

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 simple,
4 short and plain:

5 (a)(1) statement of ~~the claim~~facts showing that the ~~pleader~~party is entitled to relief;
6 ~~and (~~

7 (a)(2) statement of the legal theory on which the claim rests; and

8 (a)(3) demand for judgment for ~~the~~specified relief ~~to which he deems himself~~
9 entitled. Relief in the alternative or of several different types may be demanded.

10 A party who claims damages but does not plead an amount shall plead that their
11 damages are such as to qualify for a specified tier defined by Rule 26(c)(3).

12 (b) Defenses; form of denials. A party shall state in simple, short and plain terms
13 hisany defenses to each claim asserted and shall admit or deny the averments upon
14 which statements in the adverseclaim. 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 a part or a qualification of an averment, he shall specify so much of it as~~
19 is true and material and shall deny only all of the remainder. ~~Unless the pleader~~
20 intendsstatements in good faith to controvert all the averments of the preceding
21 pleading, ~~he may make his denials as specific denials of designated averments or~~
22 paragraphs, or he may generally deny all the averments except such designated
23 averments or paragraphs as he expressly admits; but, when he does so intend to
24 controvert all its averments, he may do so a claim by general denial ~~subject to the~~
25 obligations set forth in Rule 11. A party may specify the statement or part of a statement
26 that is admitted and deny the rest. A party may specify the statement or part of a
27 statement that is denied and admit the rest.

28 (c) Affirmative defenses. ~~In pleading to a preceding pleading, a~~ An affirmative
29 defense shall contain a simple, short and plain:

30 (c)(1) statement of facts establishing the affirmative defense;

31 (c)(2) statement of the legal theory on which the defense rests; and

32 (c)(3) a demand for relief.

33 A party shall set forth affirmatively in a responsive pleading accord and satisfaction,
34 arbitration and award, assumption of risk, contributory negligence, discharge in
35 bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow
36 servant, laches, license, payment, release, res judicata, statute of frauds, statute of
37 limitations, waiver, and any other matter constituting an avoidance or affirmative
38 defense. ~~When~~If a party ~~has~~ mistakenly ~~designated~~designates a defense as a
39 counterclaim or a counterclaim as a defense, the court, on terms, if justice so requires,
40 shall~~may~~ treat the pleadings as if ~~the~~the defense or counterclaim had been ~~a proper~~
41 designation~~properly designated~~.

42 (d) Effect of failure to deny. Averments~~Statements~~ in a pleading to which a
43 responsive pleading is required, other than ~~those as to~~statements of the amount of
44 damage, are admitted ~~when~~if not denied in the responsive pleading.
45 ~~Averments~~Statements in a pleading to which no responsive pleading is required or
46 permitted ~~shall be taken as~~are deemed denied or avoided.

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

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

50 ~~(e)(2)~~Consistency. A party may ~~set forth two or more statements of~~state a claim or
51 defense alternately or hypothetically, either in one count or defense or in separate
52 counts or defenses. ~~When two or more~~if statements are made in the alternative and one
53 of them ~~if made independently would be~~is sufficient, the pleading is not made
54 insufficient by the insufficiency of ~~one or more of the~~an alternative ~~statements~~statement.
55 A party may ~~also state as many separate legal and equitable~~ claims or legal and
56 equitable defenses ~~as he has~~ regardless of consistency ~~and whether based on legal or~~
57 ~~on equitable grounds or on both. All statements shall be made subject to the obligations~~
58 ~~set forth in Rule 11.~~

59 (f) Construction of pleadings. All pleadings shall be ~~so~~ construed as to do substantial
60 justice.

61 Advisory Committee Notes

62 The 2011 amendments remove from Rule 8 prior language requiring a statement of
63 the party’s “claim.” Instead, the rule now requires a short and plain statement of both (1)
64 “facts showing that the party is entitled to relief” and (2) “the legal theory on which the
65 claim rests.” The purpose of this amendment is twofold. First, the amendment clarifies
66 that parties must give notice of both the facts and the law that support their claim. The
67 amendment thus reconfirms longstanding case law that courts, on a Rule 12 motion, will
68 “accept the plaintiff’s description of facts alleged in the complaint to be true, but . . .
69 need not accept extrinsic facts not pleaded nor . . . legal conclusions in contradiction of
70 the pleaded facts.” *Allred v. Cook*, 590 P.2d 318, 319 (Utah 1979). Second, by clarifying
71 that parties should plead facts, this amendment to Rule 8 encourages further and earlier
72 disclosure of facts, consistent with the general approach of the 2011 amendments,
73 including those to Rule 26’s disclosure requirements.

74 To facilitate access to justice, the committee intends that all pleadings—both
75 complaints and answers—provide more and earlier notice of the facts alleged with less
76 reliance on discovery. However, by requiring parties to plead “facts,” this amendment
77 does not resurrect any prior requirement of technical or “code” pleading. Nor does the
78 amendment seek to import any heightened pleading requirement, such as
79 interpretations of the Federal Rules of Civil Procedure in *Bell Atlantic Corp. v. Twombly*,
80 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009), which mandate a
81 heightened standard of “plausibility” pleading under the Federal Rules. Rather, the
82 longstanding “liberal” standard of notice pleading remains in effect in Utah. E.g.,
83 *Canfield v. Layton City*, 2005 UT 60, ¶ 14, 122 P.3d 622. *Accord, Adam N. Steinman,*
84 *The Pleading Problem*, 62 *Stanford L. Rev.* 1293 (2010).

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