

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PRECEDENTIAL VALUE	unpublished district court memorandum and order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)

OPINION

Ogden

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF ILLINOIS

DAVID K. OGDEN,

Plaintiff, v. Case No. 3:26-CV-00477-NJR

TI AUTOMOTIVE GROUP,

MARK DECKER, and

MARGARET BRUMBACK,

Defendants.

MEMORANDUM AND ORDER

ROSENSTENGEL, District Judge: This matter is before the Court on a motion filed by pro se Plaintiff David Ogden. (Doc. 22). In his motion, which is styled a “Motion for Leave on a Point of Order Pursuant to FRCP Rule 11 and 8,” Ogden asks this Court to order Defendants TI Automotive Group, Mark Decker, and Margaret Brumback to “reconsider their answers and affirmative defenses to align with the requirements” of the Federal Rules of Civil Procedure. *Id.* at 5. Specifically, Ogden takes issue with the breadth of the affirmative defenses listed in Defendants’ answer (Doc. 8), which he characterizes as “vague and prophylactic.” (Doc. 22, at 3). Because Ogden seeks an order from this Court directing Defendants to replace their answer, his motion is best construed as either a motion for a more definite statement under Rule 12(e) or a motion to strike under Rule 12(f). As set forth below, the Court denies his motion. Ogden frames his request as one of judicial economy. Pointing out that the parties’ joint report and proposed scheduling and discovery order is soon due, Ogden argues that the eighteen affirmative defenses listed in Defendants’ answer will vastly expand the scope of discovery. (Doc. 22, at 3). He states that he “is prepared to file a brief” responding to “each of [Defendants’] affirmative defenses,” but instead he “seeks first to submit this [motion] as a more judicious use of the Court’s finite resources.”¹ *Id.* at 5. If Ogden’s motion is construed as a motion for a more definite statement under Rule 12(e), it must be denied. Rule 12(e) allows a party to “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.” FED. R. CIV. P. 12(e). But here, no responsive pleading is allowed: a reply to an answer may only be made with court permission.

FED. R. CIV. P. 7(a)(7); *Mendez v. Ada S. McKinley Cmty. Serv. Inc.*, No. 24 C 10867, 2025 WL 4235413, at *1 (N.D. Ill. Mar. 31, 2025). Because the Court has not ordered Ogden to reply to Defendants' answer, he cannot move for a more definite statement.² Even if the Court construes Ogden's motion as a motion to strike under Rule 12(f), it should still be denied. Rule 12(f) provides that a "court may strike from a pleading an 1 It is worth noting that Ogden has since gone ahead and filed replies to Defendants' answer anyway. (Docs. 28, 29). However, replies to answers are not allowed except by order of the court. See FED. R. CIV. P. 7(a)(7). The Court has not ordered Ogden to reply to Defendants' answer, nor has he sought leave to do so. Accordingly, although the documents will remain on the docket, they will not be considered (though, of course, the Court assumes Ogden denies the answer's factual statements and affirmative defenses, pursuant to Rule 8(b)(6)). If Ogden wishes to make arguments in response to those of Defendants, he must wait for a motion which allows or requires a response—for instance, the currently pending motion to dismiss his complaint for failure to state a claim (Doc. 6). 2 Even if a responsive pleading were allowed, Ogden would still not be entitled to relief under Rule 12(e). By its own terms, the rule only permits a party to move for a more definite statement "before filing a responsive pleading." FED. R. CIV. P. 12(e). As explained supra, note 1, Ogden has (impermissibly) filed two replies to Defendants' answer. Accordingly, he has forfeited the ability to seek a more definite statement. insufficient defense" on its own or by motion, FED. R. Civ. P. 12(f), though such motions "are generally disfavored" and "'potentially serve only to delay.'" *Brady for Smith v. SSC Westchester Operating Co.*, 533 F. Supp. 3d 667, 677 (N.D. Ill. 2021) (quoting *Heller Fin., Inc. v. Midwhey Powder Co.*, 883 F.2d 1286, 1294 (7th Cir. 1989)). But Ogden does not argue that the affirmative defenses were insufficiently pled. Instead, he objects to the breadth of the discovery potentially warranted by Defendants' affirmative defenses. But if Ogden wants to limit the scope of discovery, he must do so through a motion "brought pursuant to Federal Rule of Civil Procedure 26." *Mendez*, 2025 WL 4235413, at *1. To preemptively strike the affirmative defenses for fear of what they might potentially do to the scope discovery is to put the cart before the horse. Accordingly, Plaintiff David Ogden's motion (Doc. 22) is DENIED without prejudice. IT IS SO ORDERED. DATED: May 18, 2026 neff ansegl

NANCY J. ROSENSTENGEL

United States District Judge Page 3 of 3