

AI dashcams and wearables as evidence in personal injury trials: Privacy meets proof

By **Jennifer Hoffman**

Law360 Canada (November 11, 2025, 9:03 AM EST) -- In recent years, technology has found its way into almost every corner of daily life, including the courtroom. From AI-powered dashcams to wearable fitness and health devices, digital data is reshaping how personal injury cases are argued and decided in Canada.

What used to rely heavily on witness testimony or medical reports is now often supported (or challenged) by objective, time-stamped evidence. But as this data becomes more common, Canadian courts are also being asked to weigh a complex question: *when does valuable evidence become a violation of privacy?*

In Canada, and particularly in Ontario personal injury courts, judges are increasingly confronted with Fitbit logs, dashcam recordings and other digital evidence that both plaintiffs and insurers rely on to support or dispute claims.



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The new age of digital evidence

It's not uncommon for personal injury cases today to involve some form of digital evidence:

- **Dashcams** provide real-time footage of collisions and driving behaviour.
- **Smartwatches** track heart rate, sleep patterns and activity levels.
- **Fitness apps and wearables** monitor steps, workouts and even falls.
- **Vehicle telematics and AI dashcams** can analyze speed, reaction time and driver alertness.



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For plaintiffs, this technology can strengthen a claim by demonstrating injury, limited mobility or consistent treatment progress. For defendants and insurers, the same technology can be used to

question credibility or dispute the severity of injuries.

In short, wearable and digital data can tell a story that medical records alone might not.

The privacy-probative value balancing act

Canadian courts are now regularly being asked to decide whether this type of data should be admitted as evidence. The key consideration? Balancing privacy rights against probative value (the evidence's ability to help prove a fact).

Courts tend to ask:

1. Is the data relevant to the issues in dispute?
2. Is it reliable and authentic?
3. Does its probative value outweigh potential privacy concerns or prejudice?

In many cases, the answer depends on who is offering the evidence and how it was obtained.

For example, a plaintiff voluntarily submitting Fitbit or Apple Watch data to support a claim for reduced mobility is quite different from a defendant seeking to subpoena years of a person's private health data to undermine their case. Courts are generally cautious about allowing broad fishing expeditions into personal digital records, especially when sensitive health information is involved.

Recent trends in Canadian cases

While jurisprudence is still evolving, several Canadian rulings have hinted at how courts are approaching the issue:

- **Voluntary disclosure:** Courts are more receptive when a plaintiff introduces their own wearable or dashcam data. This type of evidence is viewed as self-authenticating and relevant, especially when it aligns with medical assessments or accident reports.
- **Compelled disclosure:** Defendants seeking access to wearable or digital health data face a higher bar. They must show the request is specific, relevant and proportionate, and not a "fishing expedition."
- **Reliability and interpretation:** Courts remain cautious about over-relying on AI-driven analytics or algorithms that lack clear standards of accuracy. Expert interpretation is often needed to translate raw data into legally meaningful evidence.

Recent Canadian legal reporting notes that courts are increasingly encountering wearable-device data alongside social media and location logs, with judges focused on relevance, reliability, proportionality and privacy limits on disclosure (Lexpert, "Social media in litigation: The digital reality of modern evidence," Jan. 15, 2025).

The first widely publicized Canadian use of fitness-tracker data in litigation was discussed back in 2014 in Calgary, where counsel said they would rely on a client's Fitbit activity records in a personal-injury claim — an early example that attracted international attention (Maclean's, "Data from wearables can be used as evidence — for or against you," Jan. 5, 2015).

Canadian privacy regulators also highlight that wearable technology collects highly sensitive personal health and location information and raises significant disclosure and consent issues (Information and Privacy Commissioner of Ontario, "Privacy with Your Wearable Devices and Your Friends: Alexa, Siri, and Google," 2019).

The role of dashcams in motor vehicle cases

Dashcams, particularly those using AI-enhanced video analytics, are becoming increasingly common in motor vehicle accident claims. These devices can record collisions, road conditions and driver reactions, often providing clearer timelines than eyewitness accounts.

However, the use of dashcam footage also raises privacy questions, especially when it inadvertently captures third parties, pedestrians or private property. In Ontario, dashcams that capture audio have raised further concerns. Because Ontario is a one-party consent province, courts have allowed dashcam audio recordings if they are directly relevant to the claim but remain cautious when recordings include third-party conversations.

Courts have generally permitted dashcam evidence when it is directly relevant to the event at issue and when privacy intrusions are minimal or incidental.

In fact, many insurers now encourage clients to install dashcams for precisely this reason: they provide reliable, unbiased documentation of how an accident occurred.

Best practices for lawyers and claimants

As technology becomes more embedded in daily life, both plaintiffs and defendants should be mindful of how their data could be used.

For individuals involved in an accident:

- **Preserve your data:** If your smartwatch or dashcam captured relevant information, don't delete it.
- **Consult a lawyer before sharing data with insurers.**
- **Review your privacy settings:** Understand what information your devices collect and where it's stored.

For legal teams, it's increasingly important to understand how to authenticate, interpret and challenge digital evidence effectively.

Looking ahead

As courts continue to adapt to the digital era, one thing is clear: wearable and AI-generated data is here to stay.

In Ontario and across Canada, future disputes are likely to involve not only wearables but also AI-powered analytics, telematics from newer vehicles and even drone footage. The law has not yet caught up with these technologies, and appellate guidance on how far courts will go in admitting algorithmically generated data is expected soon.

This type of evidence can be powerful, but only when handled carefully and respectfully.

Jennifer Hoffman of Hoffman Law is an accomplished personal injury lawyer with over a decade of experience representing clients across Ontario in complex injury and insurance claims. Jennifer is a member of the Law Society of Ontario, the Advocates' Society, the Ontario Trial Lawyers Association (OTLA), the Ontario Bar Association, and the Canadian Bar Association. She has also served on the OTLA board of directors and the board of the Canadian Mental Health Association.

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