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<p>ELECTRONIC DOCUMENTS Bryan Finlay, K.C. Marie-Andrée Vermette Michael Statham Release No. 1, February 2025</p>
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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.

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What's New in this Update:

This release features updates to Chapter 4 - The Legal Framework Governing the Discovery of Electronic Documents in Canada.

Highlights

Chapter 4 - The Legal Framework Governing the Discovery of Electronic Documents in Canada – This chapter canvasses the broad framework under which discovery of electronic documents is conducted in Canada. This framework generally encompasses at least four distinct aspects:

- (i) the codified (and pre-existing) documentary discovery rules in force in each province and territory;
- (ii) the various best practices guidelines and standards prepared for the legal profession on issues relating to e-discovery which increasingly are being referred to and applied in court decisions;
- (iii) judicial practice directions governing the use of technology in general in civil litigation; and
- (iv) the adoption of freestanding civil procedure rules specifically addressing e-discovery as has been done with the Federal Rules of Civil Procedure (“Federal Rules”) in the United States.

It concludes with some prospective views on the role of Canadian superior courts in delineating e-discovery standards. In particular, this chapter considers whether Canadian jurisdictions are more apt to follow a codified rules-based approach or the more flexible approach of continued and increased reliance upon the Sedona Canada Principles and other relevant guidelines.

The update to this chapter includes updates to case law, rules, practice directions and the Sedona Principles.