

April 3, 2018

Maureen Littlejohn Interviewed in *Law Times* About Federal Court of Appeal Ruling

In an [article](#) published recently in *Law Times* (available to subscribers), Davies partner [Maureen Littlejohn](#) discusses the Federal Court of Appeal's decision in *IGGillis Holdings Inc. v. Minister of National Revenue*, which confirmed the legitimacy of transactional "common interest privilege."

According to Maureen, the test for whether common interest privilege applies in the transactional context is not fundamentally different from when common interest privilege is asserted in the litigation context. "Whether the already-privileged document is being shared due to a common interest in pending litigation or due to a common interest in a commercial transaction, the court is undertaking the same analysis: Has the document been shared in a manner that is inconsistent with the confidentiality that gave rise to the privilege in the first place?"

Maureen stresses that, despite the ruling, lawyers should still be cautious when sharing privileged documents, even if there is a common interest. "Parties should think about finding ways to share such documents on a basis that preserves confidentiality to the greatest extent possible; for example, by limiting disclosure to those people who need access to the privileged documents in order for the transaction to proceed or by restricting the basis on which such documents are made available," she said.