

Responding to a Complaint: Idaho

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A Q&A guide to responding to a complaint in a trial court of general jurisdiction in Idaho. This Q&A addresses the time to respond, extending the time to respond, pre-answer motions, answers, replies to the answer, counterclaims, crossclaims, third-party claims (also known as impleader), and defensive interpleader. Answers to questions can be compared across a number of jurisdictions (see Responding to a Complaint: State Q&A Tool).

Overview of Responding to a State Complaint

1. When must a defendant respond to the complaint?

A defendant generally must serve an answer within 21 days after being served with the summons and complaint (Idaho R. Civ. P. 12(a)(1)).

2. How, if at all, can one obtain an extension of time to respond (for example, by stipulation, so-ordered stipulation, ex parte motion, motion on notice)?

A party may request to extend the time to answer, either by notice or motion, before the original time or its extension expires. If time has expired, the party seeking an extension of time must make a motion and show that the failure to act was because of excusable neglect. Any extension is within the court's discretion and requires a showing of good cause. (Idaho R. Civ. P. 2.2(b).)

Even if all parties stipulate to an extension, the requesting party must seek a court order to achieve an effective extension. These requests are normally filed as an unopposed motion. (Idaho R. Civ. P. 2.2(b)(2).)

3. What types of responses are permitted (for example, answer, motion, demurrer, special appearance)?

Parties may respond to a petition by submitting either:

- An answer.
- A motion:
 - for a more definite statement;
 - to strike;
 - challenging propriety of venue;
 - to dismiss for lack of jurisdiction;
 - to dismiss for insufficiency of notice; or
 - to dismiss for failure to state a claim.

(Idaho R. Civ. P. 12(b), (e), (f).)

Pre-Answer Responses

4. If motions, demurrers, or the like are permitted:

- Are there any preliminary requirements (for example, meet and confer with the plaintiff's counsel, have a conference with the court)?
- What grounds can be asserted (for example, subject matter jurisdiction, personal jurisdiction, failure to state a claim)?
- Are available grounds that are not asserted waived (either just for pre-answer litigation or for the whole case)?
- What papers are required (for example, notice of motion, motion, affidavit, memorandum of law)?
- Can the defendant offer evidence outside the complaint?
- When and how does the plaintiff respond?
- Can the defendant reply? If so, when and how?
- Does the court hear oral argument before deciding?
- Is discovery stayed until the court decides?
- If the court does not dismiss the complaint, how much time does the defendant have to file an answer?

Motion to Dismiss

Preliminary Requirements

In Idaho, there are no preliminary requirements for a motion to dismiss.

Grounds Asserted

A defendant may base a motion to dismiss on one or more of the following grounds:

- Lack of subject-matter jurisdiction.
- Lack of personal jurisdiction.
- Improper venue.
- Insufficient process.
- Insufficient service of process.
- Failure to state a claim on which relief can be granted.
- Failure to join a party under Idaho R. Civ. P. 19.
- Another action is pending between the same parties for the same cause.

(Idaho R. Civ. P. 12(b).)

Waiver

Idaho law deems the following defenses are waived if the defendant does not assert them by motion before filing a responsive pleading or filing any other motion, except a motion for an extension of time to answer or otherwise appear or a motion to disqualify a judge under Idaho R. Civ. P. 40(a) or (b):

- Lack of personal jurisdiction.
- Insufficient process.
- Insufficient service of process.

(Idaho R. Civ. P. 12(h).)

The following defenses are not waived if not included in an early motion before filing a responsive pleading:

- Failure to state a claim on which relief can be granted.
- Failure to join an indispensable party.
- Lack of subject-matter jurisdiction.
- Improper venue.
- A defense of another action pending between the same parties for the same cause.

(Idaho R. Civ. P. 12(h).)

A motion for change of venue must be made no later than 14 days after the defendant files a responsive pleading (Idaho R. Civ. P. 40.1(2)).

