the courts, including the Supreme Court of Canada and the Quebec Court of Appeal.

The talks will be given in French.

[Register Here](#)

This invitation may be transferred. Feel free to send it to colleagues within your organization.