

Amendments to Rule 9

Rule 9 is amended as follows:

Rule 9. Pleading Special Matters

(a) Capacity or Authority to Sue; Legal Existence.

(1) In General. ~~[It is not necessary to aver]~~ **Except when required to show that the court has jurisdiction, a pleading need not allege:**

(A) a party's capacity ~~[of a party]~~ to sue or be sued; ~~[or the]~~

(B) a party's authority ~~[of a party]~~ to sue or be sued in a representative capacity; or

(C) the legal existence of an organized association of persons that is made a party. ~~[, except to the extent required to show the jurisdiction of the court. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, the party desiring to raise the issue shall do so by specific negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge.]~~

(2) Raising Those Issues. **To raise any of those issues, a party must do so by a specific denial, which must state any supporting facts that are peculiarly within the party's knowledge.**

(b) Fraud[,] or Mistake[.]; [Condition]Conditions of [the] Mind. In ~~[all averments of]~~ **alleging** fraud or mistake, **a party must state with particularity** the circumstances constituting fraud or mistake. ~~[shall be stated with particularity.]~~ Malice, intent,

knowledge, and other ~~[condition]~~ **conditions** of **a person's** mind ~~[of a person]~~ may be ~~[averred]~~ **alleged** generally.

(c) Conditions Precedent. In pleading ~~[the performance or occurrence of]~~ conditions precedent, it ~~[is sufficient]~~ **suffices** to ~~[aver]~~ **allege** generally that all conditions precedent have **occurred or** been performed ~~[or have occurred]~~. ~~[A denial of performance or occurrence shall be made specifically and]~~ **But when denying that a condition precedent has occurred or been performed, a party must do so** with particularity.

(d) Official Document or Act. In pleading an official document or official act it ~~[is sufficient]~~ **suffices** to ~~[aver]~~ **allege** that the document was **legally** issued or the act **legally** done ~~[in compliance with law]~~.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, **a** judicial or quasi-judicial tribunal, or of a board or officer, it ~~[is sufficient]~~ suffices to ~~[aver]~~ plead the judgment or decision without ~~[setting forth matter]~~ showing jurisdiction to render it.

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

(g) Special ~~[Damage]~~ Damages. ~~[When]~~ If an item~~[s]~~ of special damage ~~[are]~~ **is** claimed, ~~[they shall]~~ **it must** be specifically stated.

(As amended, July 28, 1988, eff. Nov. 1, 1988; **Nov. 25, 2008, eff. Jan. 1, 2009.**)