Required Papers

A motion to dismiss must:

- Be in writing.
- State its grounds with particularity.
- Set out the relief or order the defendant seeks.
- Include the following:
 - a memorandum in support of the motion, if the motion involves a question of law;
 - a notice of hearing, if a hearing is requested; and
 - a declaration, if the motion requires consideration of facts not in the record.

(Idaho R. Civ. P. 7(b).)

Outside Evidence

If a defendant includes facts outside the pleading in a motion to dismiss for failure to state a claim on which relief can be granted, the court treats the motion as a motion for summary judgment (Idaho R. Civ. P. 12(d) and 56).

Response by Plaintiffs

The plaintiff may serve and file a memorandum in opposition to a motion at least seven days before the hearing date (Idaho R. Civ. P. 7(b)(3)).

Reply by Defendants

The moving defendant may file a reply brief or memorandum, which must be filed with the court and served so the parties can receive it at least two days before the hearing (Idaho R. Civ. P. 7(b)(3)).

Oral Argument

The moving party may request oral argument on the face of the motion. The court may deny oral argument by written or oral notice to the parties at least one day before the hearing. (Idaho R. Civ. P. 7(b)(3).)

Stay of Discovery

There is no provision under the Idaho rules for an automatic stay of discovery while a motion to dismiss is pending.

Any party may file a motion for a protective order to stay discovery pending resolution of a motion to dismiss (Idaho R. Civ. P. 7 and 26(c)). The parties may also stipulate to stay discovery.

Serving an Answer or Other Response

If the court denies the moving defendant's motion or postpones disposition of the motion until trial on the merits, the defendant has 14 days after notice of the denial to file an answer to the complaint (Idaho R. Civ. P. 12(a)(2)(A)).

Motion for More Definite Statement

Preliminary Requirements

In Idaho, there are no preliminary requirements for a motion for a more definite statement.

Grounds Asserted

If the complaint is so vague or ambiguous that the defendant cannot reasonably be required to frame a responsive pleading, the defendant may file a motion for a more definite statement before filing an answer. The motion must specify the defects in the complaint and the details that the defendant seeks. (Idaho R. Civ. P. 12(e).)

Waiver

The service of an answer waives the defendant's right to make a motion for a more definite statement (Idaho R. Civ. P. 12(e)).

Required Papers

A motion for a more definite statement must:

- Be in writing.
- State its grounds with particularity.
- Set out the relief or order the defendant seeks.
- Include the following:
 - a memorandum in support of the motion, if the motion involves a question of law;
 - a notice of hearing, if a hearing is requested; and
 - a declaration, if the motion requires consideration of facts not in the record.

(Idaho R. Civ. P. 7(b).)

Outside Evidence

The nature of a motion for a more definite statement does not lend itself to the presentation of outside evidence, but if a motion requires consideration of facts not on record, then the defendant must include a declaration.

Response by Plaintiffs

The plaintiff may serve and file a memorandum in opposition to a motion at least seven days before the hearing date (Idaho R. Civ. P. 7(b)(3)).

Reply by Defendants

The moving defendant may file a reply brief or memorandum, which must be filed with the court and served so the parties can receive it at least two days before the hearing (Idaho R. Civ. P. 7(b)(3)).

Oral Argument

The moving party may request oral argument. However, the court may deny oral argument by written or oral notice to the parties at least one day before the hearing. (Idaho R. Civ. P. 7(b)(3).)

Stay of Discovery

There is no provision under the Idaho rules for an automatic stay of discovery while a motion for a more definite statement is pending.

Any party may file a motion for a protective order to stay discovery pending resolution of a motion for a more definite statement (Idaho R. Civ. P. 7 and 26(c)). The parties may also stipulate to stay discovery.

Serving an Answer or Other Response

If the court grants a motion for a more definite statement, the plaintiff must serve an amended complaint within 14 days after notice of the order or within the time the court sets. The responsive pleading must be served within 14 days after the more definite statement is served. (Idaho R. Civ. P. 12.)

Motion to Strike

Preliminary Requirements

In Idaho, there are no preliminary requirements for a motion to strike.

