

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

David K. Ogden v. TI Automotive Group, Mark Decker, and
Margaret Brumback

Ogden · No. 3:26-CV-00477-NJR · Decided May 18, 2026

SUMMARY

The United States District Court for the Southern District of Illinois denied without prejudice David Ogden’s motion seeking to require defendants to reconsider or revise their answer and affirmative defenses. The court construed the motion as potentially arising under Federal Rules of Civil Procedure 12(e) or 12(f), concluding that Rule 12(e) was unavailable because no responsive pleading was permitted and that any discovery-related concerns should be addressed under Rule 26.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	Nancy J. Rosenstengel
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	May 18, 2026
DOCKET	3:26-CV-00477-NJR
DISPOSITION	other
PROCEDURAL POSTURE	The court ruled on pro se Plaintiff David Ogden's motion seeking an order requiring Defendants to reconsider and revise their answer and affirmative defenses under Federal Rules of Civil Procedure 11 and 8. The court construed the motion alternatively as a motion for a more definite statement under Rule 12(e) or a motion to strike under Rule 12(f).
STANDARD OF REVIEW	The court applied the requirements of Federal Rules of Civil Procedure 12(e) and 12(f) to the motion; no separate appellate standard of review was stated.
PRECEDENTIAL VALUE	unpublished district court memorandum and order

TOPICS

- motion for a more definite statement
- affirmative defenses
- civil procedure
- discovery dispute

PRACTICE AREAS

civil procedure

commercial litigation

QUESTIONS PRESENTED

1. Whether Ogden could obtain a more definite statement under Federal Rule of Civil Procedure 12(e) concerning Defendants' affirmative defenses when no responsive pleading to the answer was permitted or ordered.
2. Whether Defendants' affirmative defenses should be stricken under Federal Rule of Civil Procedure 12(f) because of the potential breadth of discovery they might generate.

HOLDINGS

1. A party may not move for a more definite statement under Rule 12(e) when no responsive pleading to the challenged pleading is allowed or ordered. A reply to an answer is permitted only with court authorization, and the court had not authorized one here.
2. Even if a responsive pleading were otherwise allowed, a party that has already filed that responsive pleading cannot seek a Rule 12(e) motion before filing it.
3. A party may not use Rule 12(f) to preemptively strike affirmative defenses merely because the defenses might broaden discovery; challenges to the scope of discovery must be brought under Federal Rule of Civil Procedure 26.

KEY QUOTATIONS

“To preemptively strike the affirmative defenses for fear of what they might potentially do to the scope of discovery is to put the cart before the horse.”

FACTUAL BACKGROUND

Defendants TI Automotive Group, Mark Decker, and Margaret Brumback filed an answer asserting eighteen affirmative defenses. Ogden objected to the breadth of those defenses and argued that they would unnecessarily expand discovery. Although he later filed two replies to the answer, the court had not ordered or authorized a reply.

PROCEDURAL HISTORY

Defendants filed an answer containing eighteen affirmative defenses. Ogden moved for an order requiring Defendants to replace or revise the answer, asserting that the defenses were vague and prophylactic and would expand discovery. The court denied the motion without prejudice, explaining that Rule 12(e) was unavailable because no responsive pleading to the answer was permitted and that Rule 12(f) did not provide a basis for striking defenses based only on anticipated discovery issues.

DISPOSITION

other

CASES CITED

- Mendez v. Ada S. McKinley Cmty. Serv. Inc., No. 24 C 10867, 2025 WL 4235413, at *1 (N.D. Ill. Mar. 31, 2025)
- Brady for Smith v. SSC Westchester Operating Co., 533 F. Supp. 3d 667, 677 (N.D. Ill. 2021)
- Heller Fin., Inc. v. Midwhey Powder Co., 883 F.2d 1286, 1294 (7th Cir. 1989)

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