

1 **Rule 8. General rules of pleadings.**

2 (a) **Claims for relief.** An original claim, counterclaim, cross-claim or third-party claim
3 shall contain a short and plain: (1) statement of the claim showing that the party is
4 entitled to relief; and (2) demand for judgment for specified relief. Relief in the
5 alternative or of several different types may be demanded. A party who claims
6 damages but does not plead an amount shall plead that their damages are such as to
7 qualify for a specified tier defined by Rule 26(c)(3). A pleading that qualifies for tier 1 or
8 tier 2 discovery shall constitute a waiver of any right to recover damages above the tier
9 limits specified in Rule 26(c)(3), unless the pleading is amended under Rule 15.

10 (b) **Defenses; form of denials.** A party shall state in simple, short and plain terms
11 any defenses to each claim asserted and shall admit or deny the statements in the
12 claim. A party without knowledge or information sufficient to form a belief about the truth
13 of a statement shall so state, and this has the effect of a denial. Denials shall fairly meet
14 the substance of the statements denied. A party may deny all of the statements in a
15 claim by general denial. A party may specify the statement or part of a statement that is
16 admitted and deny the rest. A party may specify the statement or part of a statement
17 that is denied and admit the rest.

18 (c) **Affirmative defenses.** An affirmative defense shall contain a short and plain: (1)
19 statement of the affirmative defense; and (2) a demand for relief. A party shall set forth
20 affirmatively in a responsive pleading accord and satisfaction, arbitration and award,
21 assumption of risk, contributory negligence, discharge in bankruptcy, duress, estoppel,
22 failure of consideration, fraud, illegality, injury by fellow servant, laches, license,
23 payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any
24 other matter constituting an avoidance or affirmative defense. If a party mistakenly
25 designates a defense as a counterclaim or a counterclaim as a defense, the court, on
26 terms, may treat the pleadings as if the defense or counterclaim had been properly
27 designated.

28 (d) **Effect of failure to deny.** Statements in a pleading to which a responsive
29 pleading is required, other than statements of the amount of damage, are admitted if not
30 denied in the responsive pleading. Statements in a pleading to which no responsive
31 pleading is required or permitted are deemed denied or avoided.

32 (e) **Consistency.** A party may state a claim or defense alternately or hypothetically,
33 either in one count or defense or in separate counts or defenses. If statements are
34 made in the alternative and one of them is sufficient, the pleading is not made
35 insufficient by the insufficiency of an alternative statement. A party may state legal and
36 equitable claims or legal and equitable defenses regardless of consistency.

37 (f) **Construction of pleadings.** All pleadings shall be construed to do substantial
38 justice.

39 **Advisory Committee Notes**

40 The pleading standard under Rule 8 remains “notice pleading” as exemplified by the
41 official forms appended to the Rules. But parties are encouraged to plead facts that
42 entitle them to relief or establish affirmative defenses because more expansive
43 pleadings will trigger broader disclosures from the opponent under Rule 26. This
44 encouragement is consistent with the general approach of the 2011 amendments which
45 require each party to disclose its affirmative case early in the process so that the
46 adversary might evaluate its merits and focus the need for discovery.

47 The amount of damages pled will determine the amount of standard discovery
48 available under Rule 26(c)(3). It would be unfair for a party to plead a smaller amount
49 of damages in order to take advantage of the streamlined discovery and then seek to
50 recover greater damages. Thus, Rule 8 provides that a party waives its right to recover
51 damages in excess of the maximums provided for that tier unless the pleading is
52 amended. The trial court may determine if the amendment requires further discovery.

53