

JS 44 (Rev. 10/2020)
CIVIL COVER SHEET

The JS-44 civil cover sheet and information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. PLAINTIFFS

Christopher A. Ambrose
153 Middle Beach Road
Madison, CT 06443

DEFENDANTS

Frank Parlato, Jr.
29009 Geranium Drive
Big Pine Key, FL 33043
Phone: 305-783-7083
Email: frankparlato@gmail.com

II. BASIS OF JURISDICTION (check one)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question
☐ 4 Diversity
-

III. CITIZENSHIP OF PRINCIPAL PARTIES (Diversity cases only)

Plaintiff: ☐ 1 CT
Defendant: ☐ 2 FL

IV. NATURE OF SUIT (check one)

☒ 320 — Assault, Libel & Slander (Defamation)

☐ 440 — Civil Rights

☐ 110 — Insurance

☐ Other: _____

V. ORIGIN

☒ 1 Original Proceeding

VI. CAUSE OF ACTION

28 U.S.C. § 1331 — Federal question.

First Amendment issues arising from defamation claims and requested prior restraints.

VII. REQUESTED IN COMPLAINT

☐ Class Action

☒ Declaratory Relief

☐ Jury Demand

Amount: **\$5,000,000 requested by Plaintiff** (disputed by Defendant).

VIII. RELATED CASE(S) IF ANY

Ambrose v. Parlato, 3:22-cv-00279 (dismissed).

Date: _____

Signature of Attorney or Pro Se Party:

/s/ Frank Parlato, Jr.

Frank Parlato, Jr., Pro Se

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

Christopher A. Ambrose,

Civil Action No.

Plaintiff,

3:25-cv-01151-SVN

v.

Frank Parlato, Jr.,

Defendant.

NOTICE OF MANUAL FILING

Defendant Frank Parlato, Jr., appearing pro se and making a special appearance solely to contest personal jurisdiction, hereby gives notice pursuant to the District of Connecticut Electronic Filing Policies and Procedures that the following document is being filed in paper form and will be maintained in paper form by the Clerk:

- **Defendant's Motion to Dismiss Pursuant to Rule 12(b)(2) and Rule 12(b)(6).**

This document is not being filed electronically because the undersigned is not permitted to file electronically as a pro se litigant. The document has been served on counsel or the pro se plaintiff as indicated in the accompanying Certificate of Service.

A copy of this Notice has been electronically filed so that it appears on the docket.

Dated: November 15, 2025

Respectfully submitted,

/s/ Frank Parlato, Jr.

Frank Parlato, Jr.

Defendant, Pro Se

29009 Geranium Dr.

Big Pine Key, FL 33043

Tel: 305-783-7083

Email: frankparlatoreports@gmail.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT
NEW HAVEN DIVISION**

Christopher A. Ambrose,)	Civil Action No.
Plaintiff,)	3:25-cv-01151-SVN
v.)	
Frank Parlato, Jr.,)	NOTICE OF MOTION AND
Defendant.)	MOTION TO DISMISS BY
)	DEFENDANT FRANK
		PARLATO, JR.

SPECIAL JURISDICTIONAL APPEARANCE

Defendant Frank Parlato, Jr. appears specially and solely for the purpose of contesting personal jurisdiction. This appearance does not constitute consent to the jurisdiction of this Court.

Defendant expressly reserves all objections under the FRCP and other applicable law.

PLEASE TAKE NOTICE THAT Defendant Frank Parlato, Jr., appearing pro se, hereby move to dismiss the Amended Complaint and the allegations therein directed toward him. The motion is based on the grounds set out in the accompanying memorandum.

DEFENDANT’S MOTION TO DISMISS AND MEMORANDUM

PURSUANT TO RULE 12(b)(2) AND RULE 12(b)(6)

Defendant Frank Parlato, Jr., appearing pro se, respectfully moves to dismiss the Complaint under Federal Rule of Civil Procedure (FRCP). In particular, this matter should be under Rule 12(b)(6) for failure to state a claim upon which relief can be granted.

I. INTRODUCTION

This case must be dismissed for two independent reasons.

First, the Court lacks personal jurisdiction. Defendant is a resident and domiciliary of Florida, who has never lived, worked, owned property, maintained employees, conducted business, or purposefully directed activities toward Connecticut. He has never been physically present in Connecticut for any purpose.

