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THE ART AND SCIENCE OF ADVOCACY

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The service provides a comprehensive Canadian approach to pre-trial and trial advocacy for both civil and criminal law practitioners alike. It combines authoritative commentary, practical checklists and concise extracts from real-life cases in an easy-to-use how-to format. All aspects of the litigation process are covered from the first client interview to the final jury address, complete with helpful strategy suggestions. Written by an experienced advocate, it features winning techniques for dealing successfully with: trial preparation, discovery and preliminary inquiries, expert witnesses, opening and closing addresses, cross-examination, demonstrative evidence, and procedures before administrative tribunals.

What's New in this Update:

This release features valuable updates to the case law and commentary in Chapters 1 (Commencing the Case), 2 (Investigating the Case: The Key to Victory in the Courtroom, 3 (Marshalling the Evidence), 4 (The Expert Enters the Case), 6 (The Preliminary Inquiry: Obtaining Discovery in The Criminal Case) and 7 (The Art of Preparation).

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Highlights:

- **Commencing the Case—General—16. The Synopsis—Statements Made by the Client—**In *R. v. Samuels* at paras. 1-6, 40, 50-78, the police did not allow the appellant to speak with counsel until after executing a search warrant, which resulted in an approximately ten-hour delay. The breach significantly impacted the accused's security of person because his detention and delay left him distressed over the denial of his rights. There was no legal or practical impediment to the police obtaining warrants to search the apartment, hotel room and his car before the arrest. It was a deliberate operational plan approved by senior officers that treated the appellant's Charter rights as unimportant. Based on the Grant factors the Court excluded seized gun and cash from evidence as a s. 24(2) remedy for the violation of the appellant's s. 10(*b*) Charter rights: *R. v. Samuels* 2024 CarswellOnt 16755, 2024 ONCA 786, 174 O.R. (3d) 161, 442 C.C.C. (3d) 521, 99 C.R. (7th) 1382024 ONCA 786, 176 O.R. (3d) (Ont. C.A.).
- **The Preliminary Inquiry: Obtaining Discovery in The Criminal Case—Do I Need a Preliminary Inquiry?—Obtaining Disclosure Prior to the Preliminary Inquiry; Obtaining Third Party Records—Obtaining Disclosure Prior to the Preliminary Inquiry—** The Crown's Duty of Disclosure- Failure to make disclosure can have severe consequences. First, it may result in a miscarriage of justice and result in the conviction of or an unwarranted guilty plea by the accused which then may be set aside by an appellate court. See *R. v. Bouvette*, at para. 126, where prior to the accused's guilty plea, the Crown failed to disclose to the defence a 140-page package of the external peer review of the various cases by the Crown's pathologist. The peer review found that the expert's conclusions about the autopsy of the deceased child were unreasonable. The peer review was critical of the pathologist's work. The Supreme Court quashed the conviction and entered an acquittal: *R. v. Bouvette*, 2025 SCC 18 2025 CarswellBC 1641, 2025 CarswellBC 1642, 2025 CSC 18, 2025 SCC 18, 448 C.C.C. (3d) 319, 503 D.L.R. (4th) 579 (S.C.C.).