

# Notice of claim

## Notes for plaintiff

### What this form is for

Use this notice of claim form to make a civil claim in the District Court. A notice of claim tells the defendant and the court what your claim is about.

### Who needs to fill in this form

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

The person you are making the claim against 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 1–3 (the notes pages for you, the plaintiff) and the blank page.
2. Fill in **all** 5 sections of the form, beginning on page 7.

### What to do when you have completed this form

1. File the form at a District Court and pay a fee. Give the court the original copy plus 1 photocopy for each defendant.
2. Serve the form on the defendant when the court returns the defendants' copies to you.

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

For more information about fees for filing forms, go to [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil).

Before you serve this form on the defendant, you must remove the front 3 pages. These pages are for your information only.

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

#### 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

#### defendant

the person who a claim is against

#### file

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

#### 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

#### serve personally

to take documents about a claim to the plaintiff or defendant and give the documents to them

#### 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

### 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



(this form)

Form 3—**Response by defendant**, filled in by the defendant



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

### 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](http://www.justice.govt.nz/civil)

# Notice of claim

## Further information for **plaintiff**

### Who can sign this form

You can sign this form if:

- you are making the claim 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 making the claim.

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

### How to file and serve forms

#### Filing a form at court

You must file this notice of claim form at a District Court. Give the court the original copy plus 1 photocopy for each defendant. For example, if there are 2 defendants, file the original plus 2 photocopies. The court will return the defendants' copies of the form to you.

You can take or send the form to the Registrar at any one of the following courts, unless the court or Registrar has told you the form must be filed at a different court:

- the court nearest to where the defendant lives or where their business is (if the defendant is not a New Zealand resident and does not have a business in New Zealand, send the form to any District Court in New Zealand)
- the court nearest to the place where the actions that led to the claim happened (for example, this might be in a different town or city from where you live)
- the court nearest to the property the claim is about.

For up-to-date information about the fee for filing a notice of claim and court locations, go to [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil).

#### Serving a form on a defendant

*Serve the form in person.* You must 'serve personally' this notice of claim on the defendant. The court will return the defendants' copies of this form to you. You serve the form on the defendant by taking a copy of the form to the defendant and giving it to the defendant.

The form must be brought to the defendant's personal attention (for example, you cannot just put it in their letterbox).

You can get someone else to serve the form for you (for example, your lawyer, a friend, or a member of your whānau).

# Notice of claim

## Further information for **plaintiff** continued...

*Serve separate copies for each defendant.* You must 'serve personally' separate copies of the form on each defendant—even if they live at the same address.

*Serve the form within 12 months.* You must serve this notice of claim on the defendant no more than 12 months after you file it at the District Court. If you do not serve your notice of claim within 12 months, your claim will end.

*Serving a form on a defendant who lives overseas.* If the defendant lives overseas, you must 'serve personally' this form and Form G6—**Notice to defendant served overseas**. For more information about serving forms on overseas defendants, and to get a copy of Form G6, go to [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil), your local District Court, or your lawyer.

### **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 3—**Response by defendant** (the next form in the process). If the defendant is late sending you their response, you can apply for the court to judge the claim in your favour by filling in Form 6A—**Application for judgment**.

You can get a copy of Form 6A from [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil), your local court, or your lawyer.

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# Notice of claim

## Notes for defendant

### Why you have received this form

You have received this completed notice of claim form because someone (the plaintiff) wants to make a civil claim against you in the District Court. This notice of claim tells you and the court what the plaintiff's claim is about.

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

You are the **defendant**.

### What to do next if you are the defendant

You must respond to this notice of claim within 30 working days. To respond to the plaintiff, fill in Form 3—**Response by defendant**. You can get a copy of Form 3 from [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil), your local District Court, or your lawyer.



### What happens if you do not respond to the plaintiff

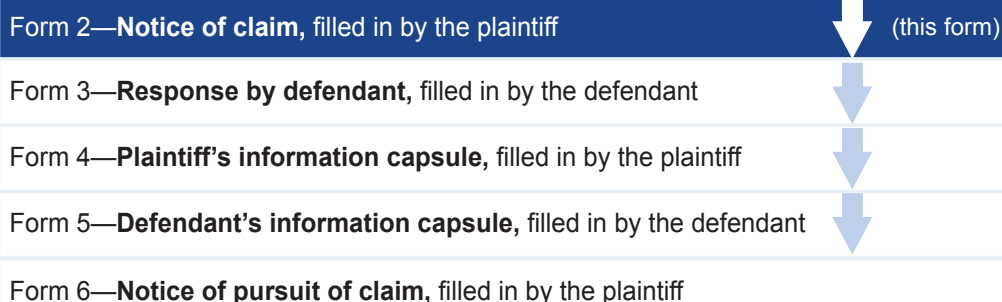
If you do not respond to this notice of claim **within 30 working days**, the court may decide you have to pay or give the plaintiff what they are claiming in this form (this is called 'judgment').

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.



#### 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

#### defendant

the person who a claim is against

#### file

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

#### 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

#### serve personally

to take documents about a claim to the plaintiff or defendant and give the documents to them

#### 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](http://www.justice.govt.nz/civil)

# Notice of claim

## Further information for defendant

### How to get legal advice

You may want to employ a lawyer to advise you. If you decide to employ a lawyer, you should do so as soon as possible.

If you cannot afford a lawyer, you may be eligible for legal aid. To find out about legal aid, contact the staff at your local Legal Services Agency, Citizens Advice Bureau or Community Law Centre, or approach a lawyer or legal firm for help.

### What happens if you are an overseas resident

If you live outside of New Zealand, you should have received Form G6—**Notice to defendant served overseas** as well as this form. Form G6 sets out your options as an overseas resident. See [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil) for more information.

