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### PROFESSIONAL LIABILITY IN CANADA

**Campion & Dimmer**  
**Release No. 4, April 2024**

*Professional Liability in Canada* is a comprehensive resource for practitioners called upon to deal with professional liability issues. Providing an exhaustive treatment of the cases governing this growing area of law, it contains both general context analysis and chapters dealing with the liability of specific professions such as lawyers, doctors, accountants, engineers, architects, financial advisors and bankers, real estate brokers and agents. This work also includes practical precedents such as claims, defences and other pleadings.

### What's New in this Release

This release features updates to Chapter 8 — Civil Liability for Accountants and Auditors, plus three updated issues in focus memos.

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## Highlights

### Chapter 8 cases:

*McDonald v. Toronto-Dominion Bank*, 2022 ONCA 788, 2022 CarswellOnt 16303 — the Ontario Court of Appeal confirmed the trial judge’s conclusions that a Canadian bank had not “assume[d] the role of a regulator, auditor or insurer” in agreeing to provide correspondent banking services to a fraudster who had bilked the customers of his offshore bank for over \$7 billion. As part of the duty of care analysis that examined the factors of proximity, the bank’s undertakings to others, and the scope and nature of reliance by investors, the court confirmed that the circumstances did not give rise to a novel duty of care on the bank’s part. Nor had the bank’s standard of care been breached, as the investors claimed.

*Houle v. Sostarich*, 2023 ONSC 5502, 2023 CarswellOnt 15464 — an accountant was held liable in contract and for breach of duty of care arising from his role in assisting with the purchase and sale of a business and land. He had provided accounting services to both buyer and seller, but failed to protect either from the inherent risks. The court found the nature of the transaction inherently gave rise to both actual and potential conflicts of interests, and considered it “shocking” that the accountant had not been alive to this fact. However well-intentioned his actions — which were in furtherance of a deal he thought would benefit both clients — the accountant had fallen short professionally and contractually, and was liable for this clients’ resultant damages.

### Issues in Focus Memos:

§ IF:2. What Legal Duty Does a Doctor Have to a Patient Who Refuses Treatment to Inform the Patient of the Risks and Likely Consequences of the Refusal?

§ IF:3. What is the duty of care for a doctor performing a medical examination for a third party? What does the role of the doctrine of witness immunity play?

§ IF:4. Does a physician have a duty to refer a patient to a specialist, or to consult a specialist about a patient, and under what circumstances does such a duty arise? How have the courts approached the issue of causation in this type of situation?

## 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
- As with the print product, the front matter is in a different order than previously displayed
- 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