

December 2019

Appendix of Forms

Wyoming State Bar

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Recommended Citation

Wyoming State Bar, *Appendix of Forms*, 2 Wyo. L.J. 228 (1948)

Available at: <https://scholarship.law.uwyo.edu/wlj/vol2/iss4/4>

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APPENDIX OF FORMS
INTRODUCTORY STATEMENT

(See Rule 84)

1. The following forms are intended for illustration only. They are limited in number. No attempt is made to furnish a manual of forms. Each form assumes the action to be brought in the First Judicial District, Laramie County.
2. Except where otherwise indicated each pleading, motion, and other paper should have a caption similar to that of the summons, with the designation of the particular paper substituted for the word "Summons". In the caption of the summons, of the complaint, and of orders to show cause, final orders, judgments or decrees, all parties must be named but in other pleadings and papers, it is sufficient to state the name of the first party on either side, with an appropriate indication of other parties. See Rules 4(b), 7(b) (2), and 10(a).
3. Each pleading, motion, and other paper is to be signed in his individual name by at least one attorney of record (Rule 11). In forms following Form 3 the signature is not indicated.
4. If a party is not represented by an attorney, the signature and address of the party are required in place of the name of the attorney.

FORM 1.
SUMMONS

STATE OF WYOMING
COUNTY OF LARAMIE

IN THE DISTRICT COURT
FIRST JUDICIAL DISTRICT

Civil Action No.....

A.B.)
 Plaintiff,)
 vs.)
C.D.)
 Defendant.)

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to file with the Clerk and serve upon the plaintiff's attorney an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

If service upon you is made outside the State of Wyoming, you are required to file and serve your answer to the complaint within 30 days after service of this summons upon you, exclusive of the day of service.

Dated....., 19.....

(Seal of the District Court)

Clerk of Court

Attorney for Plaintiff

FORM 2.
(Number Reserved)

FORM 3.
COMPLAINT ON A PROMISSORY NOTE

1. Defendant on or about June 1, 1945, 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 promised to pay to plaintiff or order on June 1, 1946 the sum of ten thousand dollars with interest thereon at the rate of six percent, per annum].
2. Defendant owes to plaintiff the amount of said note and interest. Wherefore plaintiff demands judgment against defendant for the sum of ten thousand dollars, interest, and costs.

Signed:.....

Attorney for Plaintiff

NOTES

1. The pleader may use the material in one of the three sets of brackets. His choice will depend upon whether he desires to plead the document verbatim, or by exhibit, or according to its legal effect.
2. Under the rules free joinder of claims is permitted. See Rules 8(e) and 18. Consequently the claims set forth in each and all of the following forms may be joined with this complaint or with each other. Ordinarily each claim should be stated in a separate division of the complaint, and the divisions should be designated as counts successively numbered. In particular the rules permit alternative and inconsistent pleading. See Form 10.

FORM 4.

COMPLAINT ON AN ACCOUNT

1. Defendant owes plaintiff ten thousand dollars according to the account hereto annexed as Exhibit A.
Wherefore (etc. as in Form 3).

FORM 5.

COMPLAINT FOR GOODS SOLD AND DELIVERED

1. Defendant owes plaintiff ten thousand dollars for goods sold and delivered by plaintiff to defendant between June 1, 1946 and December 1, 1946.
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.

FORM 6.

COMPLAINT FOR MONEY LENT

1. Defendant owes plaintiff ten thousand dollars for money lent by plaintiff to defendant on June 1, 1946.
Wherefore (etc. as in Form 3).

FORM 7.

COMPLAINT FOR MONEY PAID BY MISTAKE

1. Defendant owes plaintiff ten thousand dollars for money paid by plaintiff to defendant by mistake on June 1, 1946, under the following circumstances: (here state the circumstances with particularity—see Rule 9(b)).
Wherefore (etc. as in Form 3).

FORM 8.

COMPLAINT FOR MONEY HAD AND RECEIVED

1. Defendant owes plaintiff ten thousand dollars for money had and received from one G. H. on June 1, 1946, to be paid by defendant to plaintiff.
Wherefore (etc. as in Form 3).

FORM 9.

COMPLAINT FOR NEGLIGENCE

1. On June 1, 1946, on a public highway called Capitol Avenue in Cheyenne, Wyoming, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway.
2. 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 ten thousand dollars and costs.