The Complaint alleges no facts that would satisfy Connecticut’s long-arm statute, Conn. Gen. Stat. § 52-59b, which extends jurisdiction to nonresidents only where they transact business in the state, commit a tortious act within the state, own property in the state, or derive substantial revenue from the state. Online journalism accessible in Connecticut is insufficient under the law. *Best Van Lines, Inc. v. Walker*, 490 F.3d 239, 249–50 (2d Cir. 2007). Due process also prohibits jurisdiction based solely on a plaintiff’s residence. *Walden v. Fiore*, 571 U.S. 277, 289 (2014). Because Plaintiff pleads no Connecticut-directed conduct, personal jurisdiction is absent. Second, even assuming every allegation is true (without conceding any), the Complaint does not state any cognizable claim. The pleading consists largely of conclusory assertions, legal conclusions presented as factual narrative, and privileged statements, opinions, substantially true, or otherwise not actionable. Several claims—including “harassment” and the sweeping prior restraints sought—are unavailable under Connecticut law and are unconstitutional under well-

established First Amendment precedent. *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539 (1976); *Near v. Minnesota*, 283 U.S. 697 (1931).

The legal argument proceeds in three sections. Part I explains why personal jurisdiction is lacking under Connecticut’s long-arm statute and the Due Process Clause. Part II demonstrates that the Complaint fails to state any claim, including because it relies on ellipses and edited excerpts that misrepresent the allegedly defamatory statements, fails to plead damages with particularity, and constitutes an impermissible shotgun pleading. Part III shows that Plaintiff seeks extraordinary and unconstitutional remedies—including a lifetime gag order, compelled speech, and destruction of published journalism—that no federal court may grant. Because Plaintiff is a suspended attorney who should know these limits, dismissal with prejudice is appropriate.

II. RELEVANT FACTS (FOR JURISDICTIONAL PURPOSES)

For purposes solely of this FRCP Rule 12 motion:

- A. Defendant is a citizen and domiciliary of Florida, residing in Big Pine Key, Florida.
- B. Defendant has never resided in Connecticut.
- C. Defendant has never owned or leased property in Connecticut; has no offices, employees, bank accounts, mailing addresses, or agents in Connecticut.
- D. Defendant does not conduct business in Connecticut and has no contracts to supply goods or services in Connecticut.
- E. Defendant publishes an online news site accessible globally, including in Connecticut, but not directed at Connecticut.
- F. Plaintiff does not allege that Defendant traveled to Connecticut, met Plaintiff in Connecticut, or otherwise targeted Connecticut.

G. Frank Report (frankreport.com) is a national publication. Of approximately 9,200 published articles over a decade, only about 350 (3.8%) mention Connecticut at all—typically incidentally. By comparison, 2,882 articles reference New York, 668 reference California, and 380 reference Florida. This distribution reflects ordinary national reporting, not purposeful availment of Connecticut.

H. Defendant is informed that general jurisdiction exists only where a defendant is “essentially at home.” *Daimler*, 571 U.S. at 127. The Complaint alleges no contrary facts. General jurisdiction is unavailable as a matter of law.

III. ARGUMENT

The Court Lacks Personal Jurisdiction (Rule 12(b)(2))

A. No Specific Jurisdiction Under Connecticut’s Long-Arm Statute

1. Connecticut’s long-arm statute requires one of four enumerated connections, none of which is alleged. Conn. Gen. Stat. § 52-59b(a).

- Transacting business in Connecticut;
- Committing a tort within Connecticut;
- Owning property in Connecticut; or
- Deriving substantial revenue from Connecticut.

None applies.

2. No Purposeful Availment Under Due Process

Due process requires that Defendant “purposefully directed” activities at the forum. Specific jurisdiction requires purposeful availment—*Walden v. Fiore*,

571 U.S. at 286—and conduct expressly aimed at Connecticut—*Calder v. Jones*, 465 U.S. 783, 789–90 (1984). An online publication accessible everywhere is insufficient. Courts nationwide hold that online journalism accessible everywhere does not create jurisdiction anywhere. *Biro v. Condé Nast*, 807 F.3d 541, 544 (2d Cir. 2015). Publishing online commentary from Florida does not constitute “transacting business” or committing a “tortious act within Connecticut.” *Best Van Lines*, 490 F.3d at 249.

