

IN CONFIDENCE

**District Courts (General)
Amendment Rules 2011**

Governor-General

Order in Council

At Wellington this day of 2011

Present:
in Council

Pursuant to section 122 of the District Courts Act 1947, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Chief District Court Judge and at least 2 members of the Rules Committee established under section 51B of the Judicature Act 1908 (of whom at least 1 was a District Court Judge), makes the following rules.

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**District Courts (General) Amendment
Rules 2011**

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and 7**

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Rules

- 1 Title**
These rules are the District Courts (General) Amendment Rules 2011.
- 2 Commencement**
These rules come into force on the 28th day after the date of their notification in the *Gazette*.
- 3 Principal rules amended**
These rules amend the District Courts Rules 2009.
- 4 Interpretation**
Rule 1.9 is amended by inserting the following after rule 1.9.3:
“1.9.4 In these rules, a reference to the time fixed, ordered, or allowed for taking any action is subject to any order made under rule 1.18.”
- 5 Extending and shortening time**
Rule 1.18 is amended by inserting the following after rule 1.18.2:
“1.18.2A To avoid doubt, a proceeding does not come to an end just because the time allowed by rule 2.10, 2.14, 2.17, 2.39, 2.47, or 3.40, or any other rule for taking any action in that proceeding expires, if that time is later extended under rule 1.18.2.”
- 6 General requirements**
Rule 1.24 is amended by inserting the following after rule 1.24.7:
“1.24.8 A document required by these rules for which a form is specified (either in these rules or in a High Court Rule applied

for the purpose of these rules) must, in addition, have a cover sheet that complies with rules 1.29 to 1.32.”

7 Overview of notice of claim procedure

The diagram in rule 2.2 is revoked and the diagram set out in Schedule 1 substituted.

8 How to start claim, and procedure that applies

Rule 2.3.3 is amended by adding “or these rules otherwise provide”.

9 Defendant to serve response on plaintiff within 30 working days, and opportunity to apply for rule 2.7 order

- (1) The heading to rule 2.12 is amended by omitting “30” and substituting “20”.
- (2) Rule 2.12.1 is amended by omitting “30” and substituting “20”.

10 Plaintiff to serve information capsule on defendant within 30 working days

- (1) The heading to rule 2.14 is amended by omitting “30” and substituting “20”.
- (2) Rule 2.14.1 is amended by omitting “30” and substituting “20”.
- (3) Rule 2.14 is amended by inserting the following after rule 2.14.3:

“2.14.3A The plaintiff must, as soon as practicable and at the plaintiff’s cost, give the defendant a copy of each essential document listed or described in the plaintiff’s information capsule that is requested by the defendant.

“2.14.3B A defendant may apply for, and the court may make, an interlocutory order requiring a plaintiff to comply with rule 2.14.3A.”

11 Defendant to serve information capsule on plaintiff within 30 working days

- (1) The heading to rule 2.15 is amended by omitting “30” and substituting “20”.

- (2) Rule 2.15.1 is amended by omitting “30” and substituting “20”.
- (3) Rule 2.15 is amended by inserting the following after rule 2.15.3:
“2.15.3A The defendant must, as soon as practicable and at the defendant’s cost, give the plaintiff a copy of each essential document listed or described in the defendant’s information capsule that is requested by the plaintiff.
“2.15.3B A plaintiff may apply for, and the court may make, an interlocutory order requiring a defendant to comply with rule 2.15.3A.”

12 Overview diagram

The diagram in rule 2.16 is revoked and the diagram set out in Schedule 2 substituted.

13 Third party responses to be served within 30 working days

- (1) The heading to rule 2.22 is amended by omitting “30” and substituting “20”.
- (2) Rule 2.22.1 is amended by omitting “30” and substituting “20”.
- (3) Rule 2.22 is amended by inserting the following after rule 2.22.1:
“2.22.1A A third party must serve an information capsule in form 5 with the third party’s response.”

14 Counterclaim against plaintiff only

- (1) Rule 2.27.2 is amended by omitting “30” and substituting “20”.
- (2) Rule 2.27.3 is amended by omitting “30” in each place where it appears and substituting in each case “20”.

