

Response by plaintiff (for counterclaim)

Notes for plaintiff

What this form is for

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

This form tells the defendant 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 **plaintiff**.

The person making the counterclaim against you is the **defendant**.

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 plaintiff).
2. Fill in **all** 5 sections of the form, beginning on page 5.

What to do when you have completed this form

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

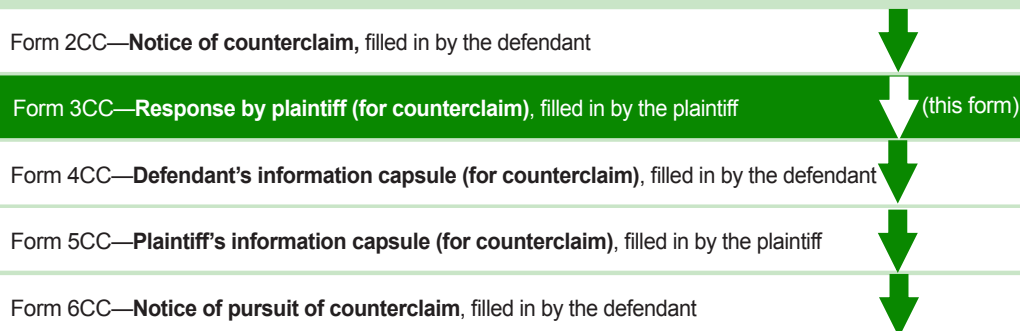
See instructions for how to serve forms on the next page.

Before you serve this form on the defendant, 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 counterclaim process

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



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 the original claim is against. The defendant is the person who makes a counterclaim

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 (for counterclaim)

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

jurisdiction

the court's authority to decide on a claim

plaintiff

the person who made the original claim. A counterclaim is against the plaintiff

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 with 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 plaintiff (for counterclaim)

Further information for **plaintiff**

Who can sign this form

You can sign this form if:

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

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

How to serve forms

You must serve this form on the defendant 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 2CC—**Notice of counterclaim** from the defendant. If you do not serve this response within 30 working days, the court may decide you have to pay or give the defendant what they claimed in Form 2CC (this is called 'judgment').

What if the defendant sends you their response late

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

Response by plaintiff (for counterclaim)

Notes for defendant

Why you have received this form

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

The person you are making the counterclaim against is the **plaintiff**.

You are the **defendant**.

What to do next if you are the defendant

You must serve an information capsule on the plaintiff within 30 working days. An information capsule tells the plaintiff 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 plaintiff, fill in Form 4CC—**Defendant's information capsule (for counterclaim)**. You can get a copy of Form 4CC from www.justice.govt.nz/civil, your local court, or your lawyer.



What happens if you do not respond to the plaintiff

If you do not respond to this response by plaintiff (for counterclaim) **within 30 working days**, your counterclaim will end. You can start a new claim by filling in Form 2—**Notice of claim** 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 counterclaim process.

Other forms in the counterclaim process

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

Form 2CC—**Notice of counterclaim**, filled in by the defendant

Form 3CC—**Response by plaintiff (for counterclaim)**, filled in by the plaintiff (this form)

Form 4CC—**Defendant's information capsule (for counterclaim)**, filled in by the defendant

Form 5CC—**Plaintiff's information capsule (for counterclaim)**, filled in by the plaintiff

Form 6CC—**Notice of pursuit of counterclaim**, filled in by the defendant

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counterclaim

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defendant

the person who the original claim is against. The defendant is the person who makes a counterclaim

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 (for counterclaim)

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

jurisdiction

the court's authority to decide on a claim

plaintiff

the person who made the original claim. A counterclaim is against the plaintiff

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

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

▶ Section 1: Plaintiff's details

1A Plaintiff's name

- Write your 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: _____

1B Plaintiff's trading name

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

Trading name: _____

1C Plaintiff's address for service

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

Street address: _____

1D Plaintiff'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 Plaintiff'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 counterclaim on your behalf, write their details here, including the name of their firm.

Name of plaintiff's lawyer

Name: _____

Firm: _____

Contact details of plaintiff's lawyer for serving forms

Street address: _____

PO Box: _____

Document exchange box: _____

Phone number: _____

Other phone number: _____

Fax number: _____

Email address: _____

Section 2: Defendant's details

Copy the information from Form 2CC—**Notice of counterclaim** (Section 1), which you received from the defendant.

2A Defendant's name

- Write the defendant's 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: _____

2B Defendant's trading name

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

Trading name: _____

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

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

3A Choose 1 of the following 4 options.

Option 1

tick box

You agree with the defendant’s counterclaim 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 defendant. Then go to Section 5 ‘Your signature’.

I agree with the defendant’s counterclaim in full and will give them the payment or compensation they have asked for.

I will give the defendant...

Option 2

tick box

You agree with the defendant’s counterclaim 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 defendant. Explain why you are offering a different payment or compensation. Then go to Section 5 ‘Your signature’.

I agree with the defendant’s counterclaim in full, but I want to give them the following payment or compensation.

I will give the defendant...

Because...

Option 3

tick box

You do not agree with the defendant’s counterclaim.

If you choose option 3, write down the details of why you do not agree with the defendant’s counterclaim. Then complete Sections 4 and 5.

I do not agree with the defendant’s counterclaim because...

Option 4

tick box

You agree with part of the defendant's counterclaim and disagree with part of the defendant's counterclaim.

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

I agree with the following parts of the defendant's counterclaim...

I disagree with the rest of the defendant's counterclaim because...

Reason 1

Legal references (if any):

▶ **Section 4:** Your description of the facts of the counterclaim, 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 counterclaim from your point of view?

State concisely the facts of the counterclaim 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 defendant’s notice of counterclaim if you think you will rely on these facts if the counterclaim goes to court. Refer to Form 2CC—**Notice of counterclaim** (Section 3).

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

- What is the connection between you and the defendant?
- Does the defendant 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 defendant? What terms from that contract are relevant to this counterclaim?
- What happened? Why do you disagree with the defendant’s counterclaim? (Include relevant dates, times, places, and other similar details.)
- Are there any facts stated in the notice of counterclaim 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 4A continued...

Fact 3

Fact 4

Fact 5

Continue on a separate sheet of paper if you need to. Write the ‘file reference number’ (from the top of page 5) on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included _____ extra sheets of paper for section 4A.
Write the number of extra sheets

Section 4B continued...

Fact 3

Fact 4

Fact 5

Continue on a separate sheet of paper if you need to. Write the 'file reference number' (from the top of page 5) on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included _____ extra sheets of paper for Section 4B.

Write the number of extra sheets

Section 5: Your signature**5A** 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 plaintiff (for counterclaim) 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 counterclaim process

The counterclaim 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 counterclaim process at www.justice.govt.nz/civil.

Why do you have to go through this process?

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

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

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