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NRCP 8 – Proposed
(Adopt Federal rule with edits)

Rule 8. General Rules of Pleading

(a) **Claim for Relief.** A pleading that states a claim for relief must contain:

(1) a short and plain statement of the grounds for the court’s jurisdiction, unless the court already has jurisdiction and the claim needs no new jurisdictional support;

(2) a short and plain statement of the claim showing that the pleader is entitled to relief; ~~and~~

(3) a demand for the relief sought, which may include relief in the alternative or different types of relief; and

(4) if the pleader seeks more than \$15,000 in monetary damages, the demand for relief must request damages “in excess of \$15,000” without further specification of the amount.

(b) **Defenses; Admissions and Denials.**

(1) **In General.** In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(2) **Denials—Responding to the Substance.** A denial must fairly respond to the substance of the allegation.

(3) **General and Specific Denials.** A party that intends in good faith to deny all the allegations of a pleading—including the jurisdictional grounds—may do so by a general denial. A party that does not intend to deny all the allegations must

1 either specifically deny designated allegations or generally deny all except those
2 specifically admitted.

3 (4) **Denying Part of an Allegation.** A party that intends in good faith to
4 deny only part of an allegation must admit the part that is true and deny the rest.

5 (5) **Lacking Knowledge or Information.** A party that lacks knowledge or
6 information sufficient to form a belief about the truth of an allegation must so state,
7 and the statement has the effect of a denial.

8 (6) **Effect of Failing to Deny.** An allegation—other than one relating to the
9 amount of damages—is admitted if a responsive pleading is required and the
10 allegation is not denied. If a responsive pleading is not required, an allegation is
11 considered denied or avoided.

12 (c) **Affirmative Defenses.**

13 (1) **In General.** In responding to a pleading, a party must affirmatively state
14 any avoidance or affirmative defense, including:

15 • ~~(A)~~ accord and satisfaction;

16 • ~~(B)~~ arbitration and award;

17 • ~~(C)~~ assumption of risk;

18 • ~~(D)~~ contributory negligence;

19 (E) discharge in bankruptcy;

20 • ~~(F)~~ duress;

21 • ~~(G)~~ estoppel;

22 • ~~(H)~~ failure of consideration;

23 • ~~(I)~~ fraud;

24 • ~~(J)~~ illegality;

1 •~~(K)~~ injury by fellow servant;

2 •~~(L)~~ laches;

3 •~~(M)~~ license;

4 •~~(N)~~ payment;

5 •~~(O)~~ release;

6 •~~(P)~~ res judicata;

7 •~~(Q)~~ statute of frauds;

8 •~~(R)~~ statute of limitations; and

9 •~~(S)~~ waiver.

10 (2) **Mistaken Designation.** If a party mistakenly designates a defense as a
11 counterclaim, or a counterclaim as a defense, the court must, if justice requires, treat
12 the pleading as though it were correctly designated, and may impose terms for doing
13 so.

14 (d) **Pleading to Be Concise and Direct; Alternative Statements;**
15 **Inconsistency.**

16 (1) **In General.** Each allegation must be simple, concise, and direct. No
17 technical form is required.

18 (2) **Alternative Statements of a Claim or Defense.** A party may set out
19 2 or more statements of a claim or defense alternatively or hypothetically, either in
20 a single count or defense or in separate ones. If a party makes alternative statements,
21 the pleading is sufficient if any one of them is sufficient.

22 (3) **Inconsistent Claims or Defenses.** A party may state as many separate
23 claims or defenses as it has, regardless of consistency.

24 (e) **Construing Pleadings.** Pleadings must be construed so as to do justice.

1 DRAFTER’S NOTE—2017 AMENDMENT

2 NRCP 8 is amended to conform to the federal rule, with the addition of the
3 Nevada requirements for pleading monetary damages in NRCP 8(a)(4) and discharge
4 in bankruptcy as an affirmative defense. The Committee has also adopted the
5 federal requirement in NRCP 8(a)(1) to state the grounds for the court’s jurisdiction;
6 this does not change the jurisdiction of the various Nevada courts. The previous
7 references in NRCP 8 to the applicability of Rule 11 were deleted as duplicative
8 because Rule 11 is applicable by its own terms. As noted in the Drafter’s Note to
9 NRCP 12, by adopting the text of the federal rule the Committee does not intend any
10 change to existing Nevada case law regarding pleading standards, and leaves to
11 judicial development whether Nevada should adopt the plausibility analysis in
12 *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009), and *Bell Atlantic Co. v. Twombly*, 550
13 U.S. 544, 565-66 (2007).

1 **NRCP 8 – Proposed**
2 **(Subcommittee note to the Committee)**

3 The text of FRCP 8 rearranges the text of NRCP 8. Most of the rule is substantively
4 unchanged between the two. The exceptions are as follows:

- 5 (1) NRCP 8(a)(1) is new and adopts FRCP 8(a)(1)'s requirement of a jurisdictional
6 statement. This statement encompasses the amount in controversy and may
7 apply to statutory procedures and rules applicable to courts with special
8 jurisdiction, such as family courts.
- 9 (2) The damages in excess of \$15,000 sentence in NRCP 8(a) is not present in the
10 FRCP rule. This sentence has been retained, with edits to be consistent with
11 the federal style. The old \$10,000 cap of Justice Court jurisdiction in NRS
12 4.370 was changed to \$15,000 by the 2015 Legislature effective Jan. 1, 2017.
- 13 (3) The existing NRCP 8(b) and (e)(2) contain a statement about the applicability
14 of Rule 11. As Rule 11 is applicable by its own terms, the Rule 11 comments
15 were deleted as duplicative.
- 16 (4) NRCP 8(c) lists discharge in bankruptcy as an affirmative defense that must
17 be pled. This defense is retained in the list of affirmative defenses. Per
18 discussion at the prior committee meeting, the list of affirmative defenses has
19 been numbered.
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