15 Right to give notice

Rule 2.30.2 is amended by omitting “30” and substituting “20”.

16 New heading and rules 2.38A and 2.38B inserted

The following heading and rules are inserted after rule 2.38:

“Amendment of pleadings

“2.38A Filing of amended notice of claim or counterclaim before response served

- “2.38A.1 A pleading that is proceeding under rules 2.10 to 2.17 may be amended only in accordance with this rule.
- “2.38A.2 A plaintiff who has filed and served a notice of claim, but has not been served with a response within the time allowed, may within 10 working days after the last day on which the response was allowed to be served, or later with the leave of the court, file an amended notice of claim and serve a copy of it on every other party.
- “2.38A.3 A defendant who has filed and served a notice of counterclaim, but has not been served with a response within the time allowed, may within 10 working days after the last day on which the response was allowed to be served, or later with the leave of the court, file an amended notice of counterclaim and serve a copy of it on every other party.
- “2.38A.4 If a response has been served, a party may at any time before a trial date is allocated, file an amended pleading and serve a copy of it on every other party.
- “2.38A.5 A party who files an amended pleading after the response has been served must, contemporaneously with filing, serve an appropriately updated information capsule on every other party.
- “2.38A.6 In any case, once a trial date has been allocated, any party may at any time before trial file an amended pleading only—
- “(a) with the leave of the court; or
 - “(b) with the consent of all other parties to the proceeding.
- “2.38A.7 If a claim or counterclaim is amended,—
- “(a) the defendant or plaintiff, as the case may be, may serve a response and that response must be served within 10 working days after the date on which the amendment is filed; and
 - “(b) rules 2.12 to 2.17, 2.27, and 2.28 apply with the necessary modifications.

“2.38B Filing of amended pleading in other cases

“2.38B.1 In any case not provided for in rule 2.38A, a party in a proceeding may at any time before trial file an amended pleading and serve a copy of it on every other party.

“2.38B.2 HCR 7.77 (2) to (8) (filing of amended pleading) apply to the amended pleading.”

17 New rules 2.39 and 2.39A substituted

Rule 2.39 is revoked and the following rules substituted:

“2.39 Application for judgment in case of default, discontinuance, admission of facts, or lack of defence

“2.39.1 A plaintiff who is pursuing a claim under rules 2.10 to 2.17 may apply for judgment if—

- “(a) the defendant does not, within the time allowed,—
 - “(i) serve on the plaintiff the defendant’s form 3 (response by defendant); or
 - “(ii) serve on the plaintiff the defendant’s form 5 (defendant’s information capsule); or
- “(b) the defendant’s form 3 contains an admission of the facts stated in the plaintiff’s form 2 (notice of claim); or
- “(c) the defendant’s form 3 does not disclose any defence to the plaintiff’s form 2.

“2.39.2 A defendant who is pursuing a counterclaim under rules 2.27 or 2.28 may apply for judgment if—

- “(a) the plaintiff does not, within the time allowed,—
 - “(i) serve on the defendant the plaintiff’s form 3CC (response by plaintiff (for counterclaim)); or
 - “(ii) serve on the defendant the plaintiff’s form 5CC (plaintiff’s information capsule (for counterclaim)); or
- “(b) the plaintiff’s form 3CC contains an admission of the facts stated in the defendant’s form 2CC (notice of counterclaim); or
- “(c) the plaintiff’s form 3CC does not disclose any defence to the defendant’s form 2CC.

“2.39.3 A plaintiff who files a statement of claim in accordance with these rules may proceed to judgment if the defendant does

not, within the time allowed, file a statement of defence to the plaintiff's statement of claim.

“2.39.4 When rule 2.39.1 applies,—

- “(a) the plaintiff's proceeding comes to an end if the plaintiff does not file the plaintiff's form 6A (application for judgment) within the time allowed; and
- “(b) then rules 2.17.5 (starting claim again) and 2.17.6 (treated as discontinuance) apply as if the proceeding had come to an end under rule 2.17.

