

Responding to a Complaint: Washington

by **Barbara J. Duffy, Lane Powell PC**, with Practical Law Litigation

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A Q&A guide to responding to a complaint in a trial court of general jurisdiction in Washington. 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?

In Washington, a defendant must respond to a complaint within 20 days after being served with the summons and complaint ([Wash. Super. Ct. Civ. R. 4\(a\)\(2\)](#) and [12\(a\)\(1\)](#)). If **process** is served by publication, a defendant must respond within 60 days from the date of first publication of the summons ([RCW 4.28.110](#) and [Wash. Super. Ct. Civ. R. 12\(a\)\(2\)](#)).

If a plaintiff serves a defendant outside of Washington, the defendant has 60 days to respond to the complaint ([RCW 4.28.180](#) and [Wash. Super. Ct. Civ. R. 12\(a\)\(3\)](#)).

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)?

Counsel should check the local court's [website](#) for additional information regarding extending time to respond to a complaint.

Before Expiration of Response Period

The court may, for cause and with or without notice or motion, extend the time period for serving an answer if the original deadline has not passed ([Wash. Super. Ct. Civ. R. 6\(b\)](#)).

After Expiration of Response Period

After the time period to respond has passed, a defendant may move for an extension of time to respond to the complaint. The court may grant the extension if the failure to respond is the result of excusable neglect. ([Wash. Super. Ct. Civ. R. 6\(b\)](#).)

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

In Washington, the following responses to a complaint are permitted:

- An answer ([Wash. Super. Ct. Civ. R. 12\(a\)](#)).
- A motion.
- A notice of appearance ([RCW 4.28.210](#); [Wash. Super. Ct. Civ. R. 4\(a\)\(3\)](#)).

Washington has abolished demurrers, pleas, and exceptions for insufficiency of pleading ([Wash. Super. Ct. Civ. R. 7\(c\)](#)).

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?

A defendant may bring a motion:

- To dismiss (see [Motion to Dismiss](#)).
- For a more definite statement (see [Motion for a More Definite Statement](#)).
- To strike (see [Motion to Strike](#)).

The defendant must consolidate all available defenses or objections permitted under [Rule 12 of the Washington Superior Court Civil Rules](#) into one motion, with limited exceptions under [Rule 12\(h\)\(2\) \(Wash. Super. Ct. Civ. R. 12\(g\)\)](#).

The defendant must serve the motion at least five days before the time specified for the hearing ([Wash. Super. Ct. Civ. R. 6\(d\)](#)).

Motion to Dismiss

Preliminary Requirements

There are generally no preliminary requirements for a motion to dismiss. However, best practice is to check the local rules and the judge's individual rules to determine whether a particular court imposes any preliminary requirements.

Grounds Asserted

A pre-answer motion to dismiss a complaint may assert one or more of the following grounds:

- Lack of [subject matter jurisdiction](#).
- Lack of [personal jurisdiction](#).
- Improper [venue](#).

- Insufficiency of process.
- Insufficiency of service of process.
- Failure to state a claim on which relief can be granted.
- Failure to join a necessary party ([Wash. Super. Ct. Civ. R. 19](#)).

([Wash. Super. Ct. Civ. R. 12\(b\)](#).)

Waiver

When the defendant makes a motion to dismiss, the following defenses are waived if not included in the motion:

- Lack of personal jurisdiction.
- Improper venue.
- Insufficiency of process.
- Insufficiency of service of process.

([Wash. Super. Ct. Civ. R. 12\(h\)\(1\)](#).)

The following defenses are not waived if not included in the motion to dismiss:

- Failure to state a claim on which relief can be granted.
- Failure to join a necessary party ([Wash. Super. Ct. Civ. R. 19](#)).
- Lack of subject matter jurisdiction.

([Wash. Super. Ct. Civ. R. 12\(h\)\(2\), \(3\)](#).)

Required Papers

Motions must:

- Be in writing.
- State the motion's grounds with particularity.

- Specify the relief sought.

(Wash. Super. Ct. Civ. R. 7(b)(1).)

A motion must contain a caption that sets out:

- The name of the court.
- The title of the action. It is sufficient to state the name of the first party on each side with an indication of other parties (for example, "et al.").
- The file number, if known by the person filing the motion.
- An identification of the nature of the motion (for example, "motion to dismiss").

