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| <p>PRIVACY LAW IN THE PRIVATE SECTOR Jeffrey Kaufman Release No. 1, February 2025</p> |
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This indispensable guide to the law regulating privacy in the private sector in Canada provides the text and cross-referencing for current federal and provincial statutes and regulations that address private sector privacy, together with annotations, commentaries and case law references and summaries.

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Privacy Law in the Private Sector: An Annotation of the Legislation in Canada

What's New in this Update:

- This release features updates to Appendix IF. Issues in Focus.

Highlights:

Appendices—Appendix IF. Issues in Focus—§ IF:17 What Are the Elements of the Tort of Invasion or Breach of Privacy in British Columbia?—Courts in British Columbia have determined that there is no common law cause of action for invasion of privacy as the tort is entirely governed by statute. The key elements of this cause of action are: (1) the defendant's conduct must be intentional, which includes reckless; (2) the defendant must have invaded, without lawful justification, the plaintiff's private affairs or concerns; and (3) a reasonable person would regard the invasion as highly offensive causing distress, humiliation or anguish. However, proof of harm to a recognized economic interest is not an element of the cause of action.

Appendices—Appendix IF. Issues in Focus—§ IF:21 What Are the Elements of the Tort of Invasion or Breach of Privacy in Ontario?—The proposed plaintiff in this case has discovered that a coworker has hacked into her computer and has anonymously emailed certain sensitive personal information about her past sexual activities to her employer. She believes that her co-worker is engaging in this conduct in an attempt to have her fired. Moreover, she feels humiliated as a result of her employer being in possession of this information and has been experiencing significant stress on account of her co-worker's conduct. She seeks advice as to whether she can bring a civil action against her coworker for invading her privacy. As a result of the Court's decision in *Jones v. Tsige*, 2012 CarswellOnt 274, 2012 ONCA 32, [2012] O.J. No. 148, 108 O.R. (3d) 241 (Ont. C.A.), the proposed plaintiff can likely mount a strong claim against her coworker for intrusion upon exclusion. The necessary elements of the tort appear to be made out: the co-worker's conduct was intentional and invaded, without lawful justification, the proposed plaintiff's private affairs or concerns. Moreover, it seems reasonable to argue that the conduct was objectively "highly offensive" based on a reasonable person standard. The proposed plaintiff should be aware, however, that she will likely be entitled to only modest damages (and no more than \$20,000). Depending on further details of the facts of this case and how egregious the conduct in question was, she may be able to claim aggravated or punitive damages.