

ANSWER DRAFTING

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1

WHEN TO FILE YOUR ANSWER

Defendant must file its answer or other responsive pleading within 30 days of issuance of the summons by the clerk unless another response deadline is set by the court.

-Federal Rule of Bankruptcy Procedure 7012(a)

2

PRIOR TO DRAFTING YOUR ANSWER

1

Review the complaint

- KNOW YOUR FACTS
- Develop an understanding of the allegations and discuss the possible answers with your client.

2

Review all relevant documents

3

Construct a timeline of events

3

FRCP 12 MOTIONS

Motion for Judgment

- After the pleadings are closed but early enough not to delay trial

Motion for More Definite Statement

- Too vague or ambiguous
- Before you answer the complaint
- If granted 14 days to correct or stricken

Motion to Strike

- Insufficient defense or any redundant, immaterial, impertinent, or scandalous matter
- By the court on its own or 21 days after being served

4

AFFIRMATIVE DEFENSES

!!! RESERVE YOUR RIGHT TO AMEND !!!

| | | | | |
|--------------------|-----------------------------|---------------|----------------|-----------------------|
| estoppel; | failure of consideration; | fraud; | unclean hands; | unjust enrichment; |
| illegality; | injury by fellow servant; | laches; | necessity; | content; |
| payment; | release; | res judicata; | fair use; | brought in bad faith. |
| statute of frauds; | statute of limitations; and | waiver. | | |

- Federal Rule of Civil Procedure 8(c)

5

FRCP 8(B)

1. (A) State in short and plain terms defenses to each claim.
(B) Admit or deny the allegations asserted against it by an opposing party.
2. A denial must fairly respond to the substance of the allegation.
3. General denial in good faith. If not general denials, then must be specific.
4. Deny in part and admit the rest, partial denial.
5. Assert lack of knowledge as a denial.

-As made applicable to adversary proceedings by Federal Rule of Bankruptcy Procedure 7008.

6

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Title search: Drafting the Answer / Rule 12 Response (20 mins)

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"Drafting the Answer / Rule 12 Response (20 mins)"