

3 PJI 7.2 | RESPONSIBILITY FOR PROOF - AFFIRMATIVE DEFENSE PREPONDERANCE OF THE EVIDENCE

In this case, the [Defendant, Counter-Defendant, cross-claim Defendant] asserts the affirmative defense[s] of _____. Even if the [Plaintiff] [Party bringing the claim] proves [his/her/its] claim[s] by a preponderance of the evidence, the [Defendant, Counter-Defendant, cross-claim Defendant] can prevail in this case if [he/she/it] proves an affirmative defense by a preponderance of the evidence.

[When more than one affirmative defense is involved, you should consider each one separately.]

I caution you that the [Defendant, Counter-Defendant, cross-claim Defendant] does not have to disprove the [Plaintiff's] [Counter-Plaintiff's] [cross-claimant's] claim[s], but if the [Defendant, Counter-Defendant, cross-claim Defendant] raises an affirmative defense, the only way [he/she/it] can prevail on that specific defense is if [he/she/it] proves that defense by a preponderance of the evidence.

((Rev. 03/2022) | Judicial Council of the United States Eleventh Judicial Circuit)

Annotations and Comments

No annotations associated with this instruction.