

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

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

12 (b) **Defenses; form of denials.** A party shall state in simple, short and plain terms
13 ~~his~~any defenses to each claim asserted and shall admit or deny the ~~averments upon~~
14 ~~which~~statements in the ~~adverse~~claim. A party ~~relies~~. ~~If he is~~ without knowledge or
15 information sufficient to form a belief ~~as to~~about the truth of ~~an averment, he~~ a statement
16 shall so state, and this has the effect of a denial. Denials shall fairly meet the substance
17 of the ~~averments~~statements denied. ~~When a pleader intends in good faith to~~ A party
18 may deny only all of the statements in a ~~part or a qualification of an averment, he shall~~
19 claim by general denial. A party may specify ~~so much of it as~~ the statement or part of a
20 statement that is ~~true~~admitted and ~~material and shall~~ deny only the remainder. Unless
21 ~~the pleader intends in good faith to controvert all the averments of the preceding~~
22 ~~pleading, he may make his denials as specific denials of designated averments or~~
23 ~~paragraphs, or he may generally deny all the averments except such designated~~
24 ~~averments or paragraphs as he expressly admits; but, when he does so intend to~~
25 ~~controvert all its averments, he~~ rest. A party may ~~do so by general denial subject~~
26 ~~to~~specify the statement or part of a statement that is denied and admit the ~~obligations~~
27 ~~set forth in Rule 14~~rest.

28 (c) **Affirmative defenses.** ~~In pleading to a preceding pleading, a~~ An affirmative
29 defense shall contain a short and plain: (1) statement of the affirmative defense; and (2)
30 a demand for relief. A party shall set forth affirmatively in a responsive pleading accord
31 and satisfaction, arbitration and award, assumption of risk, contributory negligence,

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32 discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury
33 by fellow servant, laches, license, payment, release, res judicata, statute of frauds,
34 statute of limitations, waiver, and any other matter constituting an avoidance or
35 affirmative defense. ~~When~~if a party ~~has~~-mistakenly ~~designated~~designates a defense as
36 a counterclaim or a counterclaim as a defense, the court, on terms, ~~if justice so~~
37 ~~requires, shall~~may treat the pleadings as if ~~there~~the defense or counterclaim had been a
38 ~~proper designation~~properly designated.

39 (d) **Effect of failure to deny.** ~~Averments~~Statements in a pleading to which a
40 responsive pleading is required, other than ~~those as to~~statements of the amount of
41 damage, are admitted ~~when~~if not denied in the responsive pleading.

42 ~~Averments~~Statements in a pleading to which no responsive pleading is required or
43 permitted ~~shall be taken as~~are deemed denied or avoided.

44 (e) ~~Pleading to be concise and direct; consistency.~~

45 ~~(e)(1) Each averment of a pleading shall be simple, concise, and direct. No technical~~
46 ~~forms of pleading or motions are required.~~

47 ~~(e)(2)~~Consistency. A party may ~~set forth two or more statements of~~state a claim or
48 defense alternately or hypothetically, either in one count or defense or in separate
49 counts or defenses. ~~When two or more~~if statements are made in the alternative and one
50 of them ~~if made independently would be~~is sufficient, the pleading is not made
51 insufficient by the insufficiency of ~~one or more of the~~an alternative ~~statements~~statement.

52 A party may ~~also state as many separate~~legal and equitable claims or legal and
53 equitable defenses ~~as he has~~ regardless of consistency ~~and whether based on legal or~~
54 ~~on equitable grounds or on both. All statements shall be made subject to the obligations~~
55 ~~set forth in Rule 11.~~

56 (f) **Construction of pleadings.** All pleadings shall be ~~so~~-construed ~~as~~-to do
57 substantial justice.

58 **Advisory Committee Notes**

59 The pleading standard under Rule 8 remains “notice pleading” as exemplified by the
60 official forms appended to the Rules. But parties are encouraged to plead facts that
61 entitle them to relief or establish affirmative defenses because more expansive
62 pleadings will trigger broader disclosures from the opponent under Rule 26. This

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63 encouragement is consistent with the general approach of the 2011 amendments which
64 require each party to disclose its affirmative case early in the process so that the
65 adversary might evaluate its merits and focus the need for discovery.

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

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