

CIVIL PROCEDURE CHEAT SHEET

Fall 2009

GENERAL

Rules Enabling Act §§2071-77 → 1) Only regulates procedure; 2) must not abridge, enlarge, or modify any substantive right

Sibbach v. W. Va. Co. (1941) → Rule 35 is a procedural issue here; since it's procedural, it's valid under REA; case would have been different if she had sued in Indiana

PLEADING

Choice of venue → P has choice of court (can go for fed or state); removal lets D have a say in venue but can't go back to state court after removal

Rule 8 → Purpose is to facilitate an informed discovery; provide basis for settlement; identify non-disputed facts and contentions

Rule 8(a) → short and plain statement of claim that shows P is entitled to relief

Rule 8(b) → any allegation not denied is admitted

Rule 8(c) → allocates burden of proof; lists things D must assert in answer; affirmative defenses (if not asserted then waived)

Rule 8(d) → plain and simple pleadings; alternative and inconsistent claims or defenses

Stredwick v. E.I. Du Pont de Nemours & Co. (3rd Circuit 1939) → injured by blasting cap, gets to amend complaint so it states claim; have to accept statement of claim as is and proceed as if it is valid; appeal 2 is dismissed because no reasonable person could have found for P

Notice Pleading → Is there any set of facts consistent with allegations that would justify a recovery for P? (set in *Cook v. Gilbert*)

Plausibility Pleading → Disregard conclusory allegations, then look at rest of pleading to see if allegations are plausible (*Igha*); upholds notice pleading in *Erickson* but wants plausibility in *Twombly*; looks like there might be different pleading standard for different types of claims and parties; not clear how this is applied in district courts (*Madison*)

PROBLEMS → Moves question of plausibility from judge to jury; often need discovery for plausibility

Bell Atlantic Corp. v. Twombly (2007) → Antitrust suit that would have involved expensive discovery; COURT says claim didn't nudge allegations from the possible to plausible

Erickson v. Pardus (2007) → notice pleading is system we have, use it! NOTE: pro-se litigant in jail might be different

Ashcroft v. Iqbal (2009) → Claims against AG and FBI director need to be plausible and not conclusory

Madison v. City of Chicago → P's pleadings are pretty vague but judge says they're enough; city can take discovery if it needs it

Rule 10(c) → Exhibits with pleading are considered part of pleading

Rule 11 and Pleading → Deter frivolous claims without deterring meritorious claims; attorney certifies that he has read the pleading and after reasonable inquiry thinks it's grounded in existing law or there might be a good case for changing the law

Rule 11(c)(2) → Safe harbor; serve motion for sanctions but don't file it unless opponent doesn't amend or withdraw offending pleading within 21 days

Murphy v. Cross (NDNY 1996) → P claims Zacc conspired with NYPD; Zacc moves for SJ and Rule 11 sanctions, which are granted because claim is frivolous and attorney should have looked into claims more thoroughly before certifying

Federal Rules Of Civil Procedure

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(WILLIAM M.), William Janssen**

Federal Rules Of Civil Procedure:

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Federal Rules of Civil Procedure Committee on the Judiciary House of Repr, 2013-02-21 This document contains the Federal Rules of Civil Procedure together with forms as amended to December 1 2008 The rules and forms have been promulgated and amended by the United States Supreme Court pursuant to law and further amended by Acts of Congress This document has been prepared by the Committee in response to the need for an official up to date document containing the latest amendments to the rules

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amendments [Federal Civil Procedure Manual](#) Lee H. Rosenthal, David F. Levi, John K. Rabiej, 2014-11-01 For well experienced lawyers the Federal Civil Procedure Manual provides a comprehensive treatment of procedural law in federal courts that an attorney can rely on for quick answers to discrete issues For new attorneys the Manual provides a complete blueprint for commencing and working through a case in court The copious and very recent case law updating provides authoritative sources that go into great detail about the designated issues The authors have nearly 50 years experience in developing crafting and approving amendments to the Civil Rules They were intimately involved with the amendment process for virtually all the Civil Rules Their combined experience brings unmatched insights into the Civil Rules The Federal Civil Procedure Manual addresses not only procedural law but it also contains extensive discussion of jurisdictional matters The chapters on arbitration as an alternative dispute procedure are typically not addressed in a procedural book **Federal Rules of Civil Procedure** United States. Supreme Court, 2009 Includes text of each rule followed by the Advisory Committee notes and a detailed commentary **Decisions on Federal Rules of Civil Procedure**, 1942 **Federal Rules of Civil Procedure** United States Government, The definitive Federal Rules of Civil Procedure 2025 Edition presents the complete authoritative compilation of civil procedure rules for U S federal courts incorporating all amendments through December 1 2024 This essential reference officially prepared by the Committee on Rules of Practice and Procedure includes comprehensive coverage of everything from commencing actions and serving process to special proceedings and supplemental rules for admiralty claims With detailed committee notes explaining each amendment s purpose plus convenient rule by rule organization this indispensable volume serves as the primary source for judges attorneys and legal professionals navigating federal civil litigation Contents Rules of Civil Procedure for the United States District Courts Title I Scope of Rules Form of Action Title II Commencing an Action Service of Process Pleadings Motions and Orders Title III Pleadings and Motions Title IV Parties Title V Disclosures and Discovery Title VI Trials Title VII Judgment Title VIII Provisional and Final Remedies Title IX Special Proceedings Title X District Courts and Clerks Conducting Title XI General Provisions Appendix of Forms Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions Supplemental Rules for Social Security Actions Under 42 U S C 405 g [Decisions on Federal Rules of Civil Procedure](#), 1940 **Federal Rules of Civil Procedure**, 2024 A small simple but comprehensive revision of the full text Federal Rules of Civil Procedure updated in January of 2024 for quick reference **Federal Rules of Civil Procedure 2021** Gulf Coast Legal Publishing, LLC, 2020-12-15 Formatted and compiled with the practitioners and law students in mind this edition of the Federal Rules of Evidence 2021 has easy to read text on letter size pages that reads across the whole page no dual columns and a detailed table of contents that allows you to quickly access the provision you need Besides the rules select statutes of Title 28 covering jurisdiction venue and removal internal cross references and a table of cross references between and amongst FRCP and selected statutes are included [Federal Rules of Civil Procedure, with Forms](#) United States, United

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