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“Lyon” on the application? The facts in the recent Ontario Superior Court case *Lyons v Gore Mutual* are simple. See if you can guess the outcome!

The plaintiff’s first fire insurance policy was cancelled for non-payment of premium, so she got a replacement. She didn’t pay that premium, either, so the policy was cancelled. Undeterred, she trundled off to a third insurer and made application. The broker, filling in the application form, asked “Has similar insurance been declined or cancelled in the last five years?” “Well, no!” huffed Ms. Lyons, signed the form, and thus obtained a policy.

Now, you’ll never guess what happened next! That’s right, shortly after the policy issued, the house burned down! And would you believe the nasty old insurer didn’t want to pay? Ms. Lyons sued.

What did the court rule? (answer on page 2)

Kim von Arx We are delighted to welcome a hard-working problem solver. Kim comes to us with impressive academic credentials from the University of New Brunswick and the University of Edinburgh. A member of the bar of Nova Scotia, he will also be called in Ontario after completion of his transfer exams. As well as having a strong commitment to our general practice, Kim will nicely complement our growing strength in e-commerce law.

Looking for more computer trouble?

Some folks must have far too much spare time. Not a day passes that someone doesn’t e-mail us a “funny” attachment. And we delete nearly every one of them, unopened. Why? Because opening an attached file can be the electronic equivalent of eating something you found on the sidewalk.

A good rule of computer safety is this: unless the attachment is a work product you are expecting from someone you believe to be reliable, don’t open it. In the remote case you really believe you need to open

an attachment which violates this rule, at least wait until you have done a full backup of your hard drive. Then, do a virus scan and go off line. If the attachment appears to be what it claimed to be, you’re probably ok. If it’s doubtful, don’t go back on line again until you’ve disinfected your machine.

“The purpose of the law is to prevent the strong always having their way.”

Ovid (Fasti, c.8)

Corporate records— what are your responsibilities?

Whether yours is a federal company or provincial, certain basic records are required by law with penalties of up to \$25,000.00 and one year in prison for failure to comply. Among the records which must be kept current are:

1. all articles, by-laws & shareholders’ agreements
2. minutes of all meetings of record
3. accounting records
4. shareholders’ and directors’ registers

The best way to stay out of trouble is to have your minute book brought up to date every year. You should ensure that all provincial filings have been completed (even if your company is federal) and that the yearly financial statements have been adopted. It is also our practice to run a brief legal check-up reviewing new legal issues in your industry, risk questions, directors’ and officers’ liabilities, creditor-proofing, and the like.

e-counsel Beginning with this issue, look for our new column on cyberspace law. While we will maintain our current commitment to the highest level of service in general practice, e-counsel marks the recognition of our need to provide specialized services to the e-commerce community in Ottawa and beyond.

Lyons v Gore Mutual: the answer While it's not unusual for insurance companies to look for ways to avoid payment on a policy, in this case their lawyer didn't have too tough a time. The court found that the defendant had made a "misrepresentation material to the risk" and ruled that the insurer was not obliged to pay out a cent. Surprised? I doubt it.

The moral in simple English: be honest, especially when getting insurance, a mortgage or employment depends on your meeting a certain profile. Lie if you

like, but the court won't back you when the chickens come home to roost. Because you know about the skeletons in your closet and the other party doesn't, the law requires you to exercise "utmost good faith".

Victor Ndiokubwayo How quickly a year passes! It seems like only yesterday that Victor began his articling term with us. Now he moves on to Phase III of the Bar Admission Course and then his call to the bar. Please join with us as we wish Victor the greatest success as he joins the legal profession.

e-counsel

Legal and strategic advice for e-business

.ca domain names Why bother with .ca when you can have .com? Partly because most of the "good" .com names are gone, but are still available as .ca. As long as your web page is properly designed, browsers will point to you whether you are .com, .ca, .fr or .za. Cyberspace is a big, borderless place.

But there's another and better reason. Not long ago the .ca system was clumsy and quirky, but it has now come of age. CIRA (Canadian Internet Registration Agency) has become a world-model for ccTLD's (country code Top Level Domains). Registration is now as straightforward as for that of a .com, about the same cost, and under a legal system you know. Clarity begins at home.

New generic Top Level Domain names Recognizing that all the .com addresses were pretty well used up and that there was a need for more specialized designations, the governing agency ICANN has recently announced that seven new gTLD's will be made available worldwide. These are:

- **.name** for personal sites and e-mail
- **.biz** for business sites
- **.pro** for professionals
- **.info** for purely informational sites
- **.aero** for airlines and related sites
- **.coop** for co-operatives (you thought it was for chickens, maybe?)
- **.museum** (you guess this one!)

Domain name disputes What happens if two different people dispute the right to the same name? At the risk of gross oversimplification, it's first-come, first-served unless it can be shown that the complainant had an identical trade mark and the registered owner of the domain name acquired the name in bad faith (typically a cybersquatter). Remedies are available in specialized arbitrations or through the courts. In the latter case, of course, the first question is jurisdiction: which court, in which province, state or country, and how do you enforce the remedy? Call us if you have such a problem.