(Wash. Super. Ct. Civ. R. 10(a).)

All motions must include the signature and address of either:

- One attorney of record, including the attorney's Washington State Bar membership number.
- The party, if unrepresented.

(Wash. Super. Ct. Civ. R. 11(a).)

The signature verifies that:

- The signer read the motion.
- To the best of the signer's knowledge, information, and belief:
 - the motion is well grounded in fact;
 - the motion is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law;
 - the motion is not being filed for an improper purpose (for example, to harass or cause unnecessary delay); and
 - if the motion denies a factual contention, the denial is warranted on the evidence or reasonably based on a lack of information or belief.

(Wash. Super. Ct. Civ. R. 11(a).)

A motion may be supported by an affidavit. Counsel should check the court's local rules for information regarding required and permitted papers.

Outside Evidence

Matters outside the pleadings may be submitted on a motion to dismiss. However, if a defendant includes matters outside the pleading on a motion to dismiss the complaint for failure to state a claim on which relief can be granted, the court will treat the motion as a motion for summary judgment. ([Wash. Super. Ct. Civ. R. 12\(b\)](#) and [56](#))).

A court may consider certain limited forms of outside evidence without converting a motion to dismiss to a motion for summary judgment, including documents:

- Whose contents are referred to in the complaint but not attached to it.
- Subject to judicial notice.

(See for example, [Rodriguez v. Loudeye Corp.](#), 189 P.3d 168, 176 (Wash. Ct. App. 2008).)

Response by Plaintiffs

Washington law does not require a response to a motion. Counsel should check the court's local rules for information relating to the time to file a response.

Reply by Defendants

Washington law does not require a reply to a response. Counsel should check the court's local rules for information relating to the time to file a reply.

Oral Argument

The court may, in its discretion, allow oral argument by conference telephone call. The expense of the call must be shared equally by all parties unless the court directs otherwise. ([Wash. Super. Ct. Civ. R. 7\(b\)\(5\)](#).)

Counsel should check the court's local rules regarding oral argument. For example, in King County Superior Court, the court hears oral argument on all dispositive motions ([Wash. King. Super. Ct. LCR 7\(b\)\(4\)\(B\)](#)).

Stay of Discovery

Washington law does not contemplate a stay of discovery during a pre-answer motion. Counsel may consider filing a motion for a protective order to stay discovery ([Wash. Super. Ct. Civ. R. 26\(c\)](#)).

Serving an Answer or Other Response

If the court denies the motion or postpones its disposition until the trial on the merits, the defendant has ten days after notice of the denial to serve a responsive pleading ([Wash. Super. Ct. Civ. R. 12\(a\)\(4\)\(A\)](#)).

Motion for a More Definite Statement

Preliminary Requirements

There are generally no preliminary requirements for a motion for a more definite statement. However, best practice is to check the court's local rules and the judge's individual rules to determine whether a particular court imposes any preliminary requirements.

Grounds Asserted

A party may move for a more definite statement if either:

- The pleading is so vague or ambiguous that the party cannot reasonably prepare a response.
- More particularity in the pleading will help dispose of the action efficiently and economically.

([Wash. Super. Ct. Civ. R. 12\(e\)](#).)

The party must make the motion before filing a responsive pleading and must include:

- The defects complained of.
- The desired details.

([Wash. Super. Ct. Civ. R. 12\(e\)](#).)

Waiver

The service of an answer waives the defendant's right to make a motion for a more definite statement ([Wash. Super. Ct. Civ. R. 12\(e\)](#)).

Required Papers

See [Motion to Dismiss: Required Papers](#).

Outside Evidence

The nature of a motion for a more definite statement does not lend itself to the presentation of outside evidence.

Response by Plaintiffs

See [Motion to Dismiss: Response by Plaintiffs](#).

Reply by Defendants

See [Motion to Dismiss: Reply by Defendants](#).

Oral Argument

See [Motion to Dismiss: Oral Argument](#).

Stay of Discovery

See [Motion to Dismiss: Stay of Discovery](#).

