Guidance on Using the Statement of Defence and Counterclaim Template

About the statement of defence and counterclaim

Use this form if you have been served with a claim in the District Court, and you wish to both defend the claim AND counterclaim against the plaintiff. You must file in the court and serve on the plaintiff a Statement of Defence and Counterclaim within the timeframe specified on the notice of proceedings. This is usually within 25 working days of being served (or 30 working days if you were served outside New Zealand).

In your Statement you must address each allegation raised by the plaintiff in their statement of claim. You must also outline your counterclaim, including a description of the cause of action of the counterclaim, a description of the order sought from the Court, and details of the amount claimed, including details as to the basis for any interest claimed.

The Statement of Defence and Counterclaim must be filed in the District Court in which the plaintiff filed their statement of claim.

The Statement of Defence and Counterclaim must be accompanied by a list of Documents Relied On (Form 6).

How to use the template

All the required fields are set out in the template on the following two pages.

The sections that you have to fill out are marked with red text. The red text explains what you need to put in. These are fillable form fields, so click on the red text and start typing. The red text will be replaced by the content that you type. If you want to leave the field blank, just enter a space.

The blue text is explanatory notes. Delete these notes before printing the form.

Formatting your form

Before printing the form, check that the pages are numbered. Numbering should start at page 1 on the page after the cover page (i.e. the cover page should not be numbered). The template is set up to automatically number the pages in this matter.

You may print the form either single or double-sided. However, the cover sheet must not be double sided. If you print double sided you must adjust the margins as follows:

* In the “Margins” section in Word, select “Custom Margins”. In the box that pops up, find the field called “Multiple pages”. Select “Mirror Margins” from the dropdown menu, and click OK.
* The wide margin should now be on the left of every front page, and on the right of every reverse page.

Once you have completed the form, print and sign it.

In the District Court

Choose an item. Registry

No: Enter the CIV number (court reference number) if known.

Under the: Enter the Act under which the proceeding is being brought (for example, “Fair Trading Act 1986”). Delete this line if not applicable.

In the matter of Enter in a few words what the dispute is about. For example, “a breach of contract”.

Between: Plaintiff’s full name, address and occupation.

(plaintiff and counterclaim defendant)

And: Defendant’s full name, address and occupation.

(defendant and counterclaim plaintiff)

Note: if there are more than two parties involved, list their names, addresses and occupations in the format above.

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Next event date: Next court event date (if known). Delete this line if unknown.

Judicial officer: Judge hearing the next event (if known). Delete this line if unknown.

Fill out the option that applies and delete the other option. **NOTE: enter enough lines above so this section is at the bottom of the cover page.**

For an individual: Filed by Person’s name, the Your role in proceedings, e.g. “defendant” in person.

OR; for an organisation: Filed by Person’s name, an authorised officer for the Your organisation’s role in proceedings, e.g. “defendant”, Enter the name of the organisation.

**The defendant says:**

Note: if there is more than one defendant, specify which defendant you are; e.g. “second defendant”.

Here respond separately to everything claimed in the Statement of Claim. You must either admit or deny each individual allegation made in the statement of claim (but you do not need to address an allegation that affects another defendant, but not you). If you do not deny an allegation it will be treated as being admitted.

If you deny an allegation you must not be evasive and points must be answered in substance. You must give particulars of time, place, amounts, names of persons, nature and dates of instruments, and other circumstances sufficient to inform the court, the plaintiff, and any other parties of your defence.

Please number each paragraph.

**The defendant counterclaims:**

**Background to cause(s) of action:**

Here specify the facts, in chronological order, that led to the cause/s of action for your counterclaim against the plaintiff. Please number each paragraph.

**Cause(s) of action:**

Here state your ground for bringing legal proceedings against the plaintiff. Please number each paragraph.

**Application for relief**

On the above basis the plaintiff seeks the following relief or remedy:

Here specify the order/s that you want the court to make. Please number each paragraph.

Date: Enter date here (may be handwritten)

Signature: (sign here)

Name: Enter your name. If you are signing on behalf of an organisation, also state your role within the organisation and state whether you are an authorised signatory

Note: Please **complete one** of the following two options, and **delete** the option that does not apply. (If a solicitor is filing the document, see Form 12 of the Schedule).

If you are an individual:

This document is filed by the role in proceedings, e.g. “defendant” in person. The address for service of the role in proceedings, e.g. “defendant” is address.

If you are an organisation:

This document is filed by name of person filing document, an authorised officer for the role in proceedings, e.g. “defendant”. The address for service of the role in proceedings, e.g. “defendant” is address.