

Rule 12. Defenses and objections.**(a) When presented.**

(1) In actions other than domestic relations. Unless otherwise provided by statute or order of the court, a defendant ~~shall~~must serve an answer within 21 days after the service of the summons and complaint is complete within the state and within 30 days after service of the summons and complaint is complete outside the state. A party served with a pleading stating a cross-claim ~~shall~~must serve an answer thereto within 21 days after the service. The plaintiff ~~shall~~must serve ~~a reply~~an answer to a counterclaim in the answer within 21 days after service of the answer or, if a reply is ordered by the court, within 21 days after service of the order, unless the order otherwise directs. The service of a motion under this rule alters these periods of time as follows, unless a different time is fixed by order of the court, but a motion directed to fewer than all of the claims in a pleading does not affect the time for responding to the remaining claims:

~~(1A)~~ If the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading ~~shall~~must be served within 14 days after notice of the court's action;

~~(2B)~~ If the court grants a motion for a more definite statement, the responsive pleading ~~shall~~must be served within 14 days after the service of the more definite statement.

(2) In domestic relations actions. A party served with a domestic relations action must serve an answer within 21 days after service of the summons and petition is complete within the state and within 30 days after service of the summons and petition is complete outside the state. Any counterpetition must be filed with the answer. A party served with a counterpetition must serve an answer within 21 days after service of the counterpetition.

26 **(b) How presented.** Every defense, in law or fact, to claim for relief in any pleading,
27 | whether a claim, counterclaim, cross-claim, or third-party claim, ~~shall~~must be asserted
28 | in the responsive pleading thereto if one is required, except that the following defenses
29 | may at the option of the pleader be made by motion: (1) lack of jurisdiction over the
30 | subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4)
31 | insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim
32 | upon which relief can be granted, (7) failure to join an indispensable party. A motion
33 | making any of these defenses ~~shall~~must be made before pleading if a further pleading is
34 | permitted. No defense or objection is waived by being joined with one or more other
35 | defenses or objections in a responsive pleading or motion or by further pleading after
36 | the denial of such motion or objection. If a pleading sets forth a claim for relief to which
37 | the adverse party is not required to serve a responsive pleading, the adverse party may
38 | assert at the trial any defense in law or fact to that claim for relief. If, on a motion
39 | asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim
40 | upon which relief can be granted, matters outside the pleading are presented to and not
41 | excluded by the court, the motion ~~shall~~must be treated as one for summary judgment
42 | and disposed of as provided in Rule 56, and all parties ~~shall~~must be given reasonable
43 | opportunity to present all material made pertinent to such a motion by Rule 56.

44 | **(c) Motion for judgment on the pleadings.** After the pleadings are closed, but within
45 | such time as not to delay the trial, any party may move for judgment on the pleadings.
46 | If, on a motion for judgment on the pleadings, matters outside the pleadings are
47 | presented to and not excluded by the court, the motion ~~shall~~must be treated as one for
48 | summary judgment and disposed of as provided in Rule 56, and all parties ~~shall~~must be
49 | given reasonable opportunity to present all material made pertinent to such a motion
50 | by Rule 56.

51 **(d) Preliminary hearings.** The defenses specifically enumerated (1) - (7) in subdivision
52 | (b) of this rule, whether made in a pleading or by motion, and the motion for judgment
53 | mentioned in subdivision (c) of this rule ~~shall~~must be heard and determined before trial

54 on application of any party, unless the court orders that the hearings and determination
55 thereof be deferred until the trial.

56 **(e) Motion for more definite statement.** If a pleading to which a responsive pleading is
57 permitted is so vague or ambiguous that a party cannot reasonably be required to frame
58 a responsive pleading, the party may move for a more definite statement before
59 interposing a responsive pleading. The motion ~~shall~~must point out the defects
60 complained of and the details desired. If the motion is granted and the order of the
61 court is not obeyed within 14 days after notice of the order or within such other time as
62 the court may fix, the court may strike the pleading to which the motion was directed or
63 make such order as it deems just.

64 **(f) Motion to strike.** Upon motion made by a party before responding to a pleading or,
65 if no responsive pleading is permitted by these rules, upon motion made by a party
66 within 21 days after the service of the pleading, the court may order stricken from any
67 pleading any insufficient defense or any redundant, immaterial, impertinent, or
68 scandalous matter.

69 **(g) Consolidation of defenses.** A party who makes a motion under this rule may join
70 with it the other motions herein provided for and then available. If a party makes a
71 motion under this rule and does not include therein all defenses and objections then
72 available which this rule permits to be raised by motion, the party ~~shall~~must not
73 thereafter make a motion based on any of the defenses or objections so omitted, except
74 as provided in subdivision (h) of this rule.

75 **(h) Waiver of defenses.** A party waives all defenses and objections not presented either
76 by motion or by answer or reply, except (1) that the defense of failure to state a claim
77 upon which relief can be granted, the defense of failure to join an indispensable party,
78 and the objection of failure to state a legal defense to a claim may also be made by a
79 later pleading, if one is permitted, or by motion for judgment on the pleadings or at the
80 trial on the merits, and except (2) that, whenever it appears by suggestion of the parties
81 or otherwise that the court lacks jurisdiction of the subject matter, the court ~~shall~~must

82 | dismiss the action. The objection or defense, if made at the trial, ~~shall~~must be disposed
83 | of as provided in Rule 15(b) in the light of any evidence that may have been received.

84 | **(i) Pleading after denial of a motion.** The filing of a responsive pleading after the
85 | denial of any motion made pursuant to these rules ~~shall~~must not be deemed a waiver of
86 | such motion.

87 | **(j) Security for costs of a nonresident plaintiff.** When the plaintiff in an action resides
88 | out of this state, or is a foreign corporation, the defendant may file a motion to require
89 | the plaintiff to furnish security for costs and charges which may be awarded against
90 | such plaintiff. Upon hearing and determination by the court of the reasonable necessity
91 | therefor, the court ~~shall~~must order the plaintiff to file a \$300.00 undertaking with
92 | sufficient sureties as security for payment of such costs and charges as may be awarded
93 | against such plaintiff. No security ~~shall~~must be required of any officer, instrumentality,
94 | or agency of the United States.

95 | **(k) Effect of failure to file undertaking.** If the plaintiff fails to file the undertaking as
96 | ordered within 30 days of the service of the order, the court ~~shall~~must, upon motion of
97 | the defendant, enter an order dismissing the action.