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

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.)	COMPLAINT
C. D. and E. F., Defendants)	

1. On June 1, 1946, in a public highway called Capitol Avenue in Cheyenne, Wyoming, 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.
2. 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 ten thousand dollars and costs.

FORM 11.

COMPLAINT FOR CONVERSION

1. On or about December 1, 1946, defendant converted to his own use ten bonds of the.....Company (here insert brief identification as by number and issue) of the value of ten thousand dollars, the property of plaintiff.

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

FORM 12.

COMPLAINT FOR SPECIFIC PERFORMANCE OF CONTRACT TO CONVEY LAND

- 1. On or about December 1, 1946, plaintiff and defendant entered into an agreement in writing a copy of which is hereto annexed as Exhibit A.
- 2. 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.
- 3. 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 ten thousand 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.

FORM 13.

COMPLAINT ON CLAIM FOR DEBT AND TO SET ASIDE FRAUDULENT CONVEYANCE UNDER RULE 18(b)

A. B., Plaintiff)
 v.) COMPLAINT
 C. D. and E. F., Defendants)

- 1. 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].
- 2. Defendant C. D. owes to plaintiff the amount of said note and interest.
- 3. 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 ten thousand 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.

FORM 14.**COMPLAINT FOR NEGLIGENCE UNDER FEDERAL
EMPLOYER'S LIABILITY ACT**

1. 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.....
2. On or about June 1, 1946, 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.
3. 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.
4. By reason of defendant's negligence in thus putting plaintiff to work in that portion of the tunnel, plaintiff was, while so working pursuant to defendant's order, struck and crushed by a rock, which fell from the unsupported portion of the tunnel, and was (here describe plaintiff's injuries).
5. Prior to these injuries, plaintiff was a strong, able-bodied man, capable of earning and actually earning.....dollars per day. By these injuries he has been made incapable of any gainful activity, has suffered great physical and mental pain, and has incurred expense in the amount of.....dollars for medicine, medical attendance, and hospitalization. Wherefore plaintiff demands judgment against defendant in the sum of.....dollars and costs.

FORM 15.**(Number Reserved)****FORM 16.****(Number Reserved)****FORM 17.****(Number Reserved)**

FORM 18.**COMPLAINT FOR INTERPLEADER AND DECLARATORY RELIEF**

1. On or about June 1, 1945, plaintiff issued to G. H. a policy of life insurance whereby plaintiff promised to pay to K. L. as beneficiary the sum of ten thousand dollars upon the death of G. H. The policy required the payment by G. H. of a stipulated premium on June 1, 1946, and annually thereafter as a condition precedent to its continuance in force.
2. No part of the premium due June 1, 1946, was ever paid and the policy ceased to have any force or effect on July 1, 1946.
3. Thereafter, on September 1, 1946, G. H. and K. L. died as the result of a collision between a locomotive and the automobile in which G. H. and K. L. were riding.
4. Defendant C. D. is the duly appointed and acting executor of the will of G. H.; defendant E. F. is the duly appointed and acting executor of the will of K. L.; defendant X. Y. claims to have been duly designated as beneficiary of said policy in place of K. L.
5. Each of defendants, C. D., E. F., and X. Y. is claiming that the above-mentioned policy was in full force and effect at the time of the death of G. H.; each of them is claiming to be the only person entitled to receive payment of the amount of the policy and has made demand for payment thereof.
6. By reason of these conflicting claims of the defendants, plaintiff is in great doubt as to which defendant is entitled to be paid the amount of the policy, if it was in force at the death of G. H. Wherefore plaintiff demands that the court adjudge:
 - (1) That none of the defendants is entitled to recover from plaintiff the amount of said policy or any part thereof.
 - (2) That each of the defendants be restrained from instituting any action against plaintiff for the recovery of the amount of said policy or any part thereof.
3. That, if the court shall determine that said policy was in force at the death of G. H., the defendants be required to interplead and settle between themselves their rights to the money due under said policy, and that plaintiff be discharged from all liability in the premises except to the person whom the court shall adjudge entitled to the amount of said policy.
4. That plaintiff recover its costs.

FORM 19.**MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE TO STATE A CLAIM, OF LACK OF SERVICE OF PROCESS, OF IMPROPER VENUE, AND OF LACK OF JURISDICTION UNDER RULE 12(b)**

The defendant moves the court as follows:

1. To dismiss the action because the complaint fails to state a claim against defendant upon which relief can be granted.

