



Pleadings 101

Desk Reference Manual

Introduction

Pleadings 101, the first in a trilogy of desk reference manuals intended to teach the purpose and requirements of a pleading, its function in advancing the litigation, and the skills necessary to craft an effective pleading. Each volume of the series will build upon the skills and knowledge taught at the previous level, refining the students' abilities through explanation, discussion and exercise.

Guided by the underlying premise that each step in the litigation process ought to be viewed as part of the litigation process in its entirety, you are introduced at the outset to the need for correct and complete pleadings, and how pleadings will advance your client's case and keep with the objective of the Rules of Court as set out in Rule 1-3.

Pleadings 101 introduces you to the process and function of a pleading, and a review of the Rules of Court which govern correctly drafted pleadings. You will develop the knowledge to ensure that your pleadings will serve the purpose for which they were intended, and ensure that all claims are advanced, nor a defence forgotten.

In *Pleadings 101*, many of the concepts relating to the purpose and use of pleadings will be presented at an introductory level and will be expanded upon in *Pleadings 201* and *301*. The learning outcomes for the trilogy can be found in Appendix B1 of this desk reference manual.

How to make good use of this manual

Look for these icons which represent practice tips for:



both plaintiff and defence,



plaintiff



defence

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Definition of a pleading

Pleadings are the court documents which establish the scope and nature of all litigation. Pleadings are exchanged between the parties to a legal action or proceeding to set out the material facts and claims which have given rise to the issues and disputes between them.

Purpose of a pleading

Rule 3-7 of the Civil Rules is entitled “Pleadings Generally” and this Rule governs the basics for all pleadings which will be discussed in this material.

Rule 3-7(1) states:

A pleading must not contain the evidence by which the facts alleged in it are to be proved.

Pleadings provide the following details and information required in a legal proceeding:

- The identification of the party commencing the proceeding
- The identification of the party(ies) against whom the claims are being advanced
- The nature of the claims being advanced
- The remedy being sought by the party commencing the proceeding
- The defence to the claims being advanced

A proceeding commenced, to which there is a Response which sets out a defence and which may result in a trial in order to resolve the issues between the parties will have parties referred to as plaintiff(s), defendant(s), and third party(ies).

The following pleadings will be issued in this type of action:

- Notice of Civil Claim – Form 1
- Response to Civil Claim – Form 2
- Counterclaim – Form 3 (optional)
- Response to Counterclaim – Form 4 (optional)
- Third Party Notice – Form 5 (optional)
- Response to Third Party Notice – Form 6 (optional)
- Reply – Form 7 (optional)
- Amendments to any of the above

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A proceeding to which there is no triable issue and to which no oral trial will occur will have parties referred to as petitioner(s) and respondent(s). The following pleadings will be issued in this type of proceeding:

- Petition to the Court – Form 66
- Response to Petition – Form 67
- Amendments to either of the above

Proceedings commenced by Notice of Civil Claim are referred to as actions.

Proceedings commenced by Petition to the Court are referred to as proceedings.

Both are proceedings.

A demand for particulars closely follows the format of a pleading, but is not a pleading.

updated 120430

Pleadings 101 Table of Contents

Introduction

Definition of a pleading	1.4
Purpose of a pleading	1.4

By the Rules

Pleadings Generally - Rule 3-7	1.6
Notice of Civil Claim - Rule 3-1	1.7
Notice of Civil Claim – Form 1	1.8
General Information	1.12
Handling	1.15
Service of Notice of Civil Claim	1.15
Concerning Service	1.16
Response to Notice of Civil Claim – Rule 3-3	
General Information	1.17
Response to Civil Claim – Form 2	1.18
Time for Response	1.22
Sample letter asking for extension to file Response	1.23
Originating Applications – Rule 2-1(2)	
General Information	1.25
Petition – Form 66	1.27
Requisition – Form 31	1.31
Responding to a Petition	1.33
Time for Response to Petition	1.33
Endorsement on Originating Process for Service outside British Columbia	1.33
Counterclaim – Rule 3-4	
General Information	1.34
Counterclaim – Form 3	1.35
Time for Response to Counterclaim	1.38
Third Party Proceedings – Rule 3-5	
General Information	1.39
Time for Third Party Notice	1.40
Service of Third Party Notice	1.40
Third Party Notice – Form 5	1.41
Responding to Third Party Notice	1.45

updated 120430

Pleadings 101 Table of Contents (continued)

Reply	
Reply – Form 7	1.46
Reply – Rule 3-6	1.47
Time for Reply	1.48
General Drafting Principles	
Content	1.49
Style	1.52
Style Tips	1.53
Numbering	1.54
Naming the Parties	1.55
Headings	1.56
Abbreviations	1.57
Statement of Facts	
Material Facts and Evidence	1.57
Legal Basis	1.59
Relief Sought	1.59
Damages	1.60
In the Alternative Relief Sought	1.61
Costs	1.62
Computation of Time	
<i>Interpretation Act</i>	1.63
Civil Rules	1.65
Schedule of Appendix	
B1 Learning Outcomes for Pleadings 101, 201 and 301	1.67
B2 Rule 3-7 Pleadings Generally	1.68
B3 Rule 3-1 Notice of Civil Claim	1.72
B4 Rule 2-1(2) Originating Applications	1.73
B5 Rule 3-4 Counterclaim	1.76
B6 <i>Peter v. Anchor Transit Ltd.</i> [1979] 4 WWR 150, 100 DLR (301) 27, [1979] BCD Civ 3665-01 (CA)	1.79
B7 Rule 3-6 Reply	1.89
B8 <i>Reid v. British Columbia (Egg Marketing Board)</i> , [2002] B.C.J. No. 1861	1.90



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