“2.39.5 When rule 2.39.2 applies,—

- “(a) a defendant's counterclaim comes to an end if the defendant does not file the defendant's form 6CCA (application for judgment (for counterclaim)) within the time allowed; and
- “(b) then rules 2.17.5 (starting claim again) and 2.17.6 (treated as discontinuance) apply as if the proceeding had come to an end under rule 2.17.

“2.39.6 A defendant may apply for judgment for costs if the plaintiff's claim is, or is treated as having been, discontinued.

“2.39.7 A plaintiff in a counterclaim may apply for judgment for costs if the defendant's counterclaim is, or is treated as having been, discontinued.

“2.39.8 Part 12 contains the procedure for obtaining judgment under this rule.

“2.39A Applications using forms 6A and 6CCA

A person applies for judgment under rule 2.39 by filing an application together with any other required documents within the time allowed, as specified in the relevant one of the following paragraphs:

- “*Rule 2.39.1(a)(i)—defendant has not served form 3*
“(a) form 6A must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which plaintiff's form 2 served on defendant:
- “*Rule 2.39.1(a)(ii)—defendant has not served form 5*
“(b) form 6A must be filed with the period starting on 21st working day and ending with close of 90th working day

after date on which plaintiff's form 4 served on defendant:

“Rule 2.39.1(b)—defendant admits facts stated in plaintiff's form 2

- “(c) form 6A must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which plaintiff's form 2 served on defendant:

“Rule 2.39.1(c)—defendant's form 3 does not disclose any defence to plaintiff's form 2

- “(d) form 6A and a copy of defendant's form 3 must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which plaintiff's form 2 served on defendant:

“Rule 2.39.2(a)(i)—plaintiff has not served form 3CC

- “(e) form 6CCA must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which defendant's form 2CC served on plaintiff:

“Rule 2.39.2(a)(ii)—plaintiff has not served form 5CC

- “(f) form 6CCA, copy of the plaintiff's 3CC, and copy of defendant's 4CC must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which defendant's form 4CC served on plaintiff:

“Rule 2.39.2(b)—plaintiff admits facts stated in defendant's form 2CC

- “(g) form 6CCA and copy of the plaintiff's form 3CC must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which defendant's form 2CC served on plaintiff:

“Rule 2.39.2(c)—plaintiff's response does not disclose any defence to defendant's form 2CC

- “(h) form 6CCA and copy of the plaintiff's form 3CC must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which defendant's form 2CC served on plaintiff:

“Rule 2.39.6—plaintiff’s claim discontinued

- “(i) form 6A and copy of the defendant’s forms 3 and 5 (if served) must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which defendant’s form 3 or 5 (as the case may be) served on plaintiff:

“Rule 2.39.7—defendant counterclaim discontinued

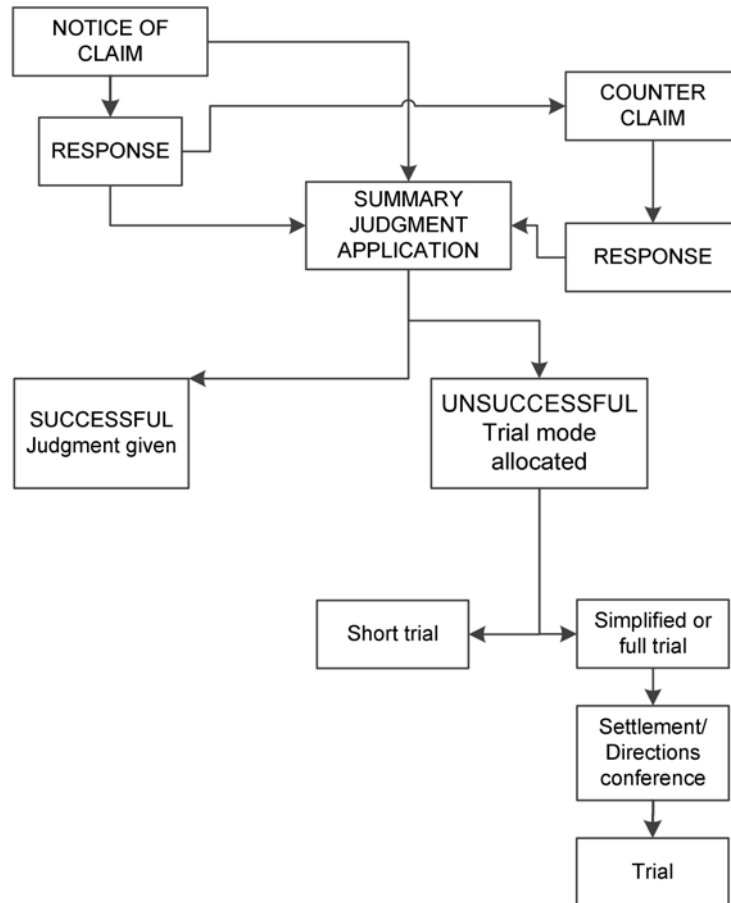
- “(j) form 6CCA and copy of the plaintiff’s form 3CC and 5CC (if served) must be filed within the period starting on 21st working day and ending with close of 90th working day after date on which plaintiff’s form 3CC or 5CC (as the case may be) served on plaintiff.”