3. Plaintiff’s Residence Cannot Create Jurisdiction

A plaintiff’s residence does not establish minimum contacts. *Walden*, 571 U.S. at 289–90. Because Plaintiff alleges no Connecticut-directed conduct, Plaintiff bears the burden of establishing a prima facie basis for jurisdiction. *Hermann v. Sharon Hosp.*, 135 F. Supp. 2d 161, 163 (D. Conn. 2001). Because Plaintiff cannot meet the statutory or constitutional requirements, the Court must dismiss under Rule 12(b)(2).

B. Plaintiff Fails to State Any Claim (Rule 12(b)(6))

1. Plaintiff Fails to Plead Defamation With Particularity (Rule 9(g))

Defamation plaintiffs seeking punitive, reputational, or “special” damages must plead with particularity. Fed. R. Civ. P. 9(g); *Kelly v. Schmidberger*, 806 F.2d 44, 46 (2d Cir. 1986). Connecticut law likewise requires pleading the exact words alleged to be defamatory. *Stevens v. Helming*, 163 Conn. App. 241, 248 (2016). Plaintiff pleads no specific damages and no specific false statements, only labels such as “false” or “misleading.” This alone requires

dismissal. *Tannerite Sports, LLC v. NBCUniversal*, 864 F.3d 236, 242–43 (2d Cir. 2017).

Although defamation is not subject to Rule 9(b), the Federal Rules nevertheless require that a plaintiff pleading reputational harm, punitive damages, or special damages must plead those damages with particularity. Fed. R. Civ. P. 9(g). Courts in this Circuit consistently apply Rule 9(g) in defamation actions where, as here, the plaintiff seeks punitive damages and asserts that his “reputation” and “quality of life” have been destroyed.

Plaintiff does not plead any particularized damages at all. He alleges only broad labels— “destroyed quality of life,” “reputational harm,” “emotional devastation”—that do not satisfy Rule 9(g). Rule 9(g) also requires the plaintiff to plead with specificity the actual statements alleged to be defamatory. Courts dismiss complaints that rely on paraphrases, partial quotes, or material edited with ellipses.

Here, Plaintiff repeatedly uses:

- Ellipses,
- Altered excerpts,
- Partial quotations,
- Paraphrases, and
- Edited summaries.

For this reason alone, both defamation counts (Counts III and IV) must be dismissed.

2. **Plaintiff's Ellipses and Edited Excerpts Misrepresent the Alleged Statements**

Plaintiff repeatedly uses ellipses to alter the meaning of Defendant's reporting and to obscure the identity of the actual speaker. In multiple instances, the Complaint removes the portions of the article showing that the challenged words were third-party quotations yet presents them as statements made by Defendant. In others, Plaintiff splices together separate paragraphs into a fabricated "quote" by inserting ellipses.

Courts reject defamation claims based on selective quotation or edited excerpts. The Second Circuit held that a plaintiff cannot rely on "out-of-context fragments" to manufacture defamation. *Levin v. McPhee*, 119 F.3d 189, 195–97 (2d Cir. 1997). Likewise, in *Tannerite*, the Second Circuit dismissed a complaint that failed to identify actual false statements. Connecticut courts follow the same rule.

Because Plaintiff fails to allege the complete, accurate statements, all defamation-based claims must be dismissed. **Plaintiff cannot manufacture defamation by deleting words that show the statement was an allegation, quotation, or source-attributed report.**

3. **The Complaint Is an Impermissible Shotgun Pleading**

The 109-page Complaint is also an impermissible shotgun pleading. It incorporates multiple paragraphs into every count, commingles legal conclusions with factual assertions, repeats the same allegations under

multiple headings, and forces the Court—and Defendant—to speculate as to which facts support which causes of action.

Shotgun pleadings violate the basic requirement of Rule 8(a)(2) that a complaint contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Courts in this Circuit routinely dismiss complaints that, as here, “overwhelm the defendant with an unclear mass of allegations.” *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Shotgun pleadings are routinely dismissed with prejudice when, as here, the plaintiff is an attorney who should know the pleading standards. Plaintiff is a suspended attorney who is expected to understand and comply with federal pleading standards, which makes the defects in this Complaint even more pronounced.

