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CIVIL EVIDENCE HANDBOOK

Gordon D. Cudmore
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The Civil Evidence Handbook is a succinct reference to evidentiary matters. It includes the Evidence Acts from all common law provinces as well as the *Canada Evidence Act* and a concordance to these Acts. The topics covered are: ● Admissibility ● Relevance ● Burden of Proof ● Presumptions ● Judicial Notice ● Competence and Compellability ● Pleadings ● Interpreters ● Examination-in-Chief ● Impeaching Your Own Witness ● Cross-Examination ● Re-Examination ● Reply Evidence ● Experts (Opinion Evidence) ● Parole Evidence Rule ● Hearsay ● Exceptions to the Hearsay Rule ● Documentary Evidence ● Demonstrative Evidence ● Real or Physical Evidence.

What's New in this Update:

This release updates Chapter 1—Admissibility and Assessment of Evidence, Chapter 6—Competence and Compellability and Chapter 9—Examination-in-Chief.

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Highlights:

- **General—Admissibility and Assessment of Evidence—In General**—In *Formula First Collision v. Aviva Canada*, 2026 CarswellOnt 1893, 2026 ONCA 109 (Ont. C.A.), the Court summarized some key governing principles – which were previously identified in *Optiva Inc. v. Tbaytel*, 2021 CarswellOnt 14625 (Ont. C.A.) – related to affidavits filed in support of motion for leave to appeal decision of Divisional Court:
 - An affidavit cannot express an opinion that the proposed appeal raises issues of public importance, since that is for panel to decide.
 - An affidavit cannot “seek by way of experts’ opinion, to buttress an attack on the decisions from which leave to appeal is sought”.
 - An affidavit will only be proper if it sets out facts that may help panel appreciate public importance of issues raised.
 - In general, whether a legal issue is of public importance is not something on which an affidavit would be helpful.
 - However, an affidavit may in some cases be helpful if it is not apparent from rest of materials why, for example, the decision sought to be appealed is alleged to establish a precedent that is unworkable in practice or otherwise is likely to have problematic impact or jurisprudential importance not apparent on its face.
 - *Formula First Collision v. Aviva Canada*, 2026 CarswellOnt 1893, 2026 ONCA 109 (Ont. C.A.)
- **General—Competence and Compellability—Privilege—Settlement or Without Prejudice Privilege**—After mediation, spouses agreed husband would pay wife large sum, with specific payment terms. Lawyers and mediator confirmed settlement was reached, and court was advised matter was settled. Husband later disputed settlement, claiming it was conditional on further financial review and that he had not agreed to final terms. Wife’s motion for summary judgment to enforce settlement granted. Communications may be disclosed to prove existence or terms of settlement, unless parties expressly contract out of exception. Parties did not contract out of exception, indicating mediator’s report and related communications were admissible to establish terms of agreement: *Gyurko v. Gyurko*, 2026 CarswellOnt 3419, 2026 ONSC 1399, 25 R.F.L. (9th) 54 (Ont. S.C.J.).