18 New rules 2.42 and 2.43 substituted

Rules 2.42 and 2.43 are revoked and the following rules substituted:

“2.42 Summary judgment procedure generally

- “2.42.1 An application for summary judgment must be made by an interlocutory application.
- “2.42.2 The summary judgment procedure under these rules is available—
- “(a) to enforce an agreed settlement arranged under rule 1.7 (mediation or other alternative dispute resolution) or 2.47 (judicial settlement conference) that is not completed as agreed:
 - “(b) to recover a debt under section 23 or 24 of the Construction Contracts Act 2002:
 - “(c) in any other proceedings commenced under these rules other than a proceeding under Part 14 (appeals).
- “2.42.3 In a case proceeding under rule 2.8, summary judgment is available in accordance with the relevant High Court Rules (with any modifications indicated in these rules).
- “2.42.4 The High Court Rules listed in rule 2.43A apply to other aspects of applications for summary judgment under these rules.
- “2.42.5 The summary judgment procedure is not available in proceedings under Part 14 (appeals).
- “2.42.6 The following diagram is a guide to the summary judgment procedure:



“2.43 Procedural requirements relating to summary judgment applications

“2.43.1 A party may file an application for summary judgment,—

- “(a) in a proceeding described in rule 2.42.2(a) (to enforce an agreed settlement), within 20 working days after the date on which the notice of claim or notice of counter-claim is filed, or later with the leave of the court:

- “(b) in a proceeding described in rule 2.42.2(b) (to recover a debt under section 23 or 24 of the Construction Contracts Act 2002), within 20 working days after the date on which the notice of claim or notice of counterclaim is filed, or later with the leave of the court:
 - “(c) in any other proceeding started under these rules in which a response is required to be served, within 20 working days after the date on which the response is served on the plaintiff or counterclaimant (as the case may be), or later with the leave of the court.
- “2.43.2 The following provisions apply on and from the time of filing the application for summary judgment until the application is determined by the court:
- “(a) the application of rules 2.14 to 2.17 is suspended:
 - “(b) time stops running under those rules.
- “2.43.3 The supporting affidavit must, in addition to meeting the requirements of HCR 12.4 (as applied by rule 2.43A of these rules), include all the information that the party would otherwise be required to provide in an information capsule if the operation of rules 2.14 to 2.17 had not been suspended.
- “2.43.4 The notice of opposition required by HCR 12.9 (as so applied) must be filed and served within 15 working days after the date of service of the application for summary judgment.
- “2.43.5 The affidavit in answer required by HCR 12.9 (as so applied) must, in addition to meeting the requirements of HCR 12.9, include all the information that the party would otherwise be required to provide in an information capsule if the operation of rules 2.14 to 2.17 had not been suspended.
- “2.43.6 The affidavit in reply required by HCR 12.11 (as so applied) must be filed and served within 10 working days after the date of service of the notice of opposition.
- “2.43.7 If the court dismisses an application for summary judgment to which rule 2.43.1 applies, the court must, when giving reasons for that dismissal, allocate—
- “(a) a short trial; or
 - “(b) a simplified trial; or
 - “(c) a full trial.
- “2.43.8 If the court allocates a simplified trial or full trial,—

- “(a) the court must convene a judicial directions conference as soon as practicable and rules 2.48.3 to 2.48.7 apply:
- “(b) the court may also convene a judicial settlement conference, and in that case rule 2.47 applies.

