

1 **Rule 9. Pleading special matters.**

2 **(a)(1) Capacity.** It is not necessary to ~~aver-allege~~ the capacity of a party to sue or be sued or the
3 authority of a party to sue or be sued in a representative capacity or the legal existence of an organized
4 association of persons that is made a party. A party may raise an issue as to the legal existence of ~~any-a~~
5 party or the capacity of ~~any-a~~ party to sue or be sued or the authority of a party to sue or be sued in a
6 representative capacity by specific ~~negative averment~~ denial, which ~~shall~~ must include facts within the
7 pleader's knowledge. If raised as an issue, the party relying on such capacity, authority, or legal
8 existence, shall establish the same ~~on the~~ at trial.

9 **(a)(2)-(b) Designation of unknown defendant.** When a party does not know the name of an ~~adverse~~
10 opposing party, ~~he-it~~ may state that fact in the pleadings, and ~~thereupon such adverse~~ designate the
11 opposing party may be designated in any a pleading or proceeding by any name; provided, that when the
12 true name of ~~such adverse the opposing party is ascertained~~ becomes known, the pleading or proceeding
13 must be ~~amended accordingly~~ corrected.

14 **(a)(3)-(c) Actions to quiet title; description of interest of unknown parties.** ~~In~~ If a party in an
15 action to quiet title ~~wherein any of the parties are~~ is designated in the caption as "unknown," the pleadings
16 may describe ~~such the~~ unknown persons as "all other persons unknown, claiming any right, title, estate or
17 interest in, or lien upon the real property described in the pleading adverse to the complainant's
18 ownership, or clouding ~~his-its~~ title thereto."

19 **(b)-(d) Fraud, mistake, condition of the mind.** In ~~all averments of alleging~~ fraud or mistake, a party
20 must state with particularity the circumstances constituting fraud or mistake ~~shall be stated with~~
21 particularity. Malice, intent, knowledge, and other conditions of a person's mind of a person may be
22 ~~averred-alleged~~ generally.

23 **(e)-(e) Conditions precedent.** In pleading ~~the performance or occurrence of~~ conditions precedent, it
24 is sufficient to ~~aver-allege~~ generally that all conditions precedent have been performed or have occurred.
25 ~~A denial of performance or occurrence shall be made specifically and~~ When denying that a condition
26 precedent has been performed or has occurred, a party must do so with particularity, ~~and when so made~~
27 the. The party pleading the performance or occurrence shall ~~on the trial~~ establish the facts showing such
28 performance or occurrence at trial.

29 **(d)-(f) Official document or act.** In pleading an official document or official act it is sufficient to ~~aver~~
30 allege that the document was legally issued or the act was legally done in compliance with law.

31 **(e)-(g) Judgment.** In pleading a judgment or decision of a domestic or foreign court, a judicial or
32 quasi-judicial tribunal, or ~~of a board or officer~~, it is sufficient to ~~aver-plead~~ the judgment or decision
33 without ~~setting forth matter~~ showing jurisdiction to render it. ~~A denial of jurisdiction shall be made~~
34 specifically and with particularity and when so made the party pleading the judgment or decision shall
35 establish on the trial all controverted jurisdictional facts.

36 ~~(f)-(h)~~ **Time and place.** For the purpose of ~~An allegation of time or place is material when testing the~~
 37 ~~sufficiency of a pleading, averments of time and place are material and shall be considered like all other~~
 38 ~~averments of material matter.~~

39 ~~(g)-(i)~~ **Special damage.** ~~When~~ If an items of special damage are is claimed, they shall it must be
 40 ~~specifically stated.~~

41 ~~(h)-(j)~~ **Statute of limitations.** In pleading the statute of limitations it is not necessary to state the facts
 42 showing the defense but it may be alleged generally that the cause of action is barred by ~~the provisions of~~
 43 ~~the statute relied on, referring to or describing such the statute specifically and definitely by section~~
 44 ~~number, subsection designation, if any, or otherwise designating the provision relied upon sufficiently~~
 45 ~~clearly to identify it. If such the allegation is controverted denied, the party pleading the statute must~~
 46 ~~establish, on the at trial, the facts showing that the cause of action is so barred.~~

47 ~~(i)-(k)~~ **Private statutes; ordinances.** In pleading a private statute of this state, or an ordinance of any
 48 political subdivision ~~thereof~~, or a right derived from ~~such a~~ statute or ordinance, it is sufficient to refer to
 49 ~~such the~~ statute or ordinance by its title and the day of its passage or by its section number or other
 50 designation in any official publication of the statutes or ordinances. The court ~~shall thereupon must take~~
 51 ~~judicial notice thereof of the statute or ordinance.~~

52 ~~(j)-(l)~~ **Libel and slander.**

53 ~~(j)(1)-(l)(1)~~ **Pleading defamatory matter.** ~~It is not necessary in In an action for libel or slander to~~
 54 ~~set forth any intrinsic facts showing the application to the plaintiff of the defamatory matter out of~~
 55 ~~which the action arose; but it is sufficient to state allege generally that the same defamatory matter~~
 56 ~~out of which the action arose was published or spoken concerning the plaintiff. If such the allegation~~
 57 ~~is controverted denied, the party alleging the such defamatory matter must establish, on the at trial,~~
 58 ~~that it was so published or spoken.~~

59 ~~(j)(2)-(l)(2)~~ **Pleading defense.** ~~In his answer to an action for libel or slander, the The defendant~~
 60 ~~may allege both the truth of the matter charged as defamatory and any mitigating circumstances to~~
 61 ~~reduce the amount of damages, and, whether he proves the. Whether or not justification or not is~~
 62 ~~proved, he the defendant may give in evidence of the mitigating circumstances.~~

63 ~~(k)~~ **Renew judgment.** A complaint alleging failure to pay a judgment shall describe the judgment with
 64 ~~particularity or attach a copy of the judgment to the complaint.~~

65 ~~(l)-(m)~~ **Allocation of fault.**

66 ~~(l)(1)-(m)(1)~~ A party seeking to allocate fault to a non-party under [Title 78B, Chapter 5, Part 8](#)
 67 shall file:

68 ~~(l)(1)(A)-(m)(1)(A)~~ a description of the factual and legal basis on which fault can be allocated;
 69 and

70 ~~(l)(1)(B)-(m)(1)(B)~~ information known or reasonably available to the party identifying the non-
 71 party, including name, address, telephone number and employer. If the identity of the non-party is
 72 unknown, the party shall so state.

73 ~~(l)(2)-(m)(2)~~ The information specified in ~~subsection (l)(1)-paragraph (m)(1)~~ must be included in
74 the party's responsive pleading if then known or must be included in a supplemental notice filed within
75 a reasonable time after the party discovers the factual and legal basis on which fault can be allocated.
76 The court, upon motion and for good cause shown, may permit a party to file the information specified
77 in ~~subsection (l)(1)-paragraph (m)(1)~~ after the expiration of any period permitted by this rule, but in no
78 event later than 90 days before trial.

79 ~~(l)(3)-(m)(3)~~ A party may not seek to allocate fault to another except by compliance with this rule.

80 **Advisory Committee Note**

81 The 2016 amendments deleted former paragraph (k) on renewing judgments because it was
82 superfluous. The Renewal of Judgment Act (Utah Code Sections 78B-6-1801 through 78B-6-1804) allows
83 a domestic judgment to be renewed by motion, and Section 78B-5-302 governs domesticating a foreign
84 judgment, which can then be renewed by motion.

85 The process for renewing a judgment by motion is governed by Rule 58C.

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