### What if you think the District Court is not the proper place to decide on this claim

You may think the District Court is not the proper court or place to decide on the plaintiff's claim (this is called 'protest to jurisdiction'). For example, you may think the case should be heard by:

- another court (such as the High Court, Family Court, Employment Court, or Environment Court)
- a court in another country
- a tribunal (such as the Tenancy Tribunal)
- an arbitrator.

If you want to protest the District Court's jurisdiction for this claim, you must file and serve Form G7—**Appearance under protest to jurisdiction**, instead of serving Form 3. You can get a copy of Form G7 from [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil), your local District Court, or your lawyer.

Filed at: \_\_\_\_\_ File reference number (CIV): \_\_\_\_\_  
*Name of District Court where you are filing this form* *The court will fill in this information*

Date filed: \_\_\_\_\_

## ▶ Section 1: Plaintiff's details

If there is more than 1 plaintiff, write their contact details on a separate sheet of paper. (Use a separate sheet for each plaintiff.) Staple any extra sheets to this page. Write the 'file reference number' (from the top of this page) on any extra sheets you use.

I am listing \_\_\_\_\_ plaintiffs.  
*Write the number of plaintiffs*

### 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 claim.

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: \_\_\_\_\_

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**1F Do you have a lawyer?**

If you have a lawyer who is making this claim 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**

If there is more than 1 defendant, write their contact details on a separate sheet of paper. (Use a separate sheet for each defendant.) Staple any extra sheets to this page. Write the 'file reference number' (from the top of page 7) on any extra sheets you use.

I am listing \_\_\_\_\_ defendants.  
*Write the number of defendants*

**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: \_\_\_\_\_

\_\_\_\_\_

**2C Defendant's address for service**

Write down the address of a place in New Zealand where you intend to serve this notice of claim on the defendant.

Note that even if the defendants are at the same address, they each need to be served a copy.

Street address: \_\_\_\_\_

**2D Defendant's postal address**

If the defendant's postal address is different from their address for service in 2C above, write their postal address here.

Postal address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**2E Defendant's contact details**

Write down the defendant's phone and fax numbers and email address if they have one.

Phone number: \_\_\_\_\_

Other phone number: \_\_\_\_\_

Fax number: \_\_\_\_\_

Email address: \_\_\_\_\_

**2F Does the defendant have a lawyer who is dealing with this claim on their behalf?**

If you know the contact details of the lawyer who is dealing with this claim on the defendant's behalf, write them 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 3:** Your description of the facts of the claim, and any supporting legal references

State concisely the facts of your claim underneath each heading below. The question(s) underneath the headings will help you think about your answers for this part of the form.

Underneath each fact, write down any legal references you are relying on to support your claim (give the Act, section, and case).

**3A** Connection between plaintiff and defendant

What is the connection between you and the defendant?  
(For example, the defendant may have agreed to do something for you, or you and the defendant may have had a traffic accident.)

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Legal references, if any (for example, Fair Trading Act 1986, Land Transport Act 1998):

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**Continue on a separate sheet of paper if you need to. Write the 'file reference number' (from the top of page 7) on any extra sheets you use. Staple the extra sheets to the back of this page.**

I have included \_\_\_\_\_ extra pages for section 3A.  
*Write the number of extra pages*

**3B** Details of the duty the defendant owes the plaintiff

What duty does the defendant owe you? What obligation do they have to you?  
(For example, the defendant has a duty to properly complete work on time, or the defendant has a duty to comply with the road rules.)

Was there a contract (an agreement or understanding) between you and the defendant?  
What terms from that contract are relevant to your claim?

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**3D** Facts showing why the defendant should pay or give what is being claimed

What facts justify what you are asking the defendant to do to settle your claim?

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Legal references (if any): 

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**Continue on a separate sheet of paper if you need to. Write the 'file reference number' (from the top of page 7) on any extra sheets you use. Staple the extra sheets to the back of this page.**

I have included 

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 extra sheets of paper for Section 3D.  
*Write the number of extra sheets*

**3E** Loss suffered by plaintiff

What did you lose because of the defendant's actions?

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Legal references (if any): 

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**Continue on a separate sheet of paper if you need to. Write the 'file reference number' (from the top of page 7) on any extra sheets you use. Staple the extra sheets to the back of this page.**

I have included 

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 extra sheets of paper for Section 3E.  
*Write the number of extra sheets*

▶ **Section 4:** What you are asking for from the defendant

**4A** What are you asking the defendant to give you or to do?

Clearly say what you are asking for from the defendant. For example, this could be:

- money, compensation, damages
- or
- things you want the defendant to do, or things you want the defendant to stop doing.

If you are asking for money, write the amount.

I want the defendant to...

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I am asking for the following amount of money from the defendant: \$ \_\_\_\_\_

**4B** Are you also claiming interest?

If you are asking for money from the defendant in 4A above, say here whether you are also claiming interest on that money.

Write down the amount of total interest you are claiming.

As well as the money I am asking for in my claim, I am asking the defendant for \$ \_\_\_\_\_ interest.

Show how you have calculated the interest you are claiming—write down:

- the amount of money you are claiming interest for
- the rate of interest each year
- the period you want the defendant to pay interest for.

Then write down the legal basis for the interest you are claiming. For example, you may have a contract that says how much interest you can charge if the contract is breached.

I calculated this amount of interest as follows...

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The legal basis for the interest I am claiming is...

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**4C** What costs and expenses are you claiming?

Write your costs and expenses below.

I claim \$ \_\_\_\_\_ for the filing fee on this claim.

I claim \$ \_\_\_\_\_ for serving this form.

I claim \$ \_\_\_\_\_ for preparing this form (if prepared by a lawyer).

**Total** \$ \_\_\_\_\_

**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 notice of claim 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](http://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.