

Application for judgment (for counterclaim)

Notes for defendant

What this form is for

Use this form if you want the court to judge your counterclaim in your favour because the plaintiff has not returned their documents or information in time (this is called 'applying for judgment').

For more information about applying for judgment, see the next page.

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**.

Fill in this form if:

- it has been more than 30 working days since you served Form 2CC—**Notice of counterclaim** on the plaintiff and you have not received Form 3CC—**Response by plaintiff (for counterclaim)** from them

or

- it has been more than 30 working days since you served Form 4CC—**Defendant's information capsule (for counterclaim)** on the plaintiff and you have not received Form 5CC—**Plaintiff's information capsule (for counterclaim)** from them.

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

How to fill in this form

- Remove pages 1–3 (the notes pages for you, the defendant) and the blank page.
- Fill in **all 4** sections of the form, beginning on page 5. Note: you **must** swear or affirm one of the affidavits in Section 3.

For more information about how to swear or affirm an affidavit and what to do when you have completed this form, see the next 2 pages.

For more information about fees for filing forms, go to www.justice.govt.nz/civil.

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



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

or

Form 6CCA—**Application for judgment (for counterclaim)**, filled in by the defendant (this form)

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

disbursements

an expense paid by the plaintiff, including filing fees, fees for serving forms, and photocopying fees

file

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

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

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 (an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant)

uncontested counterclaim

a counterclaim started by the defendant that the plaintiff does not respond to in time

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

Application for judgment (for counterclaim)

Further information for defendant

Information about applying for judgment

Judgment (for counterclaim) is a process that deals with uncontested counterclaims (that is, when a defendant starts a counterclaim, but the plaintiff does not respond in time).

If you have not received Form 3CC from the plaintiff

To get judgment, you can file Form 6CCA from the 31st working day after you served Form 2CC—**Notice of counterclaim** on the plaintiff. You must file this application for judgment (for counterclaim) no more than 90 working days after you served Form 2CC on the plaintiff.

If you have not received Form 5CC from the plaintiff

To get judgment, you can file Form 6CCA from the 31st working day after you served Form 4CC—**Defendant's information capsule (for counterclaim)** on the plaintiff. You must file this application for judgment (for counterclaim) no more than 90 working days after you served Form 4CC on the plaintiff.

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.

How to swear or affirm an affidavit

You must swear or affirm one of the affidavits in Section 3 of this form. An affidavit is a written statement that you have sworn or affirmed is true in front of a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge.

For information about where you can find one of these people, go to www.justice.govt.nz/civil.

You can swear an affidavit on the Bible, or another religious book such as the Koran, **or** you can affirm an affidavit by solemn declaration.

It is a criminal offence to knowingly swear or affirm a false affidavit.

If you do not swear or affirm your affidavit and complete and file this form, the court cannot continue with your counterclaim.

Application for judgment (for counterclaim)

Further information for **defendant** continued...

What to do when you have completed this form

1. File the form at the same District Court where the plaintiff filed Form 2, and pay a fee.
2. File copies of Forms 3CC and 4CC (if you have sent or received them) at the same time as you file this form.

How to file a form at court

To file Form 6CCA, send or take the original form (including the sworn or affirmed affidavit) to the Registrar at the same District Court where the plaintiff filed Form 2—**Notice of claim**, and pay the required fee.

You must also file copies of Forms 3CC and 4CC (if you have sent or received them) with Form 6CCA.

For up-to-date information about the fee for filing an application for judgment, go to www.justice.govt.nz/civil.

What happens if you do not file this form within 90 working days

You must file this application no more than 90 working days after you served Form 2CC—**Notice of counterclaim** or Form 4CC—**Defendant's information capsule (for counterclaim)** on the plaintiff. If you do not file this form within 90 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.

This page has been left blank deliberately

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

▶ **Section 1: Defendant's costs and disbursements**

1A Memorandum of costs and disbursements

List the lawyer's fees and other expenses (disbursements) you have paid during the claim process in the spaces below. Then add them together and fill in the total amount.

Attach invoices for the amounts you are listing (for example, attach invoices from your lawyer, your interpreter, the court, or a printing shop).

I (the defendant) am now applying for judgment (for counterclaim). I am claiming the following costs and disbursements.