“2.43A Particular rules about summary judgment

- “2.43A.1 HCR 12.2—judgment where there is no defence or where no cause of action can succeed.
- “2.43A.2 HCR 12.3—summary judgment on liability.
- “2.43A.3 HCR 12.4—interlocutory application for summary judgment. However, in a case following the procedure under rules 2.12 to 2.17 of these rules, rule 2.43.1 provides when an application may be made.
- “2.43A.4 HCR 12.5—service out of New Zealand.
- “2.43A.5 HCR 12.6—requirements as to notice of proceeding.
- “2.43A.6 HCR 12.7—time for service.
- “2.43A.7 HCR 12.8—postponement of hearing.
- “2.43A.8 HCR 12.9—notice of opposition and affidavit in answer. The notice must be served within the period allowed by rule 2.43 of these rules.
- “2.43A.9 A defendant who has filed both a notice of opposition and an affidavit must, at the same time, file a response in form 3 in the registry of the court in which the notice of opposition and the affidavit were filed.
- “2.43A.10 HCR 12.11—affidavits in reply. The affidavit in reply must be served within the period allowed by rule 2.43 of these rules.
- “2.43A.11 HCR 12.12—disposal of application.
- “2.43A.12 HCR 12.13—time for filing statement of defence on dismissal of plaintiff’s application.
- “2.43A.13 HCR 12.14—setting aside judgment.
- “2.43A.14 HCR 12.15—discontinuance.
- “2.43A.15 HCR 12.16—application to counterclaims. However, HCR 12.1 does not apply.”

19 Review of decision to allocate short trial

Rule 2.46 is amended by inserting the following after rule 2.46.1:

“2.46.1A However, a party has no right to apply for a review of a decision under rule 2.43.7(a) to allocate a short trial (where an application for summary judgment has been dismissed).”

20 Judicial directions conference

Rule 2.48.2 is amended by omitting “simplified trial” and substituting “short trial, simplified trial.”

21 Interlocutory applications

(1) Rule 2.49.2 is amended by omitting “rule 3.61.2” and substituting “rule 3.59.2”.

(2) Item 3 in the table in rule 2.49.3 is revoked.

(3) Rule 2.49 is amended by inserting the following after rule 2.49.3:

“2.49.3A In a proceeding following the procedure under rules 2.10 to 2.17, a party may make an application for summary judgment at any time allowed by rule 2.43.”

(4) Item 1 in the table in rule 2.49.4 is revoked.

22 Interim relief

Rule 3.53 is amended by inserting the following after rule 3.53.2:

“3.53.3 An interlocutory injunction to which section 42(2) of the Act applies (restraining a party to a proceeding from removing from New Zealand, or otherwise dealing with, assets in New Zealand) must be in form 19A (freezing order).

“3.53.4 For the purposes of rule 3.53.3,—

“(a) an application for a freezing order must be made by interlocutory application under rule 3.52:

“(b) HCR 32.2(3) and (5), 32.6(3)–(5), 32.7, 32.8, 32.9, and 32.10 apply with the necessary modifications.”

23 Application of this Part

Rule 6.1.1 is amended by adding the following after paragraph (y):

“(z) sections 140, 210, 211, and 214 of the Unit Titles Act 2010.”

24 Revocation

Rule 12.17 and the heading above rule 12.17 are revoked.

