

NOTES OF ADVISORY COMMITTEE ON RULES—1963  
AMENDMENT

At various places, these Forms [Forms 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 18, 21] allege or refer to damages of "ten thousand dollars, interest, and costs," or the like. The Forms were written at a time when the jurisdictional amount in ordinary "diversity" and "Federal question" cases was an amount in excess of \$3,000, exclusive of interest and costs, so the illustrative amounts set out in the Forms were adequate for jurisdictional purposes. However, U.S.C. Title 28, §1331 (Federal question; amount in controversy; costs) and §1332 (Diversity of citizenship; amount in controversy; costs), as amended by Pub. Law 85-554, 72 Stat. 415, July 25, 1958, now require that the amount in controversy, exclusive of interest and costs, be in excess of \$10,000. Accordingly the Forms are misleading. They are amended at appropriate places by deleting the stated dollar amount and substituting a blank, to be properly filled in by the pleader.

**Form 4. Complaint on an Account**

- 1. Allegation of jurisdiction.
- 2. Defendant owes plaintiff \_\_\_\_\_ dollars according to the account hereto annexed as Exhibit A.

Wherefore (etc. as in Form 3).  
(As amended Jan. 21, 1963, eff. July 1, 1963.)

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This form was amended in 1963 by deleting the stated dollar amount and substituting a blank, to be properly filled in by the pleader. See Note of Advisory Committee under Form 3.

**Form 5. Complaint for Goods Sold and Delivered**

- 1. Allegation of jurisdiction.
  - 2. Defendant owes plaintiff \_\_\_\_\_ dollars for goods sold and delivered by plaintiff to defendant between June 1, 1936 and December 1, 1936.
- Wherefore (etc. as in Form 3).

NOTE

This form may be used where the action is for an agreed price or for the reasonable value of the goods.  
(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 6. Complaint for Money Lent**

- 1. Allegation of jurisdiction.
  - 2. Defendant owes plaintiff \_\_\_\_\_ dollars for money lent by plaintiff to defendant on June 1, 1936.
- Wherefore (etc. as in Form 3).

(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 7. Complaint for Money Paid by Mistake**

- 1. Allegation of jurisdiction.

- 2. Defendant owes plaintiff \_\_\_\_\_ dollars for money paid by plaintiff to defendant by mistake on June 1, 1936, under the following circumstances: [here state the circumstances with particularity—see Rule 9(b)].

Wherefore (etc. as in Form 3).  
(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 8. Complaint for Money Had and Received**

- 1. Allegation of jurisdiction.
  - 2. Defendant owes plaintiff \_\_\_\_\_ dollars for money had and received from one G. H. on June 1, 1936, to be paid by defendant to plaintiff.
- Wherefore (etc. as in Form 3).

(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 9. Complaint for Negligence**

- 1. Allegation of jurisdiction.
  - 2. On June 1, 1936, in a public highway called Boylston Street in Boston, Massachusetts, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.
  - 3. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.
- Wherefore plaintiff demands judgment against defendant in the sum of \_\_\_\_\_ dollars and costs.

NOTE

Since contributory negligence is an affirmative defense, the complaint need contain no allegation of due care of plaintiff.

(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 10. Complaint for Negligence Where Plaintiff Is Unable To Determine Definitely Whether the Person Responsible Is C. D. or E. F. or Whether Both Are Responsible and Where His Evidence May Justify a Finding of Wilfulness or of Recklessness or of Negligence**

A. B., Plaintiff  
v.  
C. D. and E. F.,  
Defendants } *Complaint*

- 1. Allegation of jurisdiction.

2. On June 1, 1936, in a public highway called Boylston Street in Boston, Massachusetts, defendant C. D. or defendant E. F., or both defendants C. D. and E. F. wilfully or recklessly or negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said highway.

3. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization in the sum of one thousand dollars.

Wherefore plaintiff demands judgment against C. D. or against E. F. or against both in the sum of \_\_\_\_\_ dollars and costs.

(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 11. Complaint for Conversion**

1. Allegation of jurisdiction.

2. On or about December 1, 1936, defendant converted to his own use ten bonds of the \_\_\_\_\_ Company (here insert brief identification as by number and issue) of the value of \_\_\_\_\_ dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the sum of \_\_\_\_\_ dollars, interest, and costs.

(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 12. Complaint for Specific Performance of Contract To Convey Land**

1. Allegation of jurisdiction.

2. On or about December 1, 1936, plaintiff and defendant entered into an agreement in writing a copy of which is hereto annexed as Exhibit A.

3. In accord with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

4. Plaintiff now offers to pay the purchase price.

Wherefore plaintiff demands (1) that defendant be required specifically to perform said agreement, (2) damages in the sum of one thousand dollars, and (3) that if specific performance is not granted plaintiff have judgment against defendant in the sum of \_\_\_\_\_ dollars.

NOTE

Here, as in Form 3, plaintiff may set forth the contract verbatim in the complaint or plead it, as indicated, by exhibit, or plead it according to its legal effect. Furthermore, plaintiff may seek legal or equitable relief or both even though this was impossible under the system in operation before these rules.

(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 13. Complaint on Claim for Debt and To Set Aside Fraudulent Conveyance Under Rule 18(b)**

A. B., Plaintiff  
v.  
C. D. and E. F.,  
Defendants } *Complaint*

1. Allegation of jurisdiction.

2. Defendant C. D. on or about \_\_\_\_\_ executed and delivered to plaintiff a promissory note [in the following words and figures: (here set out the note verbatim)]; [a copy of which is hereto annexed as Exhibit A]; [whereby defendant C. D. promised to pay to plaintiff or order on \_\_\_\_\_ the sum of five thousand dollars with interest thereon at the rate of \_\_\_\_\_ percent. per annum].

3. Defendant C. D. owes to plaintiff the amount of said note and interest.

4. Defendant C. D. on or about \_\_\_\_\_ conveyed all his property, real and personal [or specify and describe] to defendant E. F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands:

(1) That plaintiff have judgment against defendant C. D. for \_\_\_\_\_ dollars and interest; (2) that the aforesaid conveyance to defendant E. F. be declared void and the judgment herein be declared a lien on said property; (3) that plaintiff have judgment against the defendants for costs.

(As amended Jan. 21, 1963, eff. July 1, 1963.)

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**Form 14. Complaint for Negligence Under Federal Employer's Liability Act**

1. Allegation of jurisdiction.

2. During all the times herein mentioned defendant owned and operated in interstate commerce a railroad which passed through a tunnel located at \_\_\_\_\_ and known as Tunnel No. \_\_\_\_\_.

3. On or about June 1, 1936, defendant was repairing and enlarging the tunnel in order to protect interstate trains and passengers and freight from injury and in order to make the tunnel more conveniently usable for interstate commerce.

4. In the course of thus repairing and enlarging the tunnel on said day defendant employed plaintiff as one of its workmen, and negligently put plaintiff to work in a portion of the tunnel which defendant had left unprotected and unsupported.