Serving an Answer or Other Response

If the court denies the motion or postpones its disposition until the trial on the merits, the defendant has ten days after notice of the denial to serve a responsive pleading ([Wash. Super. Ct. Civ. R. 12\(a\)\(4\)\(A\)](#)).

If the court grants a motion for a more definite statement, the defendant has ten days after service of the more definite statement to serve a responsive pleading ([Wash. Super. Ct. Civ. R. 12\(a\)\(4\)\(B\)](#)).

Motion to Strike

Preliminary Requirements

There are generally no preliminary requirements for a motion to strike. However, best practice is to check the local rules and the judge's individual rules to determine whether a particular court imposes any preliminary requirements.

Grounds Asserted

Before responding to a pleading, a defendant may move to strike from the complaint any matter that is:

- Redundant.
- Immaterial.
- Impertinent.

- Scandalous.

(Wash. Super. Ct. Civ. R. 12(f).)

Waiver

The service of an answer waives the defendant's right to make a motion to strike. However, a court may strike material from a pleading at any time on its own initiative. (Wash. Super. Ct. Civ. R. 12(f)).

Required Papers

See [Motion to Dismiss: Required Papers](#).

Outside Evidence

Washington law does not expressly preclude a movant from presenting outside evidence in a motion to strike. However, this type of motion does not generally require outside evidence.

Response by Plaintiffs

See [Motion to Dismiss: Response by Plaintiffs](#).

Reply by Defendants

See [Motion to Dismiss: Reply by Defendants](#).

Oral Argument

See [Motion to Dismiss: Oral Argument](#).

Stay of Discovery

See [Motion to Dismiss: Stay of Discovery](#).

Serving an Answer or Other Response

If the court denies the motion or postpones its disposition until the trial on the merits, the defendant has ten days after notice of the denial to serve a responsive pleading (Wash. Super. Ct. Civ. R. 12(a)(4)(A)).

Answering the Complaint

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

Before filing an answer, counsel should consult the court's local rules and the judge's individual rules because they may vary from the general requirements.

Required Contents

Caption

In Washington, the answer must have a caption that contains:

- The name of the court.
- The title of the action. It is sufficient to state the name of the first party on each side with a designation for other parties (for example, "et al.").
- The file number if known by the person filing the answer.
- An identification of the nature of the pleading (for example, "answer").

(Wash. Super. Ct. Civ. R. 10(a).)

Denials or Admissions

The answer must respond to each allegation in the complaint with one or more of the following:

- An admission.
- A denial.
- A statement that the defendant is without knowledge or information sufficient to form a belief as to the truth of an allegation, which has the effect of a denial.

(Wash. Super. Ct. Civ. R. 8(b).)

Any allegations in the complaint not responded to in the answer are deemed admitted (Wash. Super. Ct. Civ. R. 8(d)).

If a defendant intends in good faith to refute all the allegations in the complaint, it may generally deny all allegations subject to the obligations in [Rule 11 of the Washington Superior Court Civil Rules \(Wash. Super. Ct. Civ. R. 8\(b\)\)](#).

Defenses

A defendant must state in short and plain terms its defenses to each claim ([Wash. Super. Ct. Civ. R. 8\(b\)](#)).

The following defenses are waived unless they are asserted in the answer or in a motion filed at or before the time of the answer:

- Lack of personal jurisdiction.
- Improper venue.
- Insufficiency of process.
- Insufficiency of service of process.

([Wash. Super. Ct. Civ. R. 12\(h\)\(1\)](#); see [Question 4: Motion to Dismiss: Grounds Asserted.](#))

The defendant must set out the following **affirmative defenses** in the answer:

- Accord and satisfaction.
- **Arbitration** and award.
- Assumption of risk.
- Contributory negligence.
- **Discharge** in bankruptcy.
- Duress.
- **Estoppel**.
- Failure of **consideration**.
- Fault of a non-party ([Wash. Super. Ct. Civ. R. 12\(i\)](#)).
- Fraud.
- Illegality.

- Injury by fellow servant.
- **Laches.**
- **License.**
- Payment.
- **Release.**
- ***Res judicata.***
- **Statute of frauds.**
- Statute of limitations.
- Waiver.
- Any other matter constituting an avoidance or affirmative defense.

