

## Pleading and Relevance in the Rules of Civil Procedure in Canadian Jurisdictions (November 2010)

<i>Jurisdiction</i>	<i>Pleading</i>	<i>Relevance</i>
Federal <sup>1</sup>	<p>FC <a href="#">174</a>. Every pleading shall contain a concise statement of the material facts on which the party relies, but shall not include evidence by which those facts are to be proved.</p> <p>FC <a href="#">181</a>. (1) A pleading shall contain particulars of every allegation contained therein, including</p> <p>(a) particulars of any alleged misrepresentation, fraud, breach of trust, wilful default or undue influence; and</p> <p>(b) particulars of any alleged state of mind of a person, including any alleged mental disorder or disability, malice or fraudulent intention.</p>	<p>Rule 222(2) For the purposes of rules 223 to 232 and 295, a document of a party is relevant if the party intends to rely on it or if the document tends to adversely affect the party's case or to support another party's case.</p>
British Columbia <sup>2</sup>	<p><a href="#">3-1 (2)</a> A notice of civil claim must do the following:</p> <p>(a) set out a concise statement of the material facts giving rise to the claim</p>	<p><a href="#">7-1(1)</a> ... each party of record to an action must, ...,</p> <p>(a) prepare a list of documents in Form 22 that lists</p> <p>i. all documents that are or have been in the party's possession or control and that could, if available, be used by any party of record at trial to prove or disprove a material fact, and</p> <p>ii. all other documents to which the party intends to refer at trial, and</p> <p>(b) serve the list on all parties of record.</p>
Alberta <sup>3</sup>	<p>13.6 A pleading must state any of the following matters that are relevant:</p> <p>(a) the facts on which a party relies, but not the evidence by which the facts are to be proved.</p>	<p>5.1(1) Within the context of rule 1.2, the purpose of this Part is:</p> <p>a) to obtain evidence that will be relied on in the action,</p> <p>b) to narrow and define the issues between parties,</p> <p>c) to encourage early disclosure of facts and records,</p> <p>d) to facilitate evaluation of the parties' positions and, if possible, resolution of issues in dispute, and</p> <p>e) to discourage conduct that unnecessarily or improperly delays proceedings or unnecessarily increases the cost of them.</p>

<sup>1</sup> Federal Courts Rules, online at <http://laws.justice.gc.ca/en/F-7/SOR-98-106/index.html>

<sup>2</sup> Supreme Court Civil Rules, [http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/168\\_2009\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/168_2009_00)

<sup>3</sup> Alberta Rules of Court effective November 2010, available at <http://www.albertacourts.ab.ca/Home/Spotlight/tabid/310/Default.aspx>

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Saskatchewan <sup>4</sup>	139(1) Every pleading shall contain and contain only a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, but not the evidence by which the facts are to be proved. A pleading shall be as brief as the nature of the case will permit.	212(1) Parties to an action shall, . . . , serve on each opposite party a statement as to the documents which are or have been in his possession or power relating to any matter in question in the action.  Principle 1 of Practice Directive No. 6 (E-Discovery Guidelines) <sup>5</sup> In general, and subject to the following principles, electronic documents that are relevant to any matter in question in the action must be disclosed in accordance with Rule 212 of <i>The Queen's Bench Rules</i> .
Manitoba <sup>6</sup>	<a href="#">25.06(1)</a> Every pleading shall contain a concise statement of the material facts on which the party relies for a claim or defence, but not the evidence by which those facts are to be proved.	Rule <a href="#">30.01(1)(c)</a> a relevant document is one which relates to any matter in issue in an action.
Ontario <sup>7</sup>	<a href="#">25.06 (1)</a> Every pleading shall contain a concise statement of the material facts on which the party relies for the claim or defence, but not the evidence by which those facts are to be proved. R.R.O. 1990, Reg. 194, r. 25.06 (1).	<a href="#">30.02 (1)</a> Every document relevant to any matter in issue in an action that is or has been in the possession, control or power of a party to the action shall be disclosed as provided in rules 30.03 to 30.10, whether or not privilege is claimed in respect of the document.
Quebec <sup>8</sup>	76. In their written pleadings, the parties must state the facts that they intend to invoke and the conclusions that they seek.	N/A
New Brunswick <sup>9</sup>	27.06 (1) Every pleading shall contain a concise statement of the material facts on which the party pleading relies for his claim or defence, but not the evidence by which those facts are to be proved.	Rule 31.02(1) Every document which relates to a matter in issue in an action and which is or has been in the possession or control of a party or which the party believes to be in the possession, custody or control of some person not a party, shall be disclosed as provided in this rule, whether or not privilege is claimed in respect of that document.