25 Schedule 1 amended

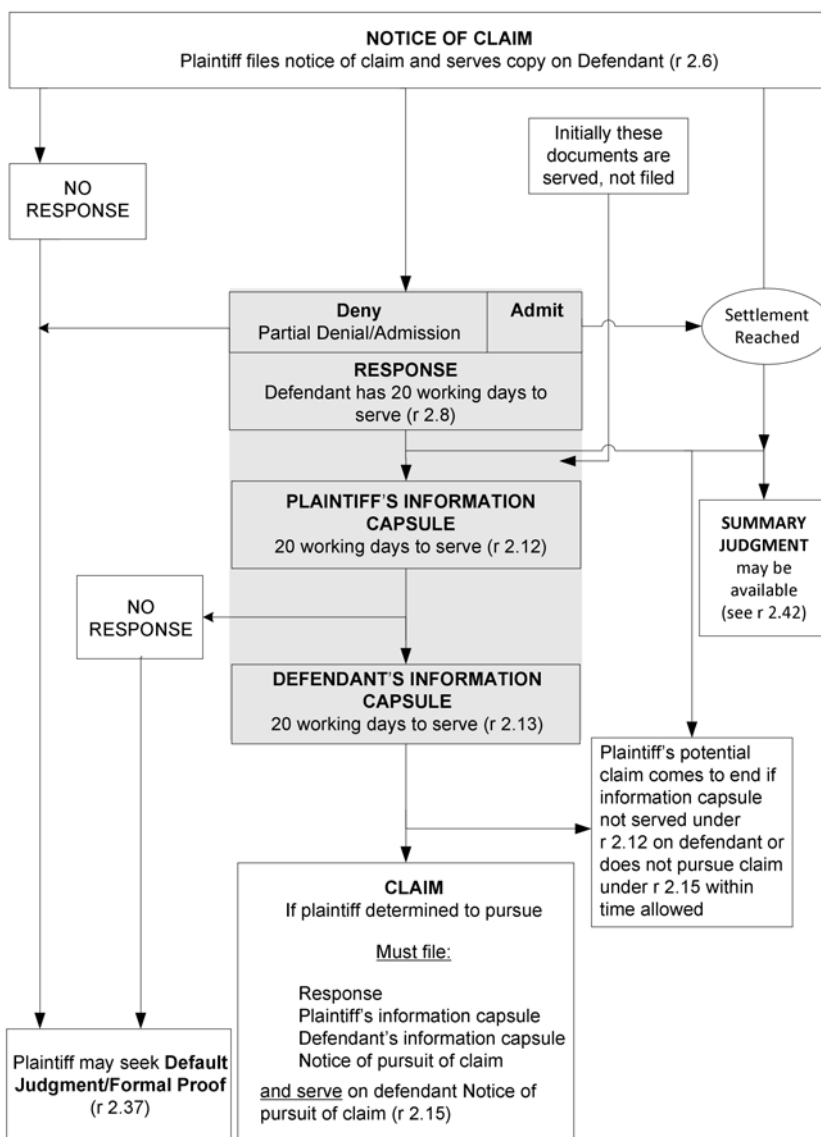
Schedule 1 is amended—

- (a) by revoking forms 2, 2CC, 3, 3CC, 6A, and 6CCA and substituting the forms 2, 2CC, 3, 3CC, 6A, and 6CCA set out in Schedule 3:
 - (b) by inserting, in its appropriate order, form 19A set out in Schedule 3:
 - (c) by amending forms 4, 5, 5CC, 6, 6CC, and 7 in the manner indicated in Schedule 4.
-