Grounds Asserted

The defendant may move to strike from the complaint any matter that is:

- Redundant.
- Immaterial.
- Impertinent.
- Scandalous.

(Idaho R. Civ. P. 12(f).)

Waiver

A party waives its right to make a motion to strike if it files a responsive pleading (Idaho R. Civ. P. 12(f)).

Required Papers

A motion to strike must:

- Be in writing.
- State its grounds with particularity.
- Set out the relief or order the defendant seeks.
- Include the following:
 - a memorandum in support of the motion, if the motion involves a question of law;
 - a notice of hearing, if a hearing is requested; and
 - a declaration, if the motion requires consideration of facts not in the record.

(Idaho R. Civ. P. 7(b).)

Outside Evidence

Idaho law does not expressly preclude a movant from presenting outside evidence in a motion to strike.

However, defendants do not typically submit outside evidence in support of a motion to strike.

Response by Plaintiffs

The plaintiff may serve and file a memorandum in opposition to a motion at least seven days before the hearing date (Idaho R. Civ. P. 7(b)(3)).

Reply by Defendants

The moving defendant may file a reply brief or memorandum, which must be filed with the court and served so the parties can receive it at least two days before the hearing (Idaho R. Civ. P. 7(b)(3)).

Oral Argument

The moving party may request oral argument. However, the court may deny oral argument by written or oral notice to the parties at least one day before the hearing. (Idaho R. Civ. P. 7(b)(3).)

Stay of Discovery

There is no provision under the Idaho rules for an automatic stay of discovery while a motion to strike is pending.

Any party may file a motion for a protective order to stay discovery pending resolution of a motion to strike (Idaho R. Civ. P. 7 and 26(c)). The parties may also stipulate to stay discovery.

Serving an Answer or Other Response

If the court denies the motion or postpones its disposition until trial, the defendant must serve responsive pleadings within 14 days after notice of the court's action (Idaho R. Civ. P. 12(a)).

Answering the Complaint

5. What are the required and optional contents of an answer?

Required Contents

An answer must state in short and plain terms the defenses to each claim asserted against the responding party and admit or deny the allegations asserted against it by the opposing party (Idaho R. Civ. P. 8(b)(1)). In responding to a pleading, a party must affirmatively state any avoidance or affirmative defense, including those provided under Idaho R. Civ. P. 8(c)(1)(A)-(S).

Optional Contents

Demand for a jury may be included in a pleading (Idaho R. Civ. P. 38(b)). The demand must be both:

- In writing.
- Served on the other parties no later than 14 days after the last pleading directed to the issue is served.

(Idaho R. Civ. P. 38(b).)

6. Under what circumstances, if any, must a defendant verify its response?

In Idaho, except when a rule or statute provides otherwise, a defendant is not required to verify its answer or accompany it with an affidavit (Idaho R. Civ. P. 11).

Amending an Answer

7. Can a defendant amend its answer? If so:

- When?
- What grounds, if any, must be shown to justify an amendment?

Amendment as of Right

Time to Amend

In Idaho, a party may amend its answer once as a matter of course at any time within 21 days after service (Idaho R. Civ. P. 15(a)).

Grounds for Amendment

There are no grounds required for an amendment as of right.

Amendment on Motion

Time to Amend

If amending is not a matter of right, a party may amend its answer under Rule 15(a) only by written consent of the other party or by leave of the court.

Grounds for Amendment

Leave to amend must be freely given when justice requires (Idaho R. Civ. P. 15(a)).

Replying to an Answer

8. Can a plaintiff file a reply pleading? If so:

- When is it due?
- What grounds, if any, must be shown to justify a reply?
- What are the optional and required contents?

In Idaho, a plaintiff generally cannot reply to an answer unless the court orders a reply (Idaho R. Civ. P. 7(a)).