<sup>4</sup> The Queen's Bench Rules, Saskatchewan, online at

<http://www.qp.gov.sk.ca/documents/English/Rules/qbrules.pdf>

<sup>5</sup> Court of Queen's Bench of Saskatchewan Practice Directive No. 6 (page 488)

<http://www.qp.gov.sk.ca/documents/English/Rules/practice.pdf>

<sup>6</sup> Court of Queen's Bench Rules, online at <http://web2.gov.mb.ca/laws/rules/qbr1e.php>

<sup>7</sup> Rules of Civil Procedure, effective January 2010. Available at [http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_900194\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_900194_e.htm)

<sup>8</sup> Code of Civil Procedure, online at <http://www.canlii.org/en/qc/laws/stat/rsq-c-c-25/latest/rsq-c-c-25.html>

<sup>9</sup> Rules of Court, N.B. Reg. 82-73, available at <http://www.ijcan.com/en/nb/laws/regu/nb-reg-82-73/latest/nb-reg-82-73.html>

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Nova Scotia <sup>10</sup>	<u>38.02 (3)</u> Material facts must be pleaded, but the evidence to prove a material fact must not be pleaded.	<u>Rule 14.01</u> (1) In this Part, “relevant” and “relevancy” have the same meaning as at the trial of an action or on the hearing of an application and, for greater clarity, both of the following apply on a determination of relevancy under this Part: (b) a judge who determines the relevancy of a document, electronic information, or other thing sought to be disclosed or produced must make the determination by assessing whether a judge presiding at the trial or hearing of the proceeding would find the document, electronic information, or other thing relevant or irrelevant; (c) a judge who determines the relevancy of information called for by a question asked in accordance with this Part 5 must make the determination by assessing whether a judge presiding at the trial or hearing of the proceeding would find the information relevant or irrelevant. (2) A determination of relevancy or irrelevancy under this Part is not binding at the trial of an action, or on the hearing of an application.
PEI <sup>11</sup>	25.06 (1) Every pleading shall contain a concise statement of the material facts on which the party relies for his or her claim or defence, but not the evidence by which those facts are to be proved.	Rule 30.02(1) Every document relating to any matter in issue in an action that is or has been in the possession, control or power of a party to the action shall be disclosed as provided in Rules 30.03 to 30.10, whether or not privilege is claimed in respect of the document.
Nfld Labrador <sup>12</sup>	14.03. Every pleading shall contain a statement in a summary form of the material facts on which the party pleading relies for a claim or defence, but not the evidence by which the facts are to be proved, and the statement shall be as brief as the nature of the case admits.	Rule 32.01. (1) ..., a party to a proceeding shall, ..., file and serve on the opposing party a list in Form 32.01A of the documents of which the party has knowledge at that time relating to every matter in question in the proceeding and file in the Registry the list without a copy of any document being attached thereto.

<sup>10</sup> Nova Scotia Annotated Civil Procedure Rules, available at <http://nslaw.nsbs.org/nslaw/>

<sup>11</sup> Prince Edward Island: Supreme Court Annotated Rules of Civil Procedure, online at <http://www.gov.pe.ca/courts/supreme/rules/index.php3>

<sup>12</sup> Rules of the Supreme Court, online at <http://www.assembly.nl.ca/legislation/sr/regulations/Rc86rules.htm>

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Yukon <sup>13</sup>	20 (1) A pleading shall be as brief as the nature of the case will permit and must contain a statement in summary form of the material facts on which the party relies, but not the evidence by which the facts are to be proved.	Rule 25(3) Every document relating to any matter in issue in an action that is or has been in the possession, control or power of a party to the action shall be disclosed as provided in this rule whether or not privilege is claimed in respect of the document.
Nunavut	Follows the Rules of the Supreme Court of the Northwest Territories	
NWT <sup>14</sup>	106. A pleading must contain only a statement in a summary form of the material facts on which the party pleading relies for his or her claim or defence, as the case may be, but not the evidence by which those facts are to be proved, and the statement must be as brief as the nature of the case admits.	Rule 219 Every document relating to any matter in issue in an action that is or has been in the possession, control or power of a party to the action shall be disclosed as provided in this Part, whether or not privilege is claimed in respect of the document.

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<sup>13</sup> Rules of Court, online at <http://www.yukoncourts.ca/courts/supreme/ykrulesforms.html>

<sup>14</sup> Rules of the Supreme Court of the Northwest Territories, online at [http://www.justice.gov.nt.ca/pdf/REGS/JUDICATURE/Rules\\_Supr\\_Crt\\_NWT\\_Pt\\_1.pdf](http://www.justice.gov.nt.ca/pdf/REGS/JUDICATURE/Rules_Supr_Crt_NWT_Pt_1.pdf)