Schedule 1
New diagram substituted in rule 2.2

r 7

Notice of Claim Procedure

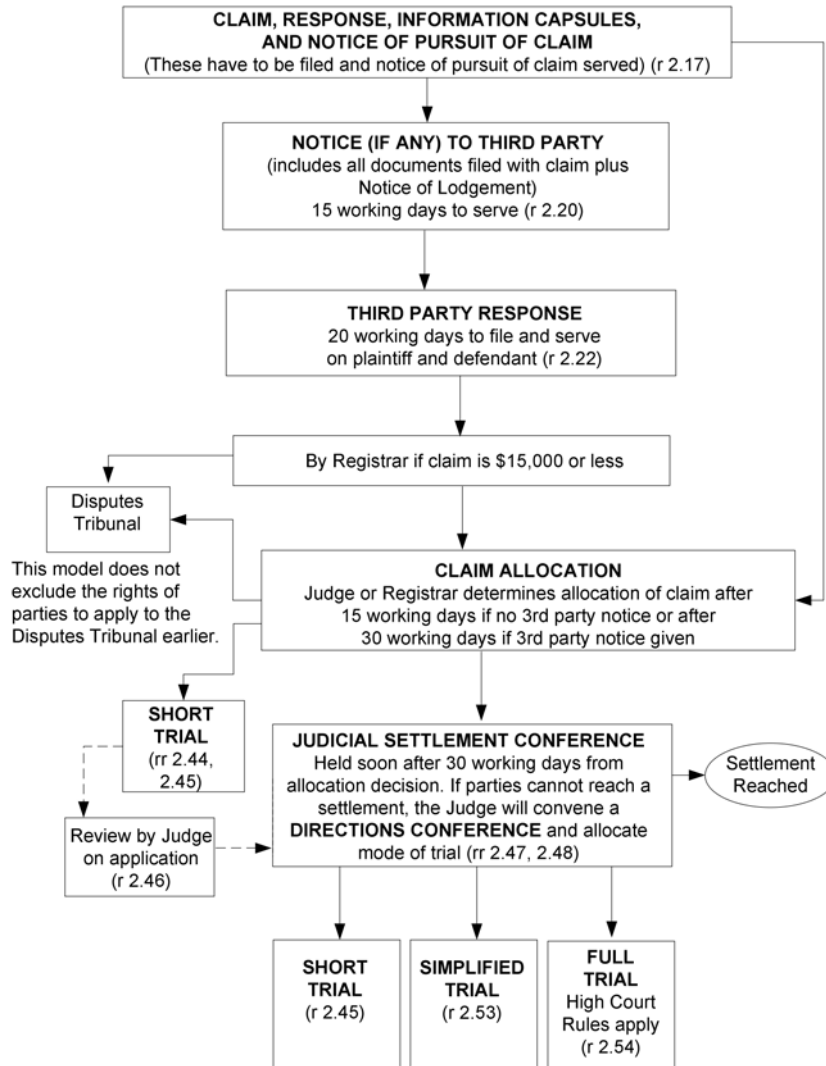


Schedule 2

r 12

New diagram substituted in rule 2.16

Procedure on and after filing Response and Information Capsules



r 25(a), (b)

Schedule 3
New forms 2, 2CC, 3, 3CC, 6A, 6CCA,
and 19A

Note: significant changes are indicated with underlining.

rr 2.10, 2.11

Form 2
Notice of claim
Notes for 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

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 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.

Form 2—*continued*

What this form is for

Use this notice of claim form to make a civil claim in a 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* under Further information for plaintiff.

How to fill in this form

- 1 Remove any notes pages for you, the plaintiff.
- 2 Fill in **all** 5 sections of the form.

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 each defendant when the court returns the defendants' copies to you.

See instructions under **How to file and serve forms**. For more information about fees for filing forms, go to: www.justice.govt.nz/civil. Before you serve this form on the defendant, you must remove the notes 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 claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

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 2—*continued*

Form 6—Notice of pursuit of claim, filled in by the plaintiff

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, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an 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 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.

Form 2—*continued*

Serving form on the 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).

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 G 6 (notice to defendant served overseas). For more information about serving forms on overseas defendants, and to get a copy of form G 6, go to 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 20 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, your local court, or your lawyer.

Form 2—*continued*

Notes for 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

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 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.

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 a 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.

Form 2—*continued*

What to do next if you are the defendant

You must respond to this notice of claim within 20 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, 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 20 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 claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

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

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.

Form 2—*continued***What happens if you are an overseas resident**

If you live outside of New Zealand, you should have received form G 6 (notice to defendant served overseas) as well as this form. Form G 6 sets out your options as an overseas resident.

See 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 G 7 (appearance under protest to jurisdiction), instead of serving form 3. You can get a copy of form G 7 from www.justice.govt.nz/civil, your local District Court, or your lawyer.

Filed at: [*name of District Court where you are filing this form*]

File reference number (CIV): [*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 on any extra sheets you use.

I am listing [*write the number of plaintiffs*] plaintiffs.

Form 2—*continued*

1A Plaintiff's name

Write your full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an 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

If a lawyer is not making this claim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim*.

