



How to Plead: Essential Elements

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Pleadings: court-filed documents setting out details of the plaintiff's claim and the defendant's defence



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It is fundamental to the litigation process that lawsuits be decided within the boundaries of the pleadings:

Rodaro v. Royal Bank (2002), 59 O.R. (3d) 74 at para. 60 (C.A.)



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Pleadings are supposed to be a road map – but not of all the roads in the world – but only how to get from Point A to Point B. Was this a road map? I think not, unless it be by Pablo Picasso:

National Trust Co. v. Furbacher, [1994] O.J. No. 2385 at para. 15 (Gen Div.), per Farley J.

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The purpose of pleadings are to:

- (a) define clearly and precisely the questions in controversy between the litigants;
- (b) give fair notice of the precise case which is required to be met and the precise remedies sought; and
- (c) assist the court in its investigations of the truth of the allegations made.

Balanyk v. University of Toronto (1994), 1 C.P.R. (4th) 300 at para. 27 (Ont. S.C.J.)

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Online guide that provides access to internal and external pleadings precedents and research

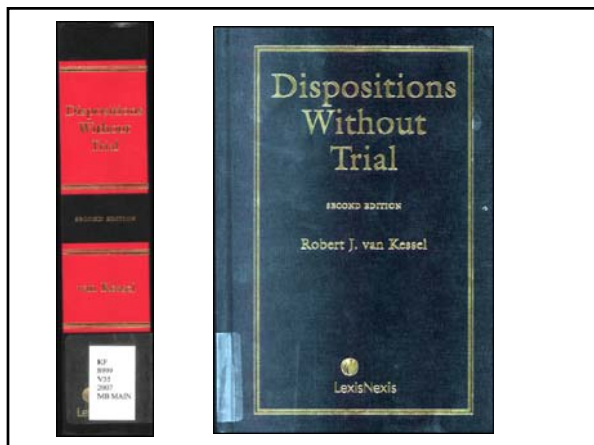
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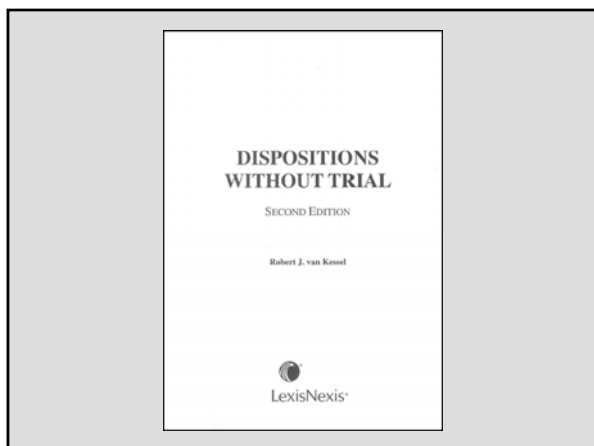
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Genesis:

Appendix A: "Charts of Causes of Action, Defences and Their Legal Elements" in Robert van Kessel, *Dispositions Without Trial*, 2d ed. (Toronto: LexisNexis Canada, 2007)

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External sources for precedents research:

- Canadian Encyclopedic Digest
- Canadian Abridgment
- Carswell's Words & Phrases
- HeinOnline journal articles
- Various e-books
- McMillan LLP online legal research guides

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Pros:

- One-stop shopping
- Combines internal and external resources
- Deep-linking

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Cons:

- Unsustainable?
- Link-rot for some deep links
- Challenge of linking into internal document management system (DMS)

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