

# PLEADINGS

CLAIM	RESPONSE
<b>Parties</b>	
<input type="checkbox"/> Parties properly named? – driver record search, plate search, corporate search, etc. <input type="checkbox"/> Other parties?	<input type="checkbox"/> Properly identify in defence? <input type="checkbox"/> Seek amendment (to correct, add parties, etc.)? <input type="checkbox"/> Seek discontinuance against improper parties? <input type="checkbox"/> Need for third party or subsequent claims?
<b>Limitation Period</b>	
<input type="checkbox"/> In time?	<input type="checkbox"/> Plead limitation defence
<b>Jurisdiction</b>	
<input type="checkbox"/> Does court have jurisdiction? – e.g. tort outside Ontario, exclusive jurisdiction of an administrative tribunal, etc.	<input type="checkbox"/> Consider attornment issues? <input type="checkbox"/> Rule 21 motion? <input type="checkbox"/> Reliance on foreign law? – foreign law to be pleaded
<b>Venue</b>	
<input type="checkbox"/> Action commenced in proper venue? – consider factors in Rule 13.1.02	<input type="checkbox"/> Plead proper venue in defence <input type="checkbox"/> Motion to transfer?
<b>Choice of Procedure</b>	
<input type="checkbox"/> Ordinary or Simplified? – note: Rule 76.02(3) re: procedure may be used in any other action at option of plaintiff; Rule 76.02.1 re: claims where jury notice may be delivered	<input type="checkbox"/> Object to Simplified Procedure in defence if necessary – Rule 76.02(5) <input type="checkbox"/> Plead matter should be in Simplified Procedure or in Small Claims Court (re: cost repercussions – Rule 57.05, Rule 76.13)?
<b>Rules of Pleadings – Applicable to All Pleadings – Rule 25.06</b>	
<input type="checkbox"/> Nature of relief claimed specified? <input type="checkbox"/> Material facts vs. evidence? <input type="checkbox"/> Law pleaded with sufficient specificity?	<input type="checkbox"/> Demand for particulars? – Rule 25.10 <input type="checkbox"/> Motion for particulars? <input type="checkbox"/> Motion to strike?
<b>Substance of Claim</b>	
<input type="checkbox"/> No reasonable cause of action disclosed? <input type="checkbox"/> Capacity? – consider if plaintiff may not have legal capacity to sue or defendant legal capacity to be sued; consider standing issues <input type="checkbox"/> Another proceeding pending? <input type="checkbox"/> Frivolous, vexatious, an abuse of process? <input type="checkbox"/> Prejudice of delay of fair trial of action?	<input type="checkbox"/> Motion to strike? – Rule 21.01(1)(b), Rule 25.11 <input type="checkbox"/> Motion to stay or dismiss? – Rule 21.01(3) <input type="checkbox"/> Do not plead into action? – see Rule 21.02 re: motion under Rule 21.01 to be made promptly
<b>Rules of Pleadings – Applicable to Defences – Rule 25.11</b>	
<input type="checkbox"/>	<input type="checkbox"/> Admissions/deemed admissions? <input type="checkbox"/> Different version of facts to be pleaded – denial insufficient <input type="checkbox"/> Affirmative defences to be pleaded – e.g. limitation period, WSIA bar Also Rule 25.06 considerations: <input type="checkbox"/> Material facts vs. evidence? <input type="checkbox"/> Law pleaded with sufficient specificity?