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<b>HOLMESTED AND WATSON</b> <b>ONTARIO CIVIL PROCEDURE</b> Garry D. Watson, Q.C. and Derek McKay Release No. 6, November 2021
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### Publisher's Special Release Note 2021

The pages in this work were reissued in July 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 July 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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This is the encyclopaedia of civil litigation in Ontario. It has been designed as a general treatise on civil procedure through section-by-section and rule-by-rule analytical commentary to the *Courts of Justice Act* and the *Rules of Civil Procedure*. It may be used as a research tool in the preparation of any type of application to court as well as preparation for trial and beyond.

## What's New in this Update

This release updates the commentary, case digests, and legislation for the *Family Law Rules*.

## Highlights

***Ni v. Yan, 2020 CarswellOnt 14206 (S.C.J.):*** A settlement conference should not be the forum to dispute and adjudicate upon disclosure issues where there are numerous items in dispute the relevance and proportionality of which can only be determined by a motion. To hold a settlement conference otherwise is a complete waste of the court's valuable time and the parties' resources. It is inconceivable that a party who raises serious disclosure shortcomings can make an informed settlement decision or that a lawyer can competently give settlement advice to such a client. A settlement conference is not a disclosure dartboard. Too often serial settlement conference events are permitted in circumstances where there are continuing complaints about inadequate or refused disclosure impacting a party's ability to make an informed settlement decision. That practice must end.

***Hilton v. Hilton, 2021 ONCA 29:*** Where a party seeks to set aside an order made at an uncontested trial on the basis of his own failure to make disclosure, an appeal of the order is required. However, where a party seeks to set aside an order made at an uncontested trial on the basis of the opposing party's misrepresentations at trial, the appropriate route was to have the issue determined on the merits pursuant to r. 25(19).

***A.P. v. L.K., 2020 CarswellOnt 7026 (S.C.J.):*** The Medical Officer of Health for the City of Toronto ("MOH") brought a motion to intervene in an appeal of an arbitrator's decision in which the arbitrator declined to order the vaccination of the parties two children. The Mother opposed the intervention. There is no rule in the Ontario *Family Law Rules* respecting interventions. However, r. 1(7) allows the court to refer to the *Rules of Civil Procedure* ("RCP"). Rule 3.02 of the *RCP* deals with interventions. The absence of provisions addressing interventions in family law appeals was a clear gap or omission in the *Family Law Rules* such that the Court was justified in looking to the *Rules of Civil Procedure*, through the lens of Rule 1(7). By enacting r. 1(7), the legislature understood there would be times when it would be appropriate to consider the *Rules of Civil Procedure* when dealing with a family law matter governed by the *Family Law Rules*.

## 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 and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages