



**Rule 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing**


a)




Time



to serve





pleading




a responsive


(1) In General.  
Unless another time is specified


by this rule




or a federal statute,




the time for



to serve





pleading




a responsive


is as follows:


(A) A defendant must serve an answer:




(i) within 21 days after




being served with the summons and complaint;




or





(ii) if it has timely







waived



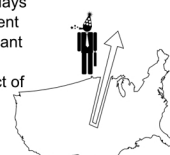



service under Rule 4(d),



within 60 days after the request for a waiver was sent,

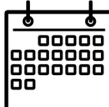
or within 90 days after it was sent to the defendant outside any judicial district of the United States.

(B) A party must serve an answer





to a counterclaim or crossclaim






within 21 days

after being served with




the pleading that states the counterclaim or crossclaim.






a reply


(C) A party must serve to an answer



with an order to reply,






after being served



unless the order specifies a different time.


(2) United States and Its Agencies, Officers, or Employees Sued in an Official Capacity.

The United States, a United States agency, or a United States officer or employee sued only in an official capacity

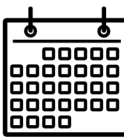
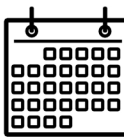




to an answer

must serve



to a complaint, counterclaim or crossclaim





within 60 days after service on the United States attorney.

(3) United States Officers or Employees Sued in an Individual Capacity.


A United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf




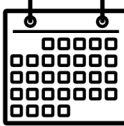
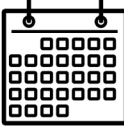



to an answer



must serve




to a complaint, counterclaim, or crossclaim





within 60 days after service on the officer or employee or service on the United States attorney, whichever is later.


(4) Effect of a Motion.



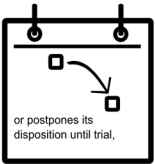
Unless the court sets a different time,

servicing a motion under this rule alters these periods as follows:



(A) if the court denies the motion




or postpones its disposition until trial,

the responsive pleading must be served






within 14 days after notice of the court's action; or



(B) if the court grants a motion



for a more definite statement,

the responsive pleading must be served





within 14 days




after the more definite statement is served.



(b) How to Present Defenses.




Every defense to a claim for relief in any pleading




must be asserted in the responsive pleading if one is required.



But a party





may assert the following defenses by motion:



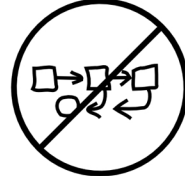
(1) lack of subject-matter jurisdiction;



(2) lack of personal jurisdiction;



(3) improper venue;



(4) insufficient process;



(5) insufficient service of process;



(6) failure to state a claim upon which relief can be granted; and



(7) failure to join a party under Rule 19.



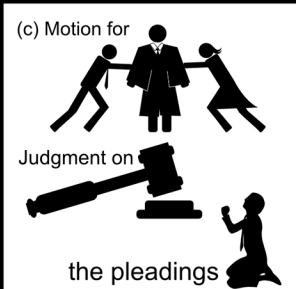
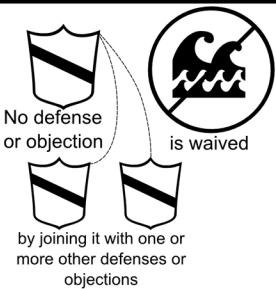
A motion asserting any of these defenses must be made



that does not require a responsive pleading,



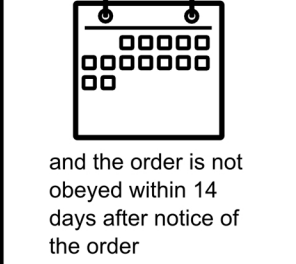
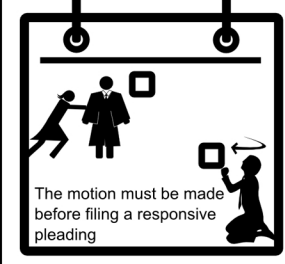
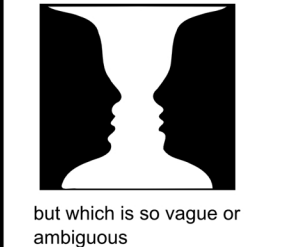
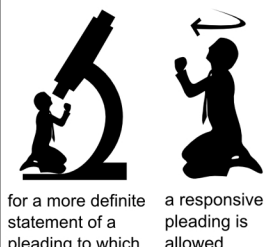
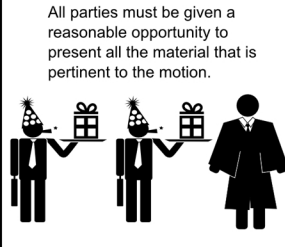
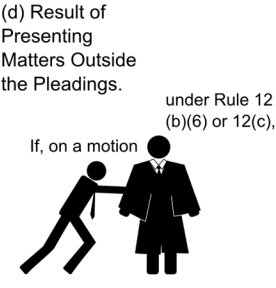
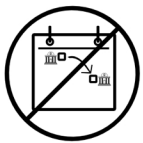
an opposing party may assert at trial any defense to that claim.

