

Court File No.:

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

Plaintiff

- and -

Defendant

**PLAINTIFF'S STATEMENT OF LAW  
VOLUME 5  
RULES OF OPENING STATEMENTS**

**PART I - OVERVIEW**

1. The plaintiff may make an opening statement first. The defence usually makes an opening after the plaintiff's evidence has concluded; however, the defendant's opening may follow the plaintiff's opening with the leave of the trial judge.
2. Objections to an opening address should be registered at trial. A failure to object can be fatal to the success of an appeal; where counsel has not objected at trial, an appellate court will only intervene in exceptional cases.
3. Although counsel has a duty to make an impassioned address, inflammatory comments are not permitted. The opening address is not a place for argument or

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\* As of the February, 2017 release date, this Statement of Law has been updated by TVA

personal opinion and should not refer to matters that are irrelevant or not within the jury's province. Counsel should be guided by the pleadings and the proof required.

4. Statements by counsel are not evidence. Counsel's obligation is to make reference in opening to matters counsel *bona fide* expects will be evidence in the trial.
5. Counsel may use demonstrative evidence in opening, provided counsel is prepared to undertake to the court that it will be proven at trial.
6. Counsel may suggest a range of damages in the opening.

**\*\* END OF SAMPLE \*\***

The remainder of this statement of law contains written submission on this issue and is written like the law portion of a factum.

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