2. To dismiss the action or in lieu thereof to quash the return of service of summons on the grounds that the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M. N. and X. Y. hereto annexed as Exhibit A and Exhibit B respectively.
3. To dismiss the action on the ground that the court lacks jurisdiction because (here state grounds).

Signed.....
Attorney for Defendant

NOTICE OF MOTION

To:.....
Attorney for Plaintiff

Please take notice, that the undersigned will bring the above motion on for hearing before this Court on the.....day of, 19....., at 10 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard.

Signed.....
Attorney for Defendant

Note: The above motion and notice of motion may be combined and denominated Notice of Motion. See Rule 7(b).

FORM 20.

ANSWER PRESENTING DEFENSES UNDER RULE 12(b)

First Defense

The complaint fails to state a claim against defendant upon which relief can be granted.

Second Defense

If defendant is indebted to plaintiffs for the goods mentioned in the complaint, he is indebted to them jointly with G. H. G. H. is alive; is a citizen and a resident of this State, is subject to the jurisdiction of this court; can be made a party without depriving this court of jurisdiction of the present parties, and has not been made a party.

Third Defense

Defendant admits the allegation contained in paragraphs 1 and 4 of the complaint; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint; and denies each and every other allegation contained in the complaint.

Fourth Defense

The right of action set forth in the complaint did not accrue within ten years next before the commencement of this action.

Counterclaim

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a complaint).

Cross-Claim Against Defendant M. N.

(Here set forth the claim constituting a cross-claim against defendant M. N. in the manner in which a claim is pleaded in a complaint).

Note: The above form contains examples of certain defenses provided for in Rule 12(b). The first defense challenges the legal sufficiency of the complaint. It is a substitute for a general demurrer or a motion to dismiss.

The second defense embodies the old plea in abatement; the decision thereon, however, may well provide under Rules 19 and 21 for the citing in of the party rather than an abatement of the action.

The third defense is an answer on the merits.

The fourth defense is one of the affirmative defenses provided for in Rule 8(c).

The answer also includes a counter-claim and a cross-claim.

FORM 21.**ANSWER TO COMPLAINT SET FORTH IN FORM 8,
WITH COUNTERCLAIM FOR INTERPLEADER****Defense**

Defendant denies the allegations stated in paragraph 2 of the complaint to the extent set forth in the counterclaim herein.

Counterclaim for Interpleader

1. Defendant received the sum of ten thousand dollars as a deposit from E. F.
2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E. F.
3. E. F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

- (1) That the court order E. F. to be made a party defendant to respond to the complaint and to this counterclaim.³
- (2) That the court order the plaintiff and E. F. to interplead their respective claims.
- (3) That the court adjudge whether the plaintiff or E. F. is entitled to the sum of money.
- (4) That the court discharge defendant from all liability in the premises except to the person it shall adjudge entitled to the sum of money.
- (5) That the court award to the defendant its costs and attorney's fees.

3. Rule 13(h) provides for the court ordering parties to a counterclaim, but who are not parties to the original action, to be brought in as defendants.

FORM 22.

MOTION TO BRING IN THIRD-PARTY DEFENDANT

Defendant moves for leave to make E. F. a party to this action and that there be served upon him summons and third-party complaint as set forth in Exhibit A hereto attached.

Signed.....
Attorney for Defendant C. D.

Notice of Motion

(Contents the same as in Form 19. No notice is necessary if the motion is made before the moving defendant has served his answer.)

Exhibit A

STATE OF WYOMING)
COUNTY OF LARAMIE) ss. IN THE DISTRICT COURT
FIRST JUDICIAL DISTRICT
Civil Action, File No.....
A. B., Plaintiff)
v.)
C. D., Defendant and third-party) SUMMONS
plaintiff)
v.)
E. F., third-party defendant)

To the above-named Third-Party Defendant:
You are hereby summoned and required to serve upon....., plaintiff's attorney whose address is..... and upon....., who is attorney for C. D., defendant and third-party plaintiff, and whose address is....., an answer to the third-party complaint which is herewith served upon you and an answer to the complaint of the plaintiff, a copy of which is herewith served upon you, within 20 days after the service of this summons upon you exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the third-party complaint.

