

Federal Rules of Civil Procedure and Evidence

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Commencement Of The Case

Drafting Pleadings

- FRCP 3, 4, 8, and 9

Drafting the pleading to start the case begins with the following guidelines:

- ***A civil action is commenced by filing a complaint with the court. (Rule 3)***
- ***A pleading . . . shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends . . ., (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks. (Rule 8(a))***

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There are higher standards for pleading fraud;
such allegations

shall be stated with particularity
(Rule 9(b))

There may also be statutes that describe the detail needed for pleading, such as the Private Securities Litigation Reform Act of 1995.

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There may also be local rules/standing orders that describe the detail needed for pleading, such as a standing order in the Southern District of Texas relating to pleading civil RICO cases.

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Drafting the defense begins with the following guidelines:

A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. (Rule 8(b))

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A sample federal defensive pleading might be as follows:

With regard to the averments in paragraph (5) of the Complaint, [Defendant] admits that he orally announced his resignation on [date]. [Defendant] is without knowledge or information sufficient to form a belief as to the truth of the averments as to events at the company since [date]. [Defendant] denies the remaining averments in paragraph (5) of the Complaint.

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- Difference between state and federal court answers
 - State court -- general denial
 - Subject to stipulations or admissions that may hereafter be made, [Defendant] enters its general denial, pursuant to Rule 92 of the Texas Rules of Civil Procedure, thereby denying each and every, all and singular, of the material allegations made by [Plaintiff] against [Defendant], and requests that [Plaintiff] be required to prove its charges and allegations against [Defendant] by a preponderance of the evidence as required by the laws of the State of Texas.
 - Federal court -- respond to each allegation in complaint