

Rule 19. Notice of Claim of Unconstitutionality or Preemption by Federal Law

(a) Notice Required. In any cause or proceeding in which the constitutionality or preemption by federal law of a statute, ordinance, administrative regulation, or other law affecting the public interest is raised, and to which action or proceeding the State or the political subdivision, agency, or officer affected is not already a party, the litigant raising the constitutional or preemption issue shall serve an appropriate notice thereof on the Attorney General, State's Attorney, municipal counsel or agency attorney, as the case may be.

(b) Contents and Time for Filing Notice. The notice shall identify the particular statute, ordinance, regulation, or other law, and shall briefly describe the nature of the constitutional or preemption challenge. The notice shall be served at the time of suit, answer or counterclaim, if the challenge is raised at that level, or promptly after the constitutional or preemption question arises as a result of a circuit or reviewing court ruling or judgment.

(c) Purpose of Notice. The purpose of such notice shall be to afford the State, political subdivision, agency or officer, as the case may be, the opportunity, but not the obligation, to intervene in the cause or proceeding for the purpose of defending the law or regulation challenged. The election to intervene shall be subject to applicable provisions of law governing intervention or impleading of interested parties.

Adopted February 21, 1986, effective August 1, 1986; amended July 27, 2006, effective September 1, 2006.