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CRIMINAL TRIAL HANDBOOK

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This release features case law and commentary updates to Chapter 1 (Pre-Trial Review), Chapter 2 (Pre-Arraignment Matters), Chapter 6 (Role of the Judge), Chapter 9 (Kinds of Evidence), Chapter 11 (Order of Proof), Chapter 12 (Addresses of Counsel and the Charge to the Jury), Chapter 14 (Rendering The Verdict) and Chapter 15 (Sentencing).

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Highlights

- **Part I—Pre-Trial Proceedings—Pre-Arraignment Matters—Stay for Unreasonable Delay**—The court establishes a two-stage analysis clarifying the Jordan framework regarding how “case complexity” can justify trial delays beyond the presumptive ceilings: *R. v. Vrbanic*, 2026 SCC 19, 2026 CarswellOnt 8493 (S.C.C.).
- **Part II—Proceedings at Trial—Kinds of Evidence—Oral Testimony—Protection or Privilege from Answering Questions—Solicitor-Client Privilege**—The Court addresses the “innocence at stake” exception to solicitor-client privilege. The Court set a stringent, last-resort threshold requiring the accused to establish that the information is unavailable elsewhere and that they are otherwise unable to raise a reasonable doubt: *R. v. Fox*, 2026 SCC 4, 2026 CarswellSask 60, 454 C.C.C. (3d) 281, 8 C.R. (8th) 1 (S.C.C.).
- **Part III—The Verdict—Sentencing—Forfeiture of Weapons, Ammunition, Explosives and Proceeds of Crime—Proceeds of Crime**—Whether the Crown can seek forfeiture of property after criminal proceedings have been stayed due to unreasonable delay. The Court held that a stay does not deprive a court of all forfeiture jurisdiction, as forfeiture proceedings do not engage double jeopardy or place an accused’s liberty in jeopardy. However, the Court ruled that there must be a temporal link between the trial or sentencing and the forfeiture order: *R. v. Nguyen*, 2026 SCC 10, 2026 CarswellQue 1759, 457 C.C.C. (3d) 1, 9 C.R. (8th) 221 (S.C.C.).