.....
Clerk of Court

(Seal of District Court)

Dated.....
STATE OF WYOMING)
COUNTY OF LARAMIE) ss. IN THE DISTRICT COURT
FIRST JUDICIAL DISTRICT
Civil Action, File No.....
A. B., Plaintiff)
v.)
C. D., Defendant and third-party) THIRD-PARTY COMPLAINT
plaintiff)
v.)
E. F., third-party defendant)

1. Plaintiff A. B. has filed against defendant C. D. a complaint, a copy

- of which is hereto attached as "Exhibit C".
- 2. (Here state the grounds upon which C. D. is entitled to recover from E. F., all or part of what A. B. may recover from C. D. The statement should be framed as in an original complaint.) Wherefore C. D. demands judgment against third-party defendant E. F. for all sums that may be adjudged against defendant C. D. in favor of plaintiff A. B.

Signed:.....
 Attorney for C. D.,
 Third-Party Plaintiff

FORM 23.

MOTION TO INTERVENE AS A DEFENDANT

STATE OF WYOMING)
) ss. IN THE DISTRICT COURT
 COUNTY OF LARAMIE) FIRST JUDICIAL DISTRICT

Civil Action, File No.....

A. B., Plaintiff)
 v.) MOTION TO INTERVENE
 C. D., Defendant) AS A DEFENDANT
 E. F., Applicant for intervention)

E. F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the grounds (here state them) and as such has a defense to plaintiff's claim presenting both questions of law and of fact which are common to the main action.*

Signed:.....
 Attorney for E. F.,
 Applicant for intervention

*—For grounds of intervention, either of right or in the discretion of the court, see Rule 24(a) and (b).

Notice of Motion

(Contents the Same as in Form 19)

STATE OF WYOMING)
) ss. IN THE DISTRICT COURT
 COUNTY OF LARAMIE) FIRST JUDICIAL DISTRICT

Civil Action, File Number.....

A. B., Plaintiff)
 v.) INTERVENER'S ANSWER
 C. D., Defendant)
 E. F., Intervener)

First Defense

Intervener admits the allegations stated in paragraphs..... and.....of the complaint; denies the allegations in paragraphs..... and.....

Second Defense

(Set forth any defenses).

Signed:.....
 Attorney for E. F., Intervener

FORM 24.

MOTION FOR PRODUCTION OF DOCUMENTS, ETC.,

UNDER RULE 34

Plaintiff A. B. moves the court for an order requiring defendant C. D.

(1) To produce and to permit plaintiff to inspect and to copy each of the following documents;

(Here list the documents and describe each of them.)

(2) To produce and permit plaintiff to inspect and to photograph each of the following objects:

(Here list the objects and describe each of them.)

(3) To permit plaintiff to enter (here describe property to be entered) and to inspect and to photograph (here describe the portion of the real property and the objects to be inspected and photographed).

Defendant C. D. has the possession, custody, or control of each of the foregoing documents and objects and of the above mentioned real estate. Each of them constitutes or contains evidence relevant and material to a matter involved in this action, as is more fully shown in Exhibit A hereto attached.

Signed:.....

Attorney for Plaintiff.

Notice of Motion

(Contents the same as in Form 19)

Exhibit A

State of.....,

County of.....,

A. B., first being duly sworn says:

(1) (Here set forth all that plaintiff knows which shows that defendant has the papers or objects in his possession or control).

(2) (Here set forth all that plaintiff knows which shows that each of the above mentioned items is relevant to some issue in the action).

Signed: A. B.

(Jurat)

FORM 25.

REQUEST FOR ADMISSION UNDER RULE 36

Plaintiff A. B. requests defendant C. D. within.....days after service of this request to make the following admissions for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at the trial:

(1) That each of the following documents, exhibited with this request is genuine.

(Here list the documents and describe each document).

(2) That each of the following statements is true.
(Here list the statements.)

Signed:.....
Attorney for Plaintiff

FORM 26.

NOTICE OF APPEAL TO THE SUPREME COURT

NOTICE IS HEREBY GIVEN that C. D. and E. F., defendants above named, hereby appeal to the Supreme Court of the State of Wyoming [from the order (describing it)] [from the final judgment] entered on....., 19.....

Signed:.....
Attorney for Appellants, C. D. and E. F.