

A man brought a federal diversity action against his former business partner for breach of contract seeking \$100,000 in damages. The business partner moved to dismiss for lack of personal jurisdiction. After the court denied the motion, the business partner filed and served an answer in which she denied the man's claim. Ten days later, the man filed and served a jury demand, which the business partner moved to strike.

Is the court likely to grant the motion to strike?

- A. No, because the man properly demanded a jury trial.
- B. No, because the right to a jury trial extends to civil claims.
- C. Yes, because the jury demand was untimely filed.
- D. Yes, because the man failed to assert the jury demand in a pleading.

Explanation:

All civil litigants (plaintiffs and defendants) have the constitutional [right to a jury trial](#) for any legal claim where the amount in controversy exceeds \$20 (as seen here). However, a party waives this right if a proper demand is not made. Under FRCP 38, a party may properly **demand a jury trial** by:

- **serving** the other parties with a written jury demand **within 14 days after the last pleading** (usually the defendant's answer) is served *and*
- **filing** the demand with the court within a **reasonable time after service** of the demand.*

Here, the man filed and served his written jury demand 10 days after being served with the business partner's answer. Since the demand was timely and properly made, the court is unlikely to strike it **(Choice C)**.

*A jury trial demand is treated as a request that a jury decide all issues unless the party specifies otherwise. If so specified, another party may serve a jury trial demand for any other issue within 14 days after service of the original demand or a shorter time ordered by the court.

(Choice B) Parties have a jury trial right for legal claims—ie, claims seeking a monetary remedy to compensate for a loss (eg, damages). But this right does not extend to equitable claims—ie, claims seeking a nonmonetary remedy (eg, injunction).

(Choice D) A jury trial demand may, but need not, be included in a [pleading](#). The demand can also be made in a separate, stand-alone document (as seen here).

Educational objective:

Any party may secure the right to a jury trial on any legal claim by (1) serving the other parties with a written jury demand no later than 14 days after the last pleading is served and (2) filing the demand with the court within a reasonable time after serving it.

FRCP = Federal Rule of Civil Procedure.

References

- Fed. R. Civ. P. 38(b) (jury trial demand).

Jury trial demand timeline

