

Response by defendant

Notes for defendant

What this form is for

Use this response by defendant form to respond to a claim made against you in the District Court. You will have received Form 2—**Notice of claim** from the plaintiff, outlining their version of the facts about the claim.

This form tells the plaintiff and the court your version of the facts.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the **defendant**.

The person making the claim against you is the **plaintiff**.

For more information about who can sign this form, see the next page.

How to fill in this form

1. Remove pages 1 and 2 (the notes pages for you, the defendant).
2. Fill in **all** 6 sections of the form, beginning on page 5.

What to do when you have completed this form

When you have completed this response by defendant form, you must serve the form on the plaintiff.

See instructions for how to serve forms on the next page.

Before you serve this form on the plaintiff, you must remove the front 2 pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in the claim process

For more information about the claim process, see the last page of this form.

Note that you do not need to fill in Form 1 at this stage.

Form 2—**Notice of claim**, filled in by the plaintiff

Form 3—**Response by defendant**, filled in by the defendant (this form)

Form 4—**Plaintiff's information capsule**, filled in by the plaintiff

Form 5—**Defendant's information capsule**, filled in by the defendant

Form 6—**Notice of pursuit of claim**, filled in by the plaintiff

Definitions of words used in this form

address for service

an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

counterclaim

an independent claim against the person making the original claim

defendant

the person who a claim is against

file

to take or send documents about a claim to the court Registrar

information capsule

a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment

when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

jurisdiction

the court's authority to decide on a claim

plaintiff

the person making a claim against someone else

serve

to take or send documents about a claim to the plaintiff's or defendant's address for service

working day

any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau or Community Law Centre, or go to: www.justice.govt.nz/civil

Response by defendant

Further information for the **defendant**

Who can sign this form

You can sign this form if:

- you are responding to the claim yourself
- or**
- you are authorised to sign on behalf of the defendant—for example, if a registered company, Māori incorporation, partnership, trust, estate, incorporated society or unincorporated body is responding to the claim.

Or, you can authorise your lawyer to sign this form on your behalf.

How to serve forms

You must serve this form on the plaintiff by taking or sending the completed form to them at their address for service.

Do not file this form at a court. Make sure you keep copies of all forms in the process.

Serve the form within 30 working days. You must serve your response no more than 30 working days after you receive Form 2—**Notice of claim** from the plaintiff. If you do not serve this response within 30 working days, the court may decide you have to pay or give the plaintiff what they claimed in Form 2 (this is called 'judgment').

What if the plaintiff sends you their response late?

When you serve this form, the plaintiff has 30 working days to respond by sending you Form 4—**Plaintiff's information capsule** (the next form in the process). If the plaintiff is late sending you their response, their claim will end.

Response by defendant

Notes for plaintiff

Why you have received this form

You have received this completed response by defendant form because you have made a claim against someone else (the defendant). This form is the defendant's response to your notice of claim. The form tells you the defendant's version of the facts about the claim.

The person you are making the claim against is the **defendant**.

You are the **plaintiff**.

What to do next if you are the plaintiff

You must serve an information capsule on the defendant within 30 working days. An information capsule tells the defendant the most important information about your case. It is a summary of the information you intend to rely on for your case.

To respond to the defendant, fill in Form 4—**Plaintiff's information capsule**. You can get a copy of Form 4 from www.justice.govt.nz/civil, your local court, or your lawyer.



What happens if you do not respond to the defendant

If you do not respond to this response by defendant **within 30 working days**, your claim will end. If this happens, you can start your claim again by filing Form 2 and paying another filing fee.

Keep a copy of this form, and any other forms you receive, for your own records. You must also keep a copy to file at court later in the claim process.

Other forms in the claim process

For more information about the claim process, see the last page of this form. Note that you do not need to fill in Form 1 at this stage.

Form 2—**Notice of claim**, filled in by the plaintiff

Form 3—**Response by defendant**, filled in by the defendant (this form)

Form 4—**Plaintiff's information capsule**, filled in by the plaintiff

Form 5—**Defendant's information capsule**, filled in by the defendant

Form 6—**Notice of pursuit of claim**, filled in by the plaintiff

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Who to contact if you need help

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This page has been left blank deliberately

Filed at: _____ File reference number (CIV): _____
Copy this information from Form 2 *Copy this information from Form 2*

▶ Section 1: Defendant's details

1A Defendant's name

- Write your full name.
- or
- Write the name of the company, society or incorporation if the defendant is a company, society or incorporation.
- or
- Write the names of the trustees or executors if the defendant is a trust or estate.

Name: _____

1B Defendant's trading name

If the defendant in 1A above has a different trading name, write the trading name here.

Trading name: _____

1C Defendant's address for service

Write down an address of a place in New Zealand where you can receive all documents about this claim.

Street address: _____

1D Defendant's postal address

If your postal address is different from the address for service you have given in 1C above, write your postal address here.

Postal address: _____

1E Defendant's contact details

Write down your phone and fax numbers and an email address if you have one.

Phone number: _____

Other phone number: _____

Fax number: _____

Email address: _____

1F Do you have a lawyer?

If you have a lawyer who is dealing with this claim on your behalf, write their details here, including the name of their firm.

