

Defendant's information capsule

Notes for defendant

What this form is for

Use this information capsule form to tell the plaintiff the most important information about your case. 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 making the claim against you 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.

If there is more than 1 defendant, each defendant must fill in their own separate information capsule.

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 the 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.

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.

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

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

Form 5—**Defendant's information capsule**, filled in by the defendant (this form)

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

affidavit

a written statement given under oath

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

oath

a solemn declaration that something is true

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

Defendant's information capsule

Further information for **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.

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).

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.

What to do when you have completed the 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 the form no more than 30 working days after you receive Form 4—**Plaintiff's information capsule** from the plaintiff.

If you do not serve this form within 30 working days, the court may decide you have to pay or give the plaintiff what they claimed in Form 2—**Notice of claim** (this is called 'judgment').

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. 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 90 working days to respond by sending you Form 6—**Notice of pursuit of claim** (the next form in the process). If the plaintiff is late sending you their response, their claim will end.

Defendant's information capsule

Notes for plaintiff

Why you have received this form

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

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 have 2 options for what to do next if you are the plaintiff (see options 1 and 2 below). Whichever option you choose, you must respond within 90 working days.

Option 1: You can take the claim to the District Court by filing Form 6—Notice of pursuit of claim

Option 2: You can settle the claim

For details about these 2 options, see the next page.

What happens if you do not respond within 90 working days

If you do not respond to this defendant's information capsule by either filing Form 6 or settling the claim **within 90 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

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

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Who to contact if you need help

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Defendant's information capsule

Further information for **plaintiff**

Details about your options for what to do next

Option 1: Taking the claim to the District Court

If you do not settle the claim, you can take it to the District Court. To take the claim to court, fill in Form 6—**Notice of pursuit of claim**. You can get a copy of Form 6 from www.justice.govt.nz/civil, your local court, or your lawyer.

Option 2: Settling the claim

You can choose to settle your claim against the defendant (agree to a compromise with them) without taking your case to court. As soon as possible after you settle the claim, you must file Form G24—**Notice of discontinuance**. You can get a copy of Form G24 from www.justice.govt.nz/civil, your local court, or your lawyer.

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 in response to Form 4—**Plaintiff's information capsule**, 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 4—**Plaintiff's information capsule** (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 4—**Plaintiff's information capsule** (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 served Form 3—**Response by defendant**, 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 description of any additional facts of the claim, and any supporting legal arguments

2A Are there any more facts that you think are essential to this claim that you did not write in Form 3?

Write any additional facts or other details below. You do not need to repeat any facts you already wrote in Form 3—**Response by defendant**.

List each additional fact separately in the spaces below.

Underneath each fact, write down any legal arguments you are relying on to support your case.

Additional fact 1

Legal references (if any): _____

Section 2A continued...

Additional fact 2

Legal references (if any):

Additional fact 3

Legal references (if any):

Additional fact 4

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 3:** Your reply to the plaintiff

3A

What is your reply to the plaintiff's replies in Form 4 (Section 2A)?

Write down your reply to each of the plaintiff's replies from Form 4—**Plaintiff's information capsule** (Section 2A). **List each reply separately in the spaces below.**

Give the date you received Form 4.

Date received: _____

Reply 1

Legal references (if any): _____

Reply 2

Legal references (if any): _____

Reply 3

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 3A.
Write the number of extra sheets

▶ **Section 4:** Evidence that supports your defence of the plaintiff's claim

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

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

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 defence...

Document 1

Document 2

Document 3

Document 4

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

This page has been left blank deliberately

▶ Section 6: Your signature**6A****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 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.