RULE 9
PLEADING SPECIAL MATTERS

(a) Capacity. It is not necessary to aver the capacity of a party to sue or be sued or the authority of a party to sue or be sued in a representative capacity or the legal existence of an organized association of persons that is made a party. When a party desires to raise an issue as to the legal existence of any party or the capacity of any party to sue or be sued or the authority of a party to sue or be sued in a representative capacity, he shall do so by specific negative averment which shall include such supporting particulars as are peculiarly within the pleaders knowledge.

(b) Fraud, Mistake, Condition of the Mind. In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally.

(c) Condition Precedent. In pleading the performance or occurrence of conditions precedent, it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of performance or occurrence shall be made specifically and with particularity.

(d) Official Document or Act. In pleading an official document or official act, it is sufficient to aver that the document was issued or the act done in compliance with law.

(e) Judgment. In pleading a judgment or decision of a domestic or foreign court, judicial or quasi-judicial tribunal, or of a board or officer, it is sufficient to aver the judgment or decision without setting forth matter showing jurisdiction to render it.

(f) Time and Place. For the purpose of testing the sufficiency of a pleading, averments of time and place are material and shall be considered like all other averments of material matter.

(g) Special Damage. When items of special damage are claimed, they shall be specifically stated.

(h) Pleading Existence of City or Town. In pleading the existence of any city or town in this state, it shall be sufficient to state in such pleading that the same is an existing city or town, incorporated or organized under the laws of Washington.

(i) Pleading Ordinance. In pleading any ordinance of a city or town in this state it shall be sufficient to state the title of such ordinance and the date of its passage, whereupon the court shall take judicial notice of the existence of such ordinance and the tenor and effect thereof.

(j) Pleading Private Statutes. In pleading a private statute, or a right derived therefrom, it shall be sufficient to refer to such statute by its title, and the day of its passage, and the court shall thereupon take judicial notice thereof.

(k) Foreign Law.

(1) United States Jurisdictions. A party who intends to raise an issue concerning the law of a state, territory, or other jurisdiction of the United States shall set forth in his pleading facts which show that the law of another United States jurisdiction may be applicable, or shall state in his pleading or serve other reasonable written notice that the law of another United States jurisdiction may be relied upon.

(2) Other Jurisdictions. A party who intends to raise an issue concerning the law of a jurisdiction other than a state, territory or other jurisdiction of the United States shall give notice in his pleading of the foreign jurisdiction whose law he contends may be applicable to the facts of the case. The following matters need not be pleaded, but may be

discovered pursuant to rule 26:

(i) the party's contentions as to which issues of law are governed by the foreign law;

(ii) the substance of such foreign law;

(iii) the expected effect of such foreign law on the legal issues and on the outcome of the case being tried;

(iv) the specific foreign statutes, regulations, judicial and administrative decisions, documents and other nonprivileged written materials and translations thereof upon which the party intends to rely.

(3) Application of Foreign Law. Issues of foreign law may be simplified pursuant to rule 16 and determined in advance of trial pursuant to rule 56.

(4) Failure To Plead Foreign Law. If no party has requested in his pleadings application of the law of a jurisdiction other than a state, territory or other jurisdiction of the United States, the court at time of trial shall apply the law of the State of Washington unless such application would result in manifest injustice.

(l) Burden of Proof. Nothing in this rule shall be construed to shift or alter the burden of proof.