Name of defendant's lawyer

Name: _____

Firm: _____

Contact details of defendant's lawyer for serving forms

Street address: _____

PO Box: _____

Document exchange box: _____

Phone number: _____

Other phone number: _____

Fax number: _____

Email address: _____

Section 2: Plaintiff's details

Copy the information from Form 2—**Notice of claim** (Section 1), which you received from the plaintiff.

2A Plaintiff's name

- Write the plaintiff's full name.
- or**
- Write the name of the company, society or incorporation if the plaintiff is a company, society or incorporation.
- or**
- Write the names of the trustees or executors if the plaintiff is a trust or estate.

Name: _____

2B Plaintiff's trading name

If the plaintiff in 2A above has a different trading name, write the trading name here.

Trading name: _____

▶ **Section 3:** Your response to the claim

See Form 2—**Notice of claim** (Section 4), where the plaintiff outlined what they are asking for from you.

3A Choose 1 of the following 4 options.

Option 1

tick box

You agree with the plaintiff's claim in full and will give them the payment or compensation they have asked for.

If you choose option 1, write down the details of the payment or compensation you will give the plaintiff. Then go to Section 6 'Your signature'.

I agree with the plaintiff's claim in full and will give them the payment or compensation they have asked for.

I will give the plaintiff...

Option 2

tick box

You agree with the plaintiff's claim in full, but want to give them a different payment or compensation.

If you choose option 2, write down the details of the payment or compensation you want to give the plaintiff. Explain why you are offering a different payment or compensation. Then go to Section 6 'Your signature'.

I agree with the plaintiff's claim in full, but I want to give them the following payment or compensation.

I will give the plaintiff...

Because...

Option 3

tick box

You do not agree with the plaintiff's claim.

If you choose option 3, write down the details of why you do not agree with the plaintiff's claim. Then complete Sections 4, 5, and 6.

I do not agree with the plaintiff's claim because...

Option 4

tick box

You agree with part of the plaintiff's claim and disagree with part of the plaintiff's claim.

If you choose option 4, write down which parts of the plaintiff's claim you agree with and explain why you do not agree with the rest of the plaintiff's claim. Then complete Sections 4, 5, and 6.

I agree with the following parts of the plaintiff's claim...

I disagree with the rest of the plaintiff's claim because...

Reason 1

Legal references (if any):

▶ **Section 4:** Your description of the facts of the claim, and any supporting legal arguments

Fill in this section if you chose option 3 or 4 in Section 3 on page 7 or 8.
If you chose option 1 or 2, you do not need to fill in this section.

4A What are the facts of the claim from your point of view?

State concisely the facts of the claim from your point of view.
List each fact separately in the spaces below.

Make sure you write down any facts that were not listed in the plaintiff’s notice of claim if you think you will rely on these facts if the claim goes to court. Refer to Form 2—**Notice of claim** (Section 3).

The next section explains how to make **counterclaims** (your own, independent claims against the plaintiff). Do not list counterclaims here.

The following questions will help you think about your answers for this part of the form.

- What is the connection between you and the plaintiff?
- Does the plaintiff owe you a duty to do anything or act in a particular way? If so, why?
- Was there a contract (agreement) between you and the plaintiff? What terms from that contract are relevant to this claim?
- What happened? Why do you disagree with the plaintiff’s claim? (Include relevant dates, times, places, and other similar details.)
- Are there any facts stated in the notice of claim that you did not know about or could not have reasonably found out about? Why didn’t you know these facts?

Fact 1

Fact 2

▶ Section 5: Your counterclaims against the plaintiff

Fill in this section if you chose option 3 or 4 in Section 3 on page 7 or 8, but **only** if you have a counterclaim against the plaintiff. If you chose option 1 or 2, you do not need to fill in this section.

5A Do you have any counterclaims to make against the plaintiff?

'Counterclaims' are your own, independent claims against the plaintiff. To make a counterclaim, you must:

- file Form 2CC—**Notice of counterclaim** against the plaintiff at court
- attach a copy of Form 2CC to this response by defendant form (Form 3) before you serve it on the plaintiff.

You must file Form 2CC and serve both Form 2CC and Form 3 (this form) no more than 30 working days after you receive Form 2—Notice of claim from the plaintiff.

You can get a copy of Form 2CC from www.justice.govt.nz/civil, your local court, or your lawyer.

If you are making a counterclaim against the plaintiff, please tick the following boxes.

tick box I have filed Form 2CC against the plaintiff at court.

tick box I have attached a copy of Form 2CC to this form.

▶ Section 6: Your signature

6A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.

I believe that the facts I have stated in this response by defendant are true and correct.

Signature: _____

Keep a copy of this form, and any other forms you receive, for your own records.

Full name and address: _____

Position or office held: _____

This only applies if you are signing on behalf of a registered company, trust, society, incorporation, or estate

Date: _____

More information about the claim process

The claim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed on the first page of this form.

You can find out more about the claim process at www.justice.govt.nz/civil.

Why do you have to go through this process?

By going through the claim process, you might be able to settle the claim without going through the court system.

If you go through the claim process and don't settle the claim, the court will then have an accurate record of all the facts of the claim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.