

Rule 12. Defenses and Objections -- When and How Presented -- By Pleading or Motion -- Motion for Judgment on the Pleadings

(a) When presented. The defendant shall serve an answer within 20 days after the service upon the defendant of:

(1) the summons and complaint, except when service is made under SCR-Dom Rel 4(e) and a different time is prescribed in the applicable statute or rule of court; or

(2) a petition and notice of hearing and order directing appearance or complaint and order to show cause pursuant to SCR-Dom Rel 4(d); provided, however, that the filing of such answer shall not relieve the defendant from the obligation to appear in Court on the day set forth in the notice or order, unless otherwise ordered by the Court.

A plaintiff shall serve a reply within 20 days of the service upon the plaintiff of an answer containing a counterclaim, or as otherwise ordered by the Court.

(b) How presented. Every defense, in law or fact, to a claim for relief in any pleading shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) Lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) [Omitted], (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state a claim upon which relief can be granted, (7) failure to join a party under SCR-Dom Rel 19. A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with 1 or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in SCR-Dom Rel 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by SCR-Dom Rel 56.

(c) Motion for judgment on the pleadings. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in SCR-Dom Rel 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by SCR-Dom Rel 56.

(d) Pretrial hearings. The defenses specifically enumerated (1)-(7) in paragraph (b) of this Rule, whether made in a pleading or by motion, and the motion for judgment mentioned in paragraph (c) of this Rule shall be heard and determined before trial on application of any party, unless the Court orders that the hearing and determination thereof be deferred until the trial.

(e) Motion for more definite statement. If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before filing the responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the Court is not obeyed within 10 days after notice of the order or within such other time as the Court may fix, the Court may strike the pleading to which the motion was directed or make such order as it deems just.

(f) Motion to strike. Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these Rules, upon motion made by a party within 20 days after the service of the pleading upon the party or upon the Court's own initiative at any time, the Court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

(g) Consolidation of defenses in motion. A party who makes a motion under this Rule may join with it any other motions herein provided for and then available to the party. If a party makes a motion under this Rule but omits therefrom any defense or objection then available to the party which this Rule permits to be raised by motion, the party shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subparagraph (h)(2) hereof on any of the grounds there stated.

(h) Waiver or preservation of certain defenses.

(1) A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process is waived (A) if omitted from a motion in the circumstances described in paragraph (g), or (B) if it is neither made by motion under this Rule nor included in a responsive pleading or an amendment thereof permitted by SCR-Dom Rel 15(a) to be made as a matter of course.

(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under SCR-Dom Rel 19, and an objection of failure to state a legal defense to a claim may be made in any pleading permitted or ordered under SCR-Dom Rel 7(a), or by motion for judgment on the pleadings, or at the trial on the merits.

(3) Whenever it appears that the Court lacks jurisdiction of the subject matter, the Court shall dismiss the action.

(i) Non-appearance of parties. If at the time set for hearing of any motion, there is no appearance by a party, the Court may treat the motion as submitted, withdrawn or conceded by the non-appearing party, and rule thereon.