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LAW OF PUBLICATION BANS, PRIVATE HEARINGS AND SEALING ORDERS

James Rossiter
Release No. 1, May 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in November 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the November 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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As the Internet allows information to be instantly disseminated on a global scale, new questions about the need for and effectiveness of publication bans are arising. This book is the only work that provides a comprehensive review of the relevant statutory provisions and common law principles relating to publication bans in Canada. This resource also covers restrictions on access to courts and court information by the public and media.

This release features updates to the case law and commentary in Chapters 1 (Open Courts and Freedom of Expression), 2 (Common Law Bans and Access Restrictions), 3 (Civil Courts), 4 (Crime), 5 (Youth Crime), 6 (Family), 7 (Statutory Publication Bans, Access Restrictions), 8 (Practice and Procedure), and 9 (Television and Other Electronic Access).

Highlights

- **Civil Courts — Courts — Provincial — Ontario** — Even though the confidentiality order was “interlocutory” as between the parties to the civil litigation, the Court of Appeal for Ontario, the journalist whose *Charter* s. 2(b) freedom of expression rights was affected by the order was permitted to appeal the order: *P1 v. XYZ School*, 2021 ONCA 901, 2021 CarswellOnt 19200 (Ont. C.A.)
- **Practice and Procedure — Disclosure in Other Proceedings — Variation of a Confidentiality Order** — According to the Supreme Court of Canada, a court’s inherent supervisory jurisdiction over its records underlies its retention of jurisdiction to hear requests to set aside or vary a confidentiality order after the overall proceeding in which the order was issued has been finally decided on its merits. Grounds for reconsidering such confidentiality orders include a material change in circumstances, where the party seeking the variation needs to establish both the occurrence of the change and the likely result that the order would have been issued on different terms had the change been known at the time of its issuance; and novel submissions by an affected party who had not been given notice, provided such a party acts promptly to challenge the order, lest the party’s delay be viewed as acquiescence: *Canadian Broadcasting Corp. v. Manitoba*, 2021 CarswellMan 554, 461 D.L.R. (4th) 635 (S.C.C.)

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
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- The Table of Cases, Table of Statutes and Index are now in PDF with no searching and linking
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