

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

2 **(a) Claims for relief.** An original claim, counterclaim, cross-claim or third-party claim
3 must 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 must plead that the 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 constitutes 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. A
10 pleading requesting relief must include the following caution language at the top right
11 of the first page, in bold print: **If you do not respond to this document within**
12 **applicable time limits, judgment could be entered against you as requested.** Failure to
13 include the caution language may provide the responding party with a basis under Rule
14 60(b) for excusable neglect to set aside any resulting judgment or order.

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

23 **(c) Affirmative defenses.** An affirmative defense must contain a short and plain: (1)
24 statement of the affirmative defense; and (2) a demand for relief. A party must set forth
25 affirmatively in a responsive pleading accord and satisfaction, arbitration and award,
26 assumption of risk, comparative fault, discharge in bankruptcy, duress, estoppel, failure
27 of consideration, fraud, illegality, injury by fellow servant, laches, license, payment,
28 release, res judicata, statute of frauds, statute of limitations, waiver, and any other

29 matter constituting an avoidance or affirmative defense. If a party mistakenly
30 designates a defense as a counterclaim or a counterclaim as a defense, the court, on
31 terms, may treat the pleadings as if the defense or counterclaim had been properly
32 designated.

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

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

42 **(f) Construction of pleadings.** All pleadings will be construed to do substantial justice.

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44 **~~Advisory Committee Notes~~**

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

52 ~~The amount of damages pled will determine the amount of standard discovery~~
53 ~~available under Rule 26(c)(3). It would be unfair for a party to plead a smaller amount~~
54 ~~of damages in order to take advantage of the streamlined discovery and then seek to~~
55 ~~recover greater damages. Thus, Rule 8 provides that a party waives its right to recover~~

56 | ~~damages in excess of the maximums provided for that tier unless the pleading is~~
57 | ~~amended. The trial court may determine if the amendment requires further discovery.~~

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