4. False Light (Count I)

False light claims require a highly offensive misrepresentation, published with knowledge or reckless disregard of falsity. Plaintiff alleges only conclusory labels such as “false,” “misleading,” or “disparaging,” but identifies no factual basis showing Defendant knew or recklessly disregarded falsity. False light cannot be pleaded as a substitute for defamation.

5. Public Disclosure of Private Facts (Count II)

Public records cannot be “private” as a matter of law. Plaintiff complains about judicial filings and custody records, which are matters of public concern. Judicial records cannot support this tort. Plaintiff identifies no private facts and no lack of public concern. This claim fails categorically.

6. Defamation Per Se (Count III)

Defamation requires a false statement of fact published to a third party, causing reputational harm, with the requisite degree of fault. Plaintiff does not allege any nonconclusory facts showing falsity or actual malice. Most statements he challenges are quotations, judicial filings, or opinion. A defamation claim cannot proceed on generalized summaries invoking scores of articles.

7. General Defamation (Count IV)

Fails for the same reasons. Plaintiff pleads none of the required elements. He relies on paraphrases, edited quotations, conclusory labels, and opinions. This fails under *Twombly*, *Iqbal*, and *Tannerite*.

8. Intentional Infliction of Emotional Distress (Count V)

Connecticut law requires conduct “so outrageous in character” that it exceeds “all bounds tolerated by a civilized society.” Reporting on litigation and public matters—even harshly—is not extreme or outrageous as a matter of law. This count is legally insufficient.

9. Harassment / Injunctive Relief (Count VI)

Connecticut’s harassment statute (§ 53a-183) is criminal and creates no civil cause of action. Courts repeatedly dismiss precisely this claim.

C. Plaintiff Seeks Extraordinary and Unconstitutional Relief That No Court May Grant

Even if the Complaint otherwise stated a claim (it does not), dismissal is independently required because Plaintiff’s requested remedies are categorically forbidden under the First Amendment and well-settled federal law.

1. Plaintiff Demands a Lifetime Prior Restraint Prohibiting Defendant From Speaking About Him

Plaintiff seeks a permanent injunction restraining Defendant from making or republishing *any* statements about Plaintiff on *any* website or platform. This is the most disfavored form of judicial order known to constitutional law. Prior restraints are “the most serious and least tolerable infringement” of First Amendment rights. *Nebraska Press*, 427 U.S. at 559.

2. Plaintiff Seeks to Censor Third-Party Speech

Plaintiff seeks to bar Defendant from allowing “any statements... including through third parties.” This would require monitoring, filtering, and suppressing speech authored by others—an impossibility under the First Amendment and 47 U.S.C. § 230.

3. Plaintiff Seeks the Destruction of Defendant’s Published Archive

Plaintiff seeks removal of years of published journalism. Retroactive censorship is barred by *Near v. Minnesota* and every case following it. No federal court has ever ordered the destruction of published journalism.

4. Plaintiff Seeks Compelled Retractions—Forbidden Compelled Speech

Courts cannot force a journalist to issue a retraction or apology. *Barnette*, 319 U.S. at 642.

5. Plaintiff Seeks \$5 Million Without Pleading a Single Item of Actual Harm

Plaintiff alleges no economic loss, no medical bills, no therapy costs, no lost opportunities, and no supporting facts. Conclusory labels like “destroyed quality of life” are insufficient. Punitive damages require actual malice, which was also not pled.

Plaintiff—an NYU-trained lawyer whose license is suspended—cannot plausibly claim ignorance of these constitutional limits. His requested remedies confirm the Complaint’s true purpose: censorship, not adjudication.

V. CONCLUSION

For the foregoing reasons, Defendant respectfully requests that the Court dismiss the Complaint with prejudice pursuant to Rule 12(b)(2) and Rule 12(b)(6).

Respectfully submitted,

/s/ Frank Parlato, Jr.

Frank Parlato, Jr.

