

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 simple, short and plain:

4       (a)(1) statement of facts showing that the party is entitled to relief;

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

6       (a)(3) demand for judgment for specified relief. Relief in the alternative or of several  
7 different types may be demanded.

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

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

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

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

22       (c)(3) a demand for relief.

23 A party shall set forth affirmatively in a responsive pleading accord and satisfaction,  
24 arbitration and award, assumption of risk, contributory negligence, discharge in  
25 bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, injury by fellow  
26 servant, laches, license, payment, release, res judicata, statute of frauds, statute of  
27 limitations, waiver, and any other matter constituting an avoidance or affirmative  
28 defense. If a party mistakenly designates a defense as a counterclaim or a counterclaim  
29 as a defense, the court, on terms, may treat the pleadings as if the defense or  
30 counterclaim had been properly designated.

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

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

40 (f) Construction of pleadings. All pleadings shall be construed to do substantial  
41 justice.

42 Advisory Committee Notes

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

55 To facilitate access to justice, the committee intends that all pleadings—both  
56 complaints and answers—provide more and earlier notice of the facts alleged with less  
57 reliance on discovery. However, by requiring parties to plead “facts,” this amendment  
58 does not resurrect any prior requirement of technical or “code” pleading. Nor does the  
59 amendment seek to import any heightened pleading requirement, such as  
60 interpretations of the Federal Rules of Civil Procedure in *Bell Atlantic Corp. v. Twombly*,  
61 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009), which mandate a

62 heightened standard of “plausibility” pleading under the Federal Rules. Rather, the  
63 longstanding “liberal” standard of notice pleading remains in effect in Utah. E.g.,  
64 *Canfield v. Layton City*, 2005 UT 60, ¶ 14, 122 P.3d 622. *Accord*, Adam N. Steinman,  
65 The Pleading Problem, 62 Stanford L. Rev. 1293 (2010).

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