

Rule 136. Denials

(a) Form of Denials. If a pleader can in good faith deny all the allegations in a paragraph of the opposing party's pleading, or all the allegations in the paragraph that are not specifically admitted, he may do so without paraphrasing or separately describing each allegation denied.

(b) Pleadings after Reply. Unless the court orders otherwise, no response to a reply or subsequent pleading is required and any new matter in a reply or subsequent pleading shall be taken as denied.

Committee Comments

Paragraph (a)

This provision is new. It is designed to clarify section 40 of the Illinois Civil Practice Act.

When several allegations in a paragraph are to be denied, the responsive pleading may be more intelligible if they are identified without a paraphrase or separate description of each one. Doubt has been cast on this method of pleading by *Johnson v. Schubert*, 40 Ill. App. 2d 467, 189 N.E.2d 768 (1st Dist. 1963). Compare, however, *Dennehy v. Wood Co.*, 285 Ill. App. 598, 2 N.E.2d 586 (2d Dist. Abst. Op. 1936).

The new rule permits pleading substantially as in the following illustration:

“5. Defendant denies the allegations of paragraph 5 of the complaint and each of them.”

Or, if some of the allegations of a paragraph are to be admitted and some denied, the pleader may state substantially as follows:

“5. Defendant admits [stating facts admitted] and denies the remaining allegations of paragraph 5 and each of them.”

The new rule is based in part upon provisions in Rule 8(b) of the Federal Rules of Civil Procedure. See also 2 Moore, Federal Practice, par. 8.23 (2d ed. 1965). Unlike the Federal rule, however, the new rule does not permit a general denial of an entire pleading, even in the very unusual case in which such a denial would be appropriate. Not only does section 40 of the Civil Practice Act forbid this result, but the disciplinary effect of requiring the pleader to address himself separately to each paragraph and allegation therein is highly desirable and should be preserved.

Paragraph (b)

Paragraph (b), an express statement of what the committee believes to be the existing rule, is based upon Rule 8(d) of the Federal Rules of Civil Procedure.