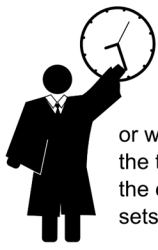


After the pleadings are closed—



but early enough not to delay trial—





or within the time the court sets,

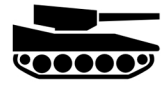
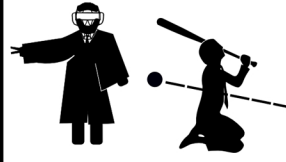


the court may strike the pleading



or issue any other appropriate order.

(f) Motion to Strike. The court may strike from a pleading



an insufficient defense or any



redundant

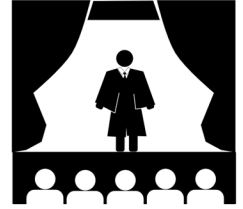
immaterial



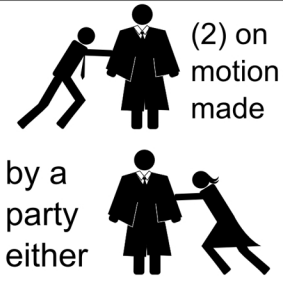
impertinent



or scandalous matter



The court may act: (1) on its own; or

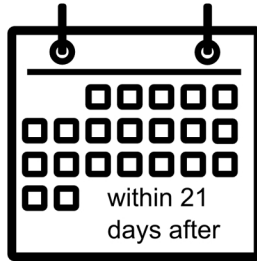


(2) on motion made

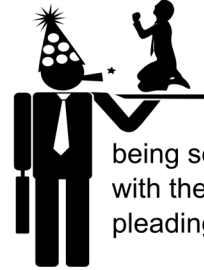
by a party either

before responding to the pleading or,

if a response is not allowed,



within 21 days after

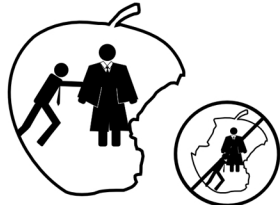


being served with the pleading.

(g) Joining Motions.



(1) Right to Join. A motion under this rule may be joined with any other motion allowed by this rule.

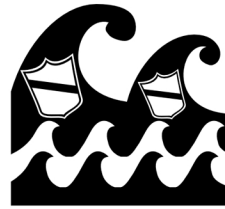


(2) Limitation on Further Motions. Except as provided in Rule 12(h)(2) or (3), a party that makes a motion under this rule must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion.

(h) Waiving and



Preserving Certain Defenses.



(1) When Some Are Waived.

A party waives any defense listed in Rule 12(b)(2)–(5) by:



(A) omitting it from a motion in the circumstances described in Rule 12(g)(2); or



(B) failing to either:



(i) make it by motion under this rule; or



(ii) include it in a responsive pleading



or in an amendment allowed by Rule 15(a)(1) as a matter of course.

(2) When to Raise Others.

Failure to state a claim upon which relief can be granted, to join a person required by Rule 19(b), or to state a legal defense to a claim may be raised:



(A) in any pleading allowed or ordered under Rule 7(a);



(B) by a motion under Rule 12(c); or



(C) at trial.

(3) Lack of Subject-Matter Jurisdiction. If the court determines at any time that it lacks subject-matter jurisdiction,



the court must dismiss the action.



(i) Hearing Before Trial.



If a party so moves,

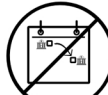
any defense listed in Rule 12(b)(1)–(7)



whether made in a pleading



or by motion—



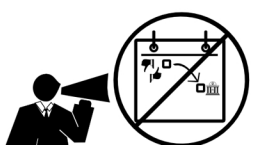
and a motion under Rule 12(c)



must be heard and decided



before trial



unless the court orders a deferral until trial.