Defendant, pro se

29009 Geranium Drive

Big Pine Key, FL 33043

Telephone: (305) 783-7083

Email: frankparlato@gmail.com

TABLE OF AUTHORITIES

Supreme Court Cases

Barnette, W. Va. Bd. of Educ. v. Barnette, 319 U.S. 624 (1943)

Calder v. Jones, 465 U.S. 783 (1984)

Daimler AG v. Bauman, 571 U.S. 117 (2014)

Nebraska Press Ass’n v. Stuart, 427 U.S. 539 (1976)

Near v. Minnesota, 283 U.S. 697 (1931)

Walden v. Fiore, 571 U.S. 277 (2014)

Second Circuit

Best Van Lines, Inc. v. Walker, 490 F.3d 239 (2d Cir. 2007)

Biro v. Condé Nast, 807 F.3d 541 (2d Cir. 2015)

Kelly v. Schmidberger, 806 F.2d 44 (2d Cir. 1986)

Levin v. McPhee, 119 F.3d 189 (2d Cir. 1997)

Tannerite Sports, LLC v. NBCUniversal, 864 F.3d 236 (2d Cir. 2017)

Zherka v. Amicone, 634 F.3d 642 (2d Cir. 2011)

District Courts

Celebrezze v. United States, 559 F. Supp. 3d 153 (S.D.N.Y. 2021)

Forgione v. Bette, 2005 WL 1545278 (Conn. Super. Ct. 2005)

Gaudio v. Griffin Health Servs., 249 Conn. 523 (1999)

Hermann v. Sharon Hosp., 135 F. Supp. 2d 161 (D. Conn. 2001)

Ortiz v. Weinzieri, 2019 WL 4860672 (Conn. Super. Ct. 2019)

Ruth v. Molly Maid, 616 F. Supp. 3d 40 (D. Conn. 2022)

Salahuddin v. Cuomo, 861 F.2d 40 (2d Cir. 1988)

Sparrow v. McGowan, 2020 WL 3411209 (D. Conn. 2020)

Thai v. Cayre Group, 726 F. Supp. 2d 323 (S.D.N.Y. 2010)

Connecticut Appellate Cases

Cweklinsky v. Mobil Chem. Co., 267 Conn. 210 (2004)

DeVito v. Schwartz, 66 Conn. App. 228 (2001)

Jonap v. Silver, 1 Conn. App. 550 (1984)

Stevens v. Helming, 163 Conn. App. 241 (2016)

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT
NEW HAVEN DIVISION**

Christopher A. Ambrose,)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:25-cv-01151-SVN
)	
Frank R. Parlato, Jr.,)	
Defendant.)	

DECLARATION OF FRANK R. PARLATO, JR.
(For Rule 12(b)(2) Jurisdictional Purposes)

I, Frank R. Parlato, Jr., declare under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am the defendant in this action. I am over 18 years old and competent to testify.
2. I am a citizen of the United States and domiciled in Big Pine Key, Florida, where I reside permanently. I have lived in Florida for many years and intend to remain domiciled there.
3. I have never lived in Connecticut. I do not own or lease property in Connecticut, and I do not maintain any office, mailing address, telephone number, bank account, or business presence in Connecticut.
4. I do not have any employees, agents, representatives, or contractors located in Connecticut.
5. I do not conduct business in Connecticut, do not advertise or market services to Connecticut, and do not derive revenue that is targeted or directed to Connecticut.

6. I am the publisher of an online news site that is accessible everywhere on the internet. It is not directed specifically at Connecticut any more than any other state, does not target Connecticut readers, and does not sell goods or services to Connecticut residents.
7. I have never traveled to Connecticut in connection with any reporting or writing about the plaintiff or the matters alleged in the complaint. All relevant writing, editing, and publishing activity occurred outside Connecticut.
8. I have not entered into any contracts in Connecticut, nor have I engaged in any transactions or persistent conduct within the state giving rise to the claims asserted in the complaint.
9. I have not purposefully availed myself of Connecticut law in connection with any of the matters alleged in this lawsuit.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: November 17, 2025

Big Pine Key, Florida

/s/ Frank R. Parlato, Jr.

Frank R. Parlato, Jr.

29009 Geranium Drive

Big Pine Key, FL 33043

305-783-7083

frankparlato@gmail.com

CERTIFICATE OF SERVICE

I certify that on November 17, 2025, I caused a true and correct copy of this Notice of Manual Filing to be served by U.S. Mail, first-class postage prepaid, upon:

Christopher A. Ambrose

153 Middle Beach Road

Madison, CT 06443

Plaintiff, Pro Se

/s/ Frank Parlato, Jr.