(Wash. Super. Ct. Civ. R. 8(c).)

All defenses must be made in numbered paragraphs. Each defense should be set out separately wherever a separation facilitates the clear presentation of the matters. (Wash. Super. Ct. Civ. R. 10(b).) The defendant may adopt by reference statements in the same pleading or another pleading or motion (Wash. Super. Ct. Civ. R. 10(c)).

Signature

The answer must be signed by and include the address of either:

- One attorney of record, including the attorney's Washington State Bar Association membership number.
- The party, if unrepresented.

The signature verifies that:

- The signer read the answer.
- To the best of the signer's knowledge, information, and belief:
 - the answer is well grounded in fact;

- the answer is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law;
- the answer is not being filed for an improper purpose (for example, to harass or cause unnecessary delay); and
- if the answer denies a factual contention, the denial is warranted on the evidence or reasonably based on a lack of information or belief.

(Wash. Super. Ct. Civ. R. 11(a).)

Optional Contents

Cross claims and Counterclaims

A defendant may assert any of the following in its answer:

- Cross claims.
- Counterclaims.

(Wash. Super. Ct. Civ. R. 13; see Question 9.)

Exhibits

An answer may rely on written exhibits attached to it (Wash. Super. Ct. Civ. R. 10(c)).

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

Except when a rule or statute provides otherwise, a defendant is not required to verify its answer by affidavit (Wash. Super. Ct. Civ. R. 11(a); 3A Wash. Prac. Rules Practice CR 11(4), (6th ed.))

Amending an Answer

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

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

Time to Amend

A defendant may amend its answer once as a matter of course at any time before a responsive pleading is served. When no responsive pleading is permitted and the action has not been placed on the trial calendar, the defendant may amend its answer at any time within 20 days after serving it. ([Wash. Super. Ct. Civ. R. 15\(a\)](#).)

A defendant may also amend its answer by leave of court or written consent of the opposing party ([Wash. Super. Ct. Civ. R. 15\(a\)](#)).

Grounds for Amendment

There are no grounds required for an amendment by motion. Under Washington law, leave to amend the answer must be freely given when justice so requires ([Wash. Super. Ct. Civ. R. 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?

A plaintiff cannot reply to an answer unless ordered to do so by the court ([Wash. Super. Ct. Civ. R. 7\(a\)](#)).

Time to Reply

If the court orders the plaintiff to reply to the answer, the reply must be served within 20 days of the order unless the order directs otherwise ([Wash. Super. Ct. Civ. R. 12\(a\)\(4\)](#)).

Grounds for Reply

The court will direct the plaintiff to serve a reply if it deems a reply to the answer necessary.

Reply Contents

The reply's contents will depend on the court's order.

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

In the answer, the defendant may assert:

- Counterclaims.
- Cross claims.

(Wash. Super. Ct. Civ. R. 13.)

The defendant may also assert third-party claims in a separate pleading (Wash. Super. Ct. Civ. R. 14(a)).

Counterclaims

Under Washington law, counterclaims can be either compulsory or permissive.

Any claim the defendant has against the plaintiff at the time of serving the answer is a compulsory counterclaim and must be stated if the claim:

- Arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim.
- Does not require for its adjudication the presence of third parties who are outside of the court's jurisdiction.

(Wash. Super. Ct. Civ. R. 13(a).)

A defendant is not required to state a counterclaim if either:

- The claim was the subject of another pending action at the time the action was commenced.
- 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 is not stating any counterclaim under [Rule 13 of the Washington Superior Court Civil Rules](#).

(Wash. Super. Ct. Civ. R. 13(a).)

A permissive counterclaim is any claim against the plaintiff that does not arise out of the transaction or occurrence that is the subject matter of the plaintiff's claim ([Wash. Super. Ct. Civ. R. 13\(b\)](#)).

Cross claims

A defendant may assert as a cross claim against a co-party any claim either:

- Arising out of the same transaction or occurrence that is the subject matter of the complaint or a counterclaim.
- Relating to any property that is the subject matter of the complaint.

(Wash. Super. Ct. Civ. R. 13(g).)

