

2012 Kansas Statutes

60-209. Pleading special matters. (a) *Capacity or authority to sue; legal existence.* (1) *In general.* A pleading need not allege:

- (A) A party's capacity to sue or be sued;
 - (B) a party's authority 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.
- (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; conditions of mind.* In alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge and other conditions of a person's mind may be alleged generally.
 - (c) *Conditions precedent.* In pleading conditions precedent, it suffices to allege generally that all conditions precedent have occurred or have been performed. 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 suffices to allege that the document was legally issued or the act legally done.
 - (e) *Judgment.* In pleading a judgment or decision of a domestic or foreign court, a judicial or quasi-judicial tribunal, or a board or officer, it suffices to plead the judgment or decision without showing jurisdiction to render it.
 - (f) *Time and place.* An allegation of time or place is material when testing the sufficiency of a pleading.
 - (g) *Special damages.* If an item of special damage is claimed, it must be specifically stated. If the court allows an amended petition pursuant to K.S.A. 60-3703, and amendments thereto, to include a claim for exemplary or punitive damages the amended petition must state only whether the amount sought as damages is or is not in excess of \$75,000.
 - (h) *Pleading a written instrument.* A claim, defense or counterclaim founded on a written instrument may be pleaded by:
 - (1) Reasonably identifying the written instrument and stating its substance;
 - (2) reciting the contents of the written instrument in the pleading; or
 - (3) attaching a copy to the pleading as an exhibit.
 - (i) *Tender of money.* When a tender of money is made in a pleading, the money need not be deposited in court prior to trial, unless the court orders otherwise.
 - (j) *Libel and slander.* In an action for libel or slander, it suffices to allege generally that defamatory matter was published or spoken concerning the plaintiff, and if that allegation is not denied in the answer, it need not be proved at trial. The defendant's answer may allege both the truth of the matter charged as defamatory and any mitigating circumstances that reduce the amount of damages. Whether the defendant proves justification, the defendant may introduce evidence of any mitigating circumstances.

History: L. 1963, ch. 303, 60-209; L. 1976, ch. 252, § 2; L. 1988, ch. 209, § 5; L. 1997, ch. 173, § 5; L. 2010, ch. 135, § 76; L. 2011, ch. 48, § 5; July 1.