



Press Release

May 14, 2018

**PROPOSED PRIVACY BREACH CLASS ACTION AGAINST
THE PERSONAL INSURANCE COMPANY**

TORONTO, Ontario

A proposed privacy breach class action lawsuit has been launched by the law firm [Waddell Phillips Professional Corporation](#) against The Personal Insurance Company and its parent, Desjardins General Insurance Group Inc.

The plaintiff, Kalevi Haikola, commenced this claim against his motor vehicle insurer after it accessed his credit score when it was adjusting a simple accident benefits claim. The lawsuit alleges that credit score information is wholly irrelevant when an insurer is resolving accident benefit claims, and therefore the defendants could only be using this information for improper purposes, and against the interests of their customers.

In fact, Mr. Haikola complained to the Office of the Privacy Commissioner of Canada, alleging that the demand for credit score information was improper. The Privacy Commissioner agreed, holding that The Personal collected and used credit information from Mr. Haikola without obtaining meaningful consent, and in a manner that a reasonable person would consider inappropriate. The Office of the Privacy Commissioner of Canada concluded that The Personal violated the *Personal Information Protection and Electronic Documents Act* (“*PIPEDA*”).

In February 2018, The Personal told the Privacy Commissioner that it had stopped the practice of collecting and using credit score information during its claims assessment process. Despite this representation to the Privacy Commissioner, after Mr. Haikola was involved in a rear-end collision in March 2018, The Personal asked Mr. Haikola, not only for his consent to access his credit score (the very thing that it had said it was no longer doing, and which was found to be a *PIPEDA* breach), but it also asked for much more intrusive financial disclosure.

The claim asserts that the foremost obligation of an insurer is to act with utmost good faith toward its insureds. This obligation includes the duty to respect the privacy interests of insureds. Intrusive prodding into personal financial affairs, including credit scores, of insureds is inappropriate and unlawful under Canadian privacy legislation. The claim alleges that persons involved in motor vehicle accidents are particularly vulnerable in the hands of their insurance companies, and can reasonably expect their insurers to treat

them fairly. This includes a reasonable expectation that they will not be given differential treatment based upon their personal financial circumstances.

In this action, Mr. Haikola seeks damages for defendants' breach of the privacy rights of Canadians embodied in *PIPEDA*, and for the defendants' alleged bad faith based upon continuing the practice of collecting personal financial information after they told the Privacy Commissioner that they had stopped the practice. Mr. Haikola seeks damages on behalf of all class members for the alleged unreasonable breach of their privacy and the insurer's alleged breach of the duty of utmost good faith.

Additional information about this case, and a private portal for class members to communicate with class counsel is available at:

www.personalprivacyclassaction.com.

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