

PRACTICE NOTE 38

DISCRETIONARY PUBLICATION BAN - COMMON LAW OR STATUTORY

In *Dagenais v CBC*, [1994] 3 S.C.R. 835 the Supreme Court of Canada held that when a party seeks a discretionary publication ban the media are entitled to “reasonable notice” of the application/motion and the opportunity to make representations, before a decision on whether to issue a ban is made.

To provide uniformity of practice the following procedures should be followed:

1. The notice should include details of the order sought, the time and place of hearing, the text of any interim orders which may have been granted and contact information for counsel for the parties.
2. The media should be given the same notice of the application/motion as the respondent would receive under the Rules of Court.
3. The media outlets listed on the attached page have indicated they wish to receive notice and have agreed to accept service by e-mail. Other media outlets should be served in the same manner as a respondent under the Rules of Court, unless they otherwise agree, or the trial judge otherwise orders.
4. The trial judge has discretion to determine the issue of standing of any media outlet wishing to make representations on the motion.

Jacqueline R. Matheson
Chief Justice - Trial Division
September 22, 2005

Media B Publication Ban Notification

CBC

Donna Allen (Radio)

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Sally Pitt (TV)

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CTV

atvnews@ctv.ca

Journal

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Guardian

Gary MacDougall

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Island Radio

Scott Chapman

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Eastern Graphic

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