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Gorsky
**Evidence and Procedure in
Canadian Labour Arbitration**

Evidence and Procedure in Canadian Labour Arbitration provides thorough coverage of all the procedural and evidentiary issues pertaining to labour arbitration in Canada. It is written to be used by labour and employment law lawyers representing both unions and management, union officers involved in arbitration, and human rights professionals.

This release features updates to Chapter 11 (The Rules of Evidence).

Case Law Highlights

- **The Rules of Evidence – Prior Consistent Statements – Providing Context:** *R. v. Cain*, 2018 CarswellNS 364, 2018 CarswellNS 365, 2018 SCC 20, affirming 2017 CarswellNS 949, 2017 NSCA 96, held that prior consistent statements may be used to provide a fuller context for assessing a witness's alleged inconsistencies.
- **The Rules of Evidence – Opinion Evidence – Experts:** *Bruff-Murphy v. Gunawardena*, 2017 CarswellOnt 9169, 2017 ONCA 502, leave to appeal refused, 2018

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CarswellOnt 3656, 2018 CanLII 11147 (S.C.C.), held that, even if an expert witness passes threshold scrutiny, a lack of impartiality will be a factor in the “cost-benefit” analysis of whether to admit the testimony.

- **The Rules of Evidence – Privilege – Negotiations:** 689799 *Alberta Ltd. v. Edmonton (City)*, 2018 CarswellAlta 1076, 2018 ABCA 212, held that, while settlements are *prima facie* inadmissible, they may be admitted “when the justice of the case requires it”.
- **The Rules of Evidence – Privilege – Solicitor-Client:** *British Columbia (Attorney General) v. Lee*, 2017 CarswellBC 1489, 2017 BCCA 219, leave to appeal refused, 2017 CarswellBC 1489, 2017 BCCA 219, 2017 CanLII 84240 (S.C.C.), held that the inadvertent disclosure of a series of emails did not amount to a waiver of privilege.