

## Defendant's information capsule (for counterclaim)

### Notes for defendant

#### What this form is for

Use this information capsule form to tell the plaintiff the most important information about your counterclaim. It is a summary of the information you intend to rely on for your case.

#### Who needs to fill in this form

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

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

Someone else, who is authorised to administer oaths or affirmations, needs to sign this form at the same time as you. An oath is a solemn declaration that something is true.

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

For more information about who can administer oaths, 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 5** sections of the form, beginning on page 5.

For information about what to do when you have completed this form, see 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.

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

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

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

#### 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

##### affidavit

a written statement given under oath

##### 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

##### oath

a solemn declaration that something is true

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

## Defendant's information capsule (for counterclaim)

### Further information for defendant

#### Who can sign this form

You can sign this form if:

- you are making the counterclaim 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 making the counterclaim.

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

#### Who can administer oaths

When you sign this form, you need to get someone to sign the form at the same time as you.

This person must be someone authorised to administer oaths or affirmations—that is any:

- Registrar or Deputy Registrar
- Justice of the Peace
- Community Magistrate
- Notary Public
- lawyer (other than a lawyer who is involved with this claim or counterclaim).

If you are outside New Zealand, you must use someone authorised by the District Courts Rules 2009 to take affidavits outside New Zealand.

For information about where you can find someone authorised to administer oaths, go to [www.justice.govt.nz/civil](http://www.justice.govt.nz/civil).

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

When you have completed your information capsule (this form), you must serve it on the plaintiff. To do this, take or send the completed form to the plaintiff's address for service.

You must serve your information capsule no more than 30 working days after you receive Form 3CC—**Response by plaintiff (for counterclaim)**. If you do not do this 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.

Make sure you have removed the front 2 pages before you serve the form on the plaintiff.

Do not file this form at a court now—that happens later in the counterclaim process. Make sure you keep copies of all forms in the process.

#### 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 5CC—**Plaintiff's information capsule (for counterclaim)** (the next form in the process). If the plaintiff is late sending you their response, you can apply for the court to judge the counterclaim in your favour by filling in Form 6CCA—**Application for judgment (for counterclaim)**.

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

## Defendant's information capsule (for counterclaim)

### Notes for plaintiff

#### Why you have received this form

You have received this completed defendant's information capsule (for counterclaim) to tell you what information the defendant intends to rely on for their case.

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

You are the **plaintiff**.

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

If you disagree with the defendant's counterclaim after you receive this information capsule, you must complete your own information capsule, putting your side of the case in writing.

You must respond within 30 working days. To respond to the defendant, fill in Form 5CC—**Plaintiff's information capsule (for counterclaim)**. You can get a copy of Form 5CC from [www.justice.govt.nz/civil](http://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 defendant's information capsule (for counterclaim) **within 30 working days**, the court may decide you have to pay or give the defendant what they are claiming (this is called 'judgment').

#### What if the defendant has sent you this form late

If the defendant has served this information capsule on you more than 30 working days after you served Form 3CC—**Response by plaintiff (for counterclaim)** on them, the defendant's counterclaim will end. You do not need to fill in Form 5CC.

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.

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

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

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

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

#### Definitions of words used in this form

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##### affidavit

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##### 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

##### oath

a solemn declaration that something is true

##### 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

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#### 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: Defendant's and plaintiff's details

You are providing this defendant's information capsule (for counterclaim) in response to Form 3CC—**Response by plaintiff (for counterclaim)**, which the plaintiff served on you on \_\_\_\_\_  
*Date*

### 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 Plaintiff's name

Copy this information from Form 3CC—**Response by plaintiff (for counterclaim)** (Section 1).

- 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: \_\_\_\_\_  
 \_\_\_\_\_

### 1D Plaintiff's trading name

Copy this information from Form 3CC—**Response by plaintiff (for counterclaim)** (Section 1).

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

Trading name: \_\_\_\_\_  
 \_\_\_\_\_

1E Have you changed your lawyer?

If you have changed your lawyer since you filed Form 2CC—Notice of counterclaim, write the new details here, including the name of their firm.

Name of your lawyer

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Contact details of your lawyer for serving forms

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

PO Box: \_\_\_\_\_

Document exchange box: \_\_\_\_\_

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

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

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

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

Section 2: Your reply to the plaintiff

2A What is your reply to the plaintiff's response in Form 3CC?

List the main points raised by the plaintiff, with your reply to each one underneath. List each reply separately in the spaces below. See Form 3CC—Response by plaintiff (for counterclaim) (Section 4). Provide all necessary facts, legal arguments, and details.

Give the date you received Form 3CC.

Date received: \_\_\_\_\_

Reply 1

The plaintiff raised the following point...

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

My response is...

\_\_\_\_\_  
\_\_\_\_\_

Legal references (if any): \_\_\_\_\_

\_\_\_\_\_

Section 2A continued...

**Reply 2**

The plaintiff raised the following point...

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My response is...

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Legal references (if any):

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**Reply 3**

The plaintiff raised the following point...

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My response is...

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Legal references (if any):

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Section 2A continued...

**Reply 4**

The plaintiff raised the following point...

My response is...

Legal references (if any):

**Reply 5**

The plaintiff raised the following point...

My response is...

Legal references (if any):

**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 2A.  
*Write the number of extra sheets*





▶ **Section 4:** Evidence that supports your counterclaim

**4A** What essential documents are you relying on for your counterclaim?

List each essential document supporting your counterclaim (**not** including the court forms you have filled in). Then describe the documents, giving enough information to show how each document supports your counterclaim.

For each document, write down:

- what the document is
- the date it was written
- who signed it
- the date it was sent or received.

I am relying on the following documents to support my counterclaim...

**Document 1**

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**Document 2**

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**Document 3**

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**Document 4**

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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 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*

4B

What witnesses are you relying on for your counterclaim?

List the witnesses (including yourself) that you intend to rely on if your counterclaim goes to court. Write down the basic outline of what you believe each witness will say.

or I do not intend to call witnesses  tick box

I intend to call the following witness(es) to give evidence to support my counterclaim.

Witness 1

Full name: \_\_\_\_\_

I believe the witness will say...

Multiple horizontal lines for writing the witness statement.

Witness 2

Full name: \_\_\_\_\_

I believe the witness will say...

Multiple horizontal lines for writing the witness statement.

Section 4B continued...

**Witness 3**

Full name: \_\_\_\_\_

I believe the witness will say...

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Witness 4**

Full name: \_\_\_\_\_

I believe the witness will say...

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 and get someone who is authorised to administer oaths to sign the form at the same time as you.

See page 2 for information about who can administer oaths.

To the best of my knowledge, the contents of this information capsule are true and correct.

Signature of defendant:

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

Full name of defendant: \_\_\_\_\_

Sworn/affirmed at: \_\_\_\_\_  
*Write the name of the place*

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

Before me: \_\_\_\_\_  
*Write the name of the person administering the oath*

Authority of person administering oath: \_\_\_\_\_

Signature of person administering oath:

### 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](http://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.