

## Publisher's Note

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## Constitutional Litigation in Canada

This one volume looseleaf is a comprehensive resource on the topic of constitutional litigation. It features a full and systematic treatment of the issues that arise at all stages of a proceeding from a practical perspective. Both practitioners and students alike will find included precedents, such as pleadings, affidavits, and facts, useful.

This release features updates to Chapters 6 (Remedies) and 10 (The Hearing).

### Case Highlights

- **Remedies — Section 24(1) of the Charter — Damages:** In this case, the plaintiff sued the Crown for failing to disclose information in a prosecution. At trial, the plaintiff was awarded \$7.5 million. The trial judge deducted amounts paid by the City and Canada in settlement of the plaintiff's claims against those parties. The plaintiff appealed the deduction of these monies. On appeal, the Court of Appeal upheld the lower court decision to deduct these amounts, applying tort law principles against double recovery. Even though the damages award against the Province had been premised on vindicating the plaintiff's rights, and were not compensatory in nature, the Court of Appeal undertook an analysis of whether the Charter damages award would have been greater had Canada and the City been parties to the litigation. Court of Appeal concluded that the damages award would not have been greater since the consequences of the City's, the Province's and Canada's breaches were the defendant's imprisonment or his continued imprisonment. As such, the BCCA did not conclude that a vindication award would have been greater had the City and Canada been parties: *Henry v. British Columbia (Attorney General)*, 2017 CarswellBC 3332, 2017 BCCA 420, 3 B.C.L.R. (6th) 85, 44 C.C.L.T. (4th) 11, 12 C.P.C. (8th) 1,

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[2018] 4 W.W.R. 696, 398 C.R.R. (2d) 117 (B.C.C.A.), leave to appeal filed February 2, 2018, 2018 CarswellBC 718 (S.C.C.).

- **Remedies — Section 24(1) of the Charter — Damages:** In 2018, the Federal Court approved a settlement of a class action brought on behalf of LGBTQ individuals “purged” from the Canadian Forces, RCMP and the broader federal public service. The Court approved a settlement of \$145-million, largely related to Charter damages: *Ross, Roy and Satalic v. Her Majesty the Queen*, Federal Court Action No. T-370-17.