Frank Parlato, Jr.

UNITED STATES DISTRICT COURT
District of Connecticut
New Haven Division

CHRISTOPHER A. AMBROSE,
Plaintiff,

Plaintiff,

3:25-cv-01151-SVN

V.

FRANK PARLATO, JR.,

Defendant.

NOTICE TO SELF-REPRESENTED LITIGANT
CONCERNING MOTION TO DISMISS
(As Required by Local Rule 12(a))

TO: CHRISTOPHER A. AMBROSE
Self-Represented Plaintiff
3 81 Horsepond Road
Madison, CT 06443
203 .505 .1889
ca0515@aol.com

The purpose of this notice, which is required by the Court, is to notify you that the defendant has filed a motion to dismiss asking the Court to dismiss all or some of your claims without a trial. The defendant argues that there is no need to proceed with these claims because they are subject to dismissal for the reasons stated in the motion.

THE DEFENDANT'S MOTION MAY BE GRANTED, AND YOUR CLAIMS MAY BE

DISMISSED WITHOUT FURTHER NOTICE IF YOU DO NOT FILE OPPOSITION PAPERS AS REQUIRED BY RULE 12 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND IF THE DEFENDANT'S MOTION SHOWS THAT THE DEFENDANT IS ENTITLED TO DISMISSAL OF ORAL ARGUMENT REQUESTED ANY OR ALL OF YOUR CLAIMS. COPIES OF RELEVANT RULES ARE ATTACHED TO THIS NOTICE, AND YOU SHOULD REVIEW THEM VERY CAREFULLY.

The papers you file must show that (1) you disagree with the defendant's arguments for dismissal, and (2) that the allegations of your complaint are sufficient to allow this case to proceed. If you would like to amend your complaint under Rule 15 of the Federal Rules of Civil Procedure in order to respond to the alleged deficiencies in your complaint asserted by the defendant, you may promptly file a motion to amend your complaint, but you must attach your proposed amended complaint to the motion. It is very important that you read the defendant's motion and memorandum of law to see if you agree or disagree with the defendant's motion. It is also very important that you review the enclosed copies of Rule 12 of the Federal Rules and Local Rule 7 carefully. You must file your opposition papers (and any motion to amend) with the Clerk of the Court and mail a copy to the defendant's counsel within 21 days of the filing of the defendant's motion with the Clerk of the Court. (If you e-file under the Court's Electronic Filing Policies and Procedures, you do not need to separately mail a copy of your opposition papers to the defendant's counsel.) If you require additional time to respond to the motion to dismiss, you must file a motion for extension of time, providing the Court with good reasons for the extension and with the amount of additional time you require.

If you are confined in a Connecticut correctional facility, you must file your opposition papers and any motion to amend using the Prisoner Efiling Program and are not required to mail copies to the defendant's counsel.

Dated: Big Pine Key, Florida

November 16, 2025

ORAL ARGUMENT REQUESTED

FRANK PARLATO, JR:

29009 Geranium Drive

Big Pine Key, Florida 33043

Tel: (305) 783-7083

Email: frankparlato@gmail.com

Federal Rules of Civil Procedure

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 A RESPONSIVE PLEADING.

(1) In General. Unless another time is specified by this rule or a federal statute, the time for serving a responsive pleading 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.

(C) A party must serve a reply to an answer within 21 days after being served with an order to reply, 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 must serve an answer 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 must serve an answer 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, serving 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

(8) 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 before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion.

(c) MOTION FOR JUDGMENT ON THE PLEADINGS. After the pleadings are closed-but early enough not to delay trial-a party may move for judgment on the pleadings.

(d) RESULT OF PRESENTING MATTERS OUTSIDE THE PLEADINGS. If, on a motion under Rule

12(b)(6) or 12(c). matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.

(e) MOTION FOR A MORE DEFINITE STATEMENT. A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response. The motion must be made before filing a responsive pleading and must point out the defects complained of and the details desired. If the court orders a more definite statement and the order is not obeyed within 14 days after notice of the order 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 Q), 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.