Costs (lawyer's fees only):

\$ _____
To be completed by your lawyer

Disbursements (expenses you have paid during the claim process, including filing fees, fees for serving forms, and photocopying fees):

\$ _____
Include your costs and expenses from Form 2CC (Section 4C) as well as any expenses you have paid since then

Total costs and disbursements:

\$ _____
Add the 2 amounts given above

1B Reasons for fees and expenses

Where appropriate, give reasons for the fees and expenses you have listed in 1A above. For example, you may have a contract that says you are entitled to full lawyer and client costs, or you may have paid an interpreter to help you with the forms.

To be completed by the court

Costs and disbursements approved as in the memorandum.

or

Costs and disbursements as fixed _____

Date: _____

Signature: _____

(Registrar/Deputy Registrar) *[delete as appropriate]*

▶ **Section 2:** Your signature

2A

Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.

Signature of defendant:

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:

▶ **Section 3:** Affidavit

3A Swear the appropriate affidavit

You must fill in one of the affidavits below (option 1 or option 2), then get a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge to swear or affirm that your affidavit is true and sign below.

Cross out whichever affidavit you do not fill in.

Option 1—You have not received Form 3CC from the plaintiff

Use this affidavit if it has been more than 30 working days since you served Form 2CC—**Notice of counterclaim** on the plaintiff and you have not received Form 3CC—**Response by plaintiff (for counterclaim)** from them.

I _____
Your full name and occupation

of _____
Your address

swear an oath/solemnly and sincerely affirm that, after inquiry, to the best of my knowledge and belief:

Form 2CC—**Notice of counterclaim** was filed at _____ District Court
Name of District Court

on _____
Date you filed Form 2CC

Form 2CC—**Notice of counterclaim** was served on the plaintiff _____
Plaintiff's full name

on _____ by _____
Date Form 2CC was served *Name of person who served Form 2CC*

at _____
Place where Form 2CC was served

Form 3CC—**Response by plaintiff (for counterclaim)** was **not** served on me (the defendant)
 by _____
Date

Sworn/affirmed at _____ this _____ day of _____
Place *Day of month* *Month and year*

by _____, before me _____,
Defendant's name *Name of person administering oath or affirmation*

Designation (for example, Deputy Registrar of the District Court at Christchurch)

Signature of person administering oath or affirmation:

Section 3A continued...

Option 2—You have not received Form 5CC from the plaintiff

Use this affidavit if it has been more than 30 working days since you served Form 4CC—**Defendant’s information capsule (for counterclaim)** on the plaintiff and you have not received Form 5CC—**Plaintiff’s information capsule (for counterclaim)** from them.

I _____
Your full name and occupation

of _____
Your address

swear an oath/solemnly and sincerely affirm that, after inquiry, to the best of my knowledge and belief:

Form 3CC—**Response by plaintiff (for counterclaim)** was served on me (the defendant)

on _____
Date

Form 4CC—**Defendant’s information capsule (for counterclaim)** was served on the plaintiff on _____
Date

Form 5CC—**Plaintiff’s information capsule (for counterclaim)** was **not** served on me (the defendant) by _____
Date

Sworn/affirmed at _____ this _____ day of _____
Place Day of month Month and year

by _____, before me _____,
Defendant’s name Name of person administering oath or affirmation

Designation (for example, Deputy Registrar of the District Court at Christchurch)

Signature of person administering oath or affirmation:

► **Section 4: Judgment**

Fill in the information in the judgment below. If the court agrees with the amounts you are claiming, the court Registrar or Deputy Registrar will sign and date the judgment and seal it.

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

Defendant's name: _____

Defendant's address: _____

Defendant's occupation: _____

Plaintiff's name: _____

Plaintiff's address: _____

Plaintiff's occupation: _____

Because the plaintiff has not served Form 3CC—**Response by plaintiff (for counterclaim)**/ Form 5CC—**Plaintiff's information capsule (for counterclaim)** *[delete as appropriate]* on the defendant, the court makes the following judgment.

The plaintiff must pay the defendant:

\$ _____
Write the amount you are claiming from Form 2CC (Sections 4A and 4B)
 (add the amount of money from 4A to the amount of interest from 4B)

and:

\$ _____ for costs.
Copy the total costs and disbursements from Section 1A of this form

Total amount the plaintiff must pay the defendant:

\$ _____
Add the 2 amounts given above

To be completed by the court

Date: _____

Signature: _____
 (Registrar/Deputy Registrar) *[delete as appropriate]*

Sealed: _____
Date