

MINDSENSE CASE HIGHLIGHT

BD v Germain: Alberta Recognizes the Tort of Intrusion Upon Seclusion

BD v Germain, 2026 ABKB 590 | Alberta

The Alberta Court of King's Bench has added another significant marker to Canada's evolving trauma-informed legal landscape. In *BD v Germain*, 2026 ABKB 590, the court formally recognized the tort of **intrusion upon seclusion** in Alberta – bringing the province in line with Ontario and others that have already accepted this cause of action.

Beyond its significance for privacy law, the case is also part of a broader trend: Canadian courts are increasingly recognising the ways trauma can arise, and the frameworks through which survivors can seek civil remedies.

— The Case

The plaintiff was an employee of the Government of Alberta. She was informed by her employer that she had been secretly recorded by the defendant – a colleague – while using the bathroom at work. The defendant had already been criminally convicted of voyeurism arising from the incident.

The plaintiff developed PTSD as a result of the intrusion, and brought a civil claim seeking damages. The court accepted the diagnosis and turned to the question of what tort could properly address the harm.

— Why a New Tort?

The court found that the existing tort of **intentional infliction of emotional distress** was not well-suited to the facts. Its threshold of proof – including a requirement to establish outrageous conduct and a recognisable psychiatric injury – sets a high bar that is difficult to meet in cases where the harm arises from covert privacy violations rather than direct confrontation.

Instead, the court held that Alberta should recognize the tort of intrusion upon seclusion. To establish the tort, a plaintiff must prove on the balance of probabilities:

- The defendant's conduct was intentional or reckless;
- The defendant invaded, without lawful jurisdiction, the plaintiff's private affairs or concerns; and

- **A reasonable person in the position of the plaintiff would regard the invasion as highly offensive, causing distress, humiliation, or anguish.**

Each of these elements was clearly met on the facts, and the court found the defendant liable.

— Why It Matters Beyond Privacy Law

For practitioners in the trauma-informed litigation space, *BD v Germain* is significant for several reasons:

- **It provides a civil remedy alongside the criminal justice system.** The defendant had already been convicted criminally, but that conviction does not, on its own, compensate the survivor. Recognition of the tort opens a route to damages that is meaningful for the plaintiff and does not depend on the outcome of criminal proceedings.
- **It recognizes new pathways through which trauma can arise.** Covert surveillance, voyeurism, and privacy violations are not always visible in the moment of the harm – but the psychological consequences can be substantial and lasting. The court's willingness to treat this kind of intrusion as legally actionable reflects a growing understanding of how trauma actually operates.
- **It aligns Alberta with the broader trajectory of Canadian law.** Provinces have been expanding the range of trauma-related civil claims available to plaintiffs – from the new IPV tort in *Ahluwalia*, to expanding class actions like *Wesley v British Columbia*, to this recognition of intrusion upon seclusion. Each of these developments makes it easier for survivors to seek meaningful accountability through the civil system.

— A Trauma-Informed Legal System Is Being Built Case by Case

There is no single moment at which a legal system becomes trauma-informed. It happens gradually, through decisions like this one – where courts recognize new harms, adopt frameworks that fit the way trauma actually presents, and make room for survivors to be heard on their own terms.

THE TAKEAWAY

BD v Germain is one of those decisions. Taken together with the developments we've been tracking in family law, class action litigation, and IPV, it points to a Canadian legal landscape that is genuinely evolving – and one in which trauma-informed practice, at every stage of a survivor's journey, is becoming not just useful, but expected.

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