Defendant's Affirmative Claims

9. Can a defendant assert affirmative claims of its own? If so:

- What types of claims are available (for example, counterclaims, crossclaims, third-party claims) and what is the basic nature of each (for example, who is a proper defendant to it and what is a proper subject)?
- Are any claims by a defendant mandatory (for example, compulsory counterclaims, claims covered by an entire controversy rule)?
- When and how does the defendant assert its claims?
- When and how do other parties respond to a defendant's claims?

Available Claims

A defendant may assert:

- Counterclaims.
- Crossclaims.
- Third-party claims.

Counterclaims

Under Idaho law, counterclaims can be either mandatory or permissive (Idaho R. Civ. P. 13(a), (b)).

A counterclaim is mandatory or compulsory if, when serving the answer, the claim:

- Arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim.

- Does not require the presence of a third-party over which the court cannot acquire jurisdiction.

(Idaho R. Civ. P. 13(a).)

Failure to bring a compulsory counterclaim generally bars the party from asserting it in another action (*Stilwyn, Inc. v. Rokan Corp.*, 353 P.3d 1067, 1073 (2015)). A claim is not compulsory if it is not mature or has not accrued when the party serves its answer (*Blaser v. Cameron*, 776 P.2d 462, 464-65 (Ct. App. 1989)).

However, a defendant is not required to state an otherwise compulsory counterclaim if either:

- The claim relates to the subject matter of another action pending when the plaintiff started the action.
- The plaintiff brought suit by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim and the defendant does not assert any counterclaim in the action.

(Idaho R. Civ. P. 13(a).)

Crossclaims

A defendant may assert a crossclaim against a co-party that either:

- Arises out of the transaction or occurrence that is the subject matter of the complaint or counterclaim; or
- Relates to any property that is the subject of the original action.

(Idaho R. Civ. P. 13(g).)

A crossclaim may include a claim that the party against which the defendant asserts the claim is or may be liable to the defendant for all or part of a claim asserted against the defendant (Idaho R. Civ. P. 13(g)).

Third-party Claims

At any time after the action has started, the defendant may serve a third-party summons and complaint. The defendant does not need to obtain leave if the third-party

summons and complaint is filed within 14 days of service of the original answer. However, if more than 14 days have passed, the defendant must, by motion, obtain the court's leave. (Idaho R. Civ. P. 14(a).)

Mandatory Claims for Defendant

The only mandatory claim for a defendant is a mandatory counterclaim (Idaho R. Civ. P. 13(a); see Question 9: Counterclaims).

When and How Claims are Asserted

Counterclaims and Crossclaims

In Idaho, a defendant must assert counterclaims or crossclaims in its answer to the complaint (Idaho R. Civ. P. 13). With the court's permission, a defendant may assert a counterclaim by supplemental pleading if that claim either matured or was acquired by the defendant after serving its initial responsive pleading (Idaho R. Civ. P. 13(e)).

Third-Party Practice

At any time after the action has started, the defendant may serve a third-party summons and complaint. The defendant does not need to obtain leave if the third-party summons and complaint is filed within 14 days of service of the original answer. However, if more than 14 days have passed, the defendant must obtain, by motion, the court's leave to file a third-party complaint. (Idaho R. Civ. P. 14(a).)

Other Parties' Response to Defendant's Claims

Counterclaims and Crossclaims

A party must serve an answer to a counterclaim or crossclaim within 21 days after being served (Idaho R. Civ. P. 12(a)(1)(B)). Answers to counterclaims and crossclaims have the same requirements as an answer to the original claim (Idaho R. Civ. P. 12(b)). As with an answer to an original claim, a party can also make motions in lieu of an answer in response to a counterclaim or crossclaim (Idaho R. Civ. P. 12(b); see Question 4).

Third-Party Practice

A party served by a defendant in a third-party complaint must make any defenses provided in Idaho R. Civ. P. 12 and any counterclaims or crossclaims as provided in Idaho R. Civ. P. 13. A third-party defendant may also file a complaint against a nonparty according to Idaho R. Civ. P. 14. Any party may move to strike the third-party claim or move for its severance or separate trial (Idaho R. Civ. P. 14(a)(4)).

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