Third-Party Claims

A defendant, as third-party plaintiff, may serve a summons and complaint on a non-party who is or may be liable to the defendant/ third-party plaintiff for the claims asserted by the plaintiff ([Wash. Super. Ct. Civ. R. 14\(a\)](#)).

Mandatory Claims for Defendant

The only mandatory claim is the compulsory counterclaim (see [Available Claims: Counterclaims](#)).

When and How Claims Are Asserted

Counterclaims

Compulsory counterclaims must be asserted in the answer, unless the claim falls into one of two limited exceptions (see [Available Claims: Counterclaims](#)). If the defendant asserts a permissive counterclaim, it must be asserted in the answer. (*Wash. Super. Ct. Civ. R. 13(b)*.)

A claim that matured or was acquired by the defendant after serving the answer may be presented as a counterclaim by supplemental pleading, with the court's permission (*Wash. Super. Ct. Civ. R. 13(e)*).

With leave of court, the defendant may assert a counterclaim by amendment when justice requires it or when the failure to assert the counterclaim is due to:

- Oversight.
- Inadvertence.
- Excusable neglect.

(*Wash. Super. Ct. Civ. R. 13(f)*.)

Cross claims

Cross claims are asserted in the answer (*Wash. Super. Ct. Civ. R. 13(g)*).

Third-Party Claims

A defendant/third-party plaintiff does not need the court's permission to serve the third party with a summons and third-party complaint if it files the third-party complaint within ten days of serving its original answer. Otherwise, it must obtain leave of court on motion with notice to all parties to the action. (*Wash. Super. Ct. Civ. R. 14(a)*.)

Other Parties' Response to Defendant's Claims

Response to Counterclaim

The plaintiff must serve a reply to a counterclaim within 20 days after service of either:

- The answer.
- A court order that directs the plaintiff to serve a reply, unless the court directs otherwise.

(Wash. Super. Ct. Civ. R. 12(a).)

However, the service of a motion under [Rule 12\(b\) of the Washington Superior Court Civil Rules](#) alters the time for serving a response ([Wash. Super. Ct. Civ. R. 12\(a\)](#); see [Question 4](#)).

A motion against a counterclaim or an answer to a counterclaim is subject to the same content requirements as a motion against a complaint or an answer to a complaint (see [Questions 4 and 5](#)).

Response to Cross claim

A party served with a cross claim must serve an answer within 20 days after service ([Wash. Super. Ct. Civ. R. 12\(a\)](#)).

However, the service of a motion under [Rule 12\(b\) of the Washington Superior Court Civil Rules](#) alters the time for serving a response ([Wash. Super. Ct. Civ. R. 12\(a\)](#); see [Question 4](#)).

A motion against a cross claim or an answer to a cross claim is subject to the same content requirements as a motion against a complaint or an answer to a complaint (see [Questions 4 and 5](#)).

Response to Third-Party Claim

The person served with the third-party summons and complaint is referred to as the third-party defendant. The third-party defendant must assert any:

- Defenses to the third-party complaint as provided in [Rule 12\(b\) of the Washington Superior Court Civil Rules](#).
- Defenses to the plaintiff's claim.
- Counterclaims against the defendant/third-party plaintiff, or cross claims against any other third-party defendants as provided in [Rule 13 of the Washington Superior Court Civil Rules](#).

(Wash. Super. Ct. Civ. R. 14(a).)

The third-party defendant may also assert any claim against:

- The plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the defendant or third-party plaintiff.
- Any person not a party to the action who is or may be liable to the third-party defendant for all or part of the claim made in the action against the third-party defendant.

(Wash. Super. Ct. Civ. R. 14(a).)

Any party may move to strike the third-party claim or move to sever the third-party claim for a separate trial (Wash. Super. Ct. Civ. R. 14(a)).

The original plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the original plaintiff's claim against the defendant/third-party plaintiff. The plaintiff's failure to assert this type of claim has the effect of a failure to state a claim in a pleading under [Rule 13\(a\) of the Washington Superior Court Civil Rules](#) (see [Available Claims: Counterclaims](#)). The third-party defendant must then assert any defenses, counterclaims, and cross claims under [Rules 12 and 13 of the Washington Superior Court Civil Rules](#). (Wash. Super. Ct. Civ. R. 14.)