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<b>BROWN ON DEFAMATION</b> <b>Raymond E. Brown</b> <b>Release No. 2024-1, March 2024</b>
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This service is a comprehensive, authoritative and extremely discerning text that addresses significant new developments in this complex area of legal practice. This landmark text offers an authoritative and comprehensive treatment of defamation law in Canada and elsewhere. The service includes topics such as: available defences, remedies, Charter implications, injurious falsehood and malicious prosecution.

This release contains considerable updates to the case law and commentary with the addition of new sections in Chapter 15 – Fair Comment (§ 15:36 Distinguishing Between Fact and Opinion/Defences); and Chapter 25 – Damages (Part IX. Alternative Remedies for Defamation in the Digital Age).

### Highlights:

**Defending the Action – Fair Comment – The Communications Media and Fair Comment; Burden of Proof; Judge and Jury – Distinguishing Between Fact and Opinion/Defences** – Among other topics, this new section discusses a landmark 2023 decision of the Quebec Superior Court which addresses the duty of platforms to proactively de-index websites from a search engine index once warned of hosting defamatory content. The plaintiff, a successful and respected businessman, faced profound social and professional shunning after an ex-employee published false and damaging sexual and fraudulent activity allegations against him online. The allegations were easily accessible through frontline Google searches of his name. Beginning in 2007 and 2009, Google was asked to remove the defamatory material from its search engine. Google eventually confirmed it had removed the URL link from its Canadian search index, however the plaintiff continued to find links to the defamatory material when searching his name. In 2015, the plaintiff once again asked Google to remove a new URL to the material, and Google refused, opting only to remove parts associated with the URL, but not the URL itself. As a result, the material was still accessible via word searches. The Court found that Google was liable for “continuing to make the link and the Defamatory post available anew to users in Quebec”, and its continued hosting of impugned content notwithstanding repeated pleas and warnings. The Court awarded the plaintiff compensatory damages, and a delisting injunction to prevent further harm to the plaintiff. The decision expands the scope of accountability and judicial oversight into the digital realm: *A.B. v. Google*, 2023 CarswellQue 3737

**Remedies – Damages – Alternative Remedies for Defamation in the Digital Age** – This new addition to Chapter 25 is comprised of six new sections which use case law and commentary to discuss several issues related to defamation in the digital realm. These issues include punitive damages and non-pecuniary relief, affirmative remedies and retraction, the availability of anonymity for plaintiffs, remedies for defamatory material produced by AI systems, and interlocutory injunctions.

### **ProView Developments**

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

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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
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