

Trigon removed the plaintiff's claim against it to this court pursuant to 28 U.S.C.A. § 1441(a) (West 1994), claiming that the plaintiff's claim under state law was preempted by Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C.A. §§ 1001-1144 (West 1999 & Supp. 2000) ("ERISA"). Trigon then filed a motion to dismiss the plaintiff's claim under Federal Rule of Civil Procedure 12(b)(6) asserting that, because the plaintiff had raised only state law claims in his state action, he had failed to state a claim upon which relief could be granted. (Mot. Dismiss at 5.)³

A pleading that sets forth a claim for relief shall contain "a short and plain statement of the grounds upon which the court's jurisdiction depends." Fed. R. Civ. P. 8(a). Although it is common to draft complaints with counts that advance a specific legal rule or theory, nothing in rule 8(a) requires it. "To the contrary, the rules discourage it." *Bartholet v. Reishauer A.G. (Zurich)*, 953 F.2d 1073, 1078 (7th Cir. 1992). The question is whether relief is possible under any set of facts that are consistent with the allegations. *See Conley v. Gibson*, 355 U.S. 41, 45-46 (1957).

In the instant case, although the plaintiff's state pleading does not specifically assert that he seeks to recover under ERISA, he does allege that both he and his son "had medical insurance with the Defendant" (Mot. J. ¶ 4), that "[t]he accident is . . .

³ In his Motion for Judgment filed in state court, the plaintiff asserted that his claim was "brought . . . pursuant to the common law of Virginia and all relevant statutes that give Plaintiff redress through the Courts of the Commonwealth." (Mot. J. ¶ 1.)

covered under . . . the Trigon policy” (*Id.* ¶ 7), and that the “total amount of the medical bills are [sic] \$1,634.35.” (*Id.* ¶ 12.) Because these allegations are adequate to invoke ERISA and notify Trigon of the basis for the plaintiff’s claim, the pleading sufficiently states an ERISA claim. *See Vickery v. United Med. Res., Inc.*, 43 F.3d 1208, 1209 (8th Cir. 1994). This is made apparent by the fact that Trigon specifically relies upon the relevant ERISA statute, 29 U.S.C.A. § 1132(a), as the basis for removal in this case. (Notice of Removal at 2.) Accordingly, I find that the requirements of rule 8(a) have been satisfied.

For the aforementioned reasons, it is **ORDERED** that the defendant Trigon Insurance Company’s Motion to Dismiss is hereby denied.

ENTER: May 10, 2001

United States District Judge