

## Publisher's Note

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### ELECTRONIC DOCUMENTS

**Bryan Finlay, Q.C.  
Marie-Andrée Vermette  
Michael Statham**

**Release No. 2, October 2021**

### Publisher's Special Release Note 2021

The pages in this work were reissued in October 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 October 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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Electronic data is modifying how lawyers interact, changing how information is collected and used, and transforming our courtrooms. This in-depth resource examines and analyzes the issues relating to electronic documents, including: the sources and types of electronic documents, records management policies, the legal framework governing e-discovery in Canada, the preservation, collection, processing, review and production of electronic documents, and the use of electronic evidence at trial. This dynamic and burgeoning aspect of legal practice is clarified and explained with extensive reference to relevant Canadian and U.S. authorities.

### **What's New in this Update:**

This release updates Chapter 7 — Production of Electronic Documents and Use of Electronic Evidence at Trial.

### **Highlights**

**Chapter 7 — Production of Electronic Documents and Use of Electronic Evidence at Trial** — This chapter addresses the format in which electronic documents are produced, the extent of production required to be made in electronic format, and the use of electronic evidence at trial. This has become all the more prevalent in light of the COVID-19 pandemic, which necessitated the widespread use of electronic court filing, electronic discovery, and electronic evidence in light of temporary closures and physical distancing measures. These in turn have required courts to issue Practice Directions that are geared towards accommodating different phases of courthouse closures, lockdowns, and accommodating physical distancing measures. At the time of writing, these temporary measures are still in place, but it is unclear whether and to what extent they may be continued after the global pandemic is over.

While the rules on relevance and admissibility apply equally to electronic documents as to paper documents, the many different formats of electronic information raise more complex production issues. Given the volume of electronically-stored information and the potential inaccessibility of some sources, issues of delimiting the scope of producible information and cost issues must be considered allocation often arise in this context. Many other specific disputes can arise, such as whether metadata is relevant or whether production of actual hard drives or databases, rather than copies or printouts of the files and information they contain, is necessary in the circumstances of the case.

### **ProView Developments**

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- The opening page is now the title page of the book as you would see in the print work
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