



## **F07-20-MS                    ICBC Severing Meets Litigation Privilege Test**

A lawyer made an access request to the Insurance Corporation of British Columbia for the claim file of a client who had been involved in a motor vehicle accident. ICBC provided a copy of the file but withheld a considerable amount of information under sections 14, 17 and 22 of FIPPA.

ICBC maintained that it had appropriately applied the section 14 exception because the material in question consisted of communications between ICBC and its solicitors or records created in contemplation of litigation. Under the common law, a public body claiming litigation privilege must prove that the dominant purpose for creation of the record was to conduct, assist with or advise upon litigation under way or in reasonable prospect at the time of its creation. On reviewing the records, we were satisfied that this test had been met.

ICBC also made a persuasive case that the information it withheld under section 17 was information, such as reserve information (the estimated maximum cost of settling a claim), that, if disclosed, could harm ICBC's financial interests relating to the settlement of the claim. The information to which ICBC applied section 22 is comprised of the addresses, telephone numbers, insurance information, employment information and other information of third parties and was also justifiably withheld.