Street address:

*If a lawyer is making this claim on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

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 telephone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Form 2—*continued*

Email address:

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:

Telephone number:

Other telephone 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 on any extra sheets you use.

I am listing [*write the number of defendants*] 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, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

Form 2—*continued*

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

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 in 2C above, write their postal address here.

Postal address:

2E Defendant's contact details

If you know the defendant's telephone and fax numbers and email address, write them here.

Telephone number:

Other telephone 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 the lawyer's firm.

Name of defendant's lawyer

Name:

Firm:

Contact details of defendant's lawyer for serving forms

Street address:

PO Box:

Form 2—*continued*

Document exchange box:

Telephone number:

Other telephone 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 the 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.)

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

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra pages*] extra pages for section 3A.

3B Details of 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?

Form 2—*continued*

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3B.

3C What happened that led to this claim

What did the defendant do (or not do) that led you to make this claim? (Include relevant dates, times, places, and other similar details.)

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3C.

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?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3D.

3E Loss suffered by the plaintiff

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

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

Form 2—*continued*

I have included [*write the number of extra sheets*] extra sheets of paper for section 3E.

Section 4: What you are asking for from the defendant**4A What are you asking the defendant to give you or to do?**

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

- money, compensation, or 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 [*specify*].

I am asking for the following amount of money from the defendant: \$[*amount*]

4B Are you also claiming interest?

If you are asking for money from the defendant in 4A above, state 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 \$[*amount*] 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: [*specify*]

The legal basis for the interest I am claiming is [*specify*].

Form 2—*continued*

4C What costs and expenses are you claiming?

Write your costs and expenses below.

I claim \$[*amount*] for the filing fee on this claim.

I claim \$[*amount*] for serving this form (estimated).

I claim \$[*amount*] for preparing this form (if prepared by a lawyer).

Total \$[*amount*]

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 of plaintiff:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

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

Notes

More information about 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 in the notes section.

You can find out more about the claim process at:

www.justice.govt.nz/civil.

Form 2—*continued*

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 do not 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.

Form 2CC rr 2.10, 2.11, 2.27, 2.28
Notice of counterclaim
Notes for 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

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

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

jurisdiction: the court's authority to decide on a claim

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 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.

What this form is for

Use this notice of counterclaim form to make your own independent claim against the plaintiff in the District Court. A notice of counterclaim tells the plaintiff and the court what your counterclaim is about.

Form 2CC—*continued***Who needs to fill in this form**

You (or your lawyer) need to fill in this form if you were the defendant in the original claim. You are still called the defendant.

The person you are making this counterclaim against is the person who was the plaintiff in the original claim. They are still called the plaintiff.

For more information about who can sign this form, *see* under Further information for defendant.

How to fill in this form

- 1 Remove any notes pages for you, the defendant.
- 2 Fill in **all** 5 sections of the form.

For information about what to do when you have completed this form, *see* under Further information for defendant.

Before you serve this form on the plaintiff, you must remove the notes 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 counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

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

Form 2CC—*continued*

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, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the counterclaim.

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

What to do when you have completed this form

When you have completed this form, you must file the form at court and serve a copy on the plaintiff.

You must file this notice of counterclaim no more than 20 working days after you receive form 2 (notice of claim) from the plaintiff. You must also serve this form and form 3 (response by defendant) on the plaintiff within 20 working days.

If you do not file form 2CC and serve both form 2CC and form 3 within 20 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.

How to file this form at court

You must file this notice of counterclaim form at the same District Court where the plaintiff filed form 2 (notice of claim), and pay a fee.

Give the court the original copy plus a photocopy (for the plaintiff). The court will return the plaintiff's copy of the form to you.

For up-to-date information about the fee for filing a notice of counterclaim, go to: www.justice.govt.nz/civil.

Form 2CC—*continued***How to serve this form on the plaintiff**

You must serve this form on the plaintiff at the same time as you serve form 3 (response by defendant). You serve the form on the plaintiff by taking or sending a copy to them at their address for service.

What if the plaintiff sends you their response late?

When you serve this form, the plaintiff has 20 working days to respond by sending you form 3CC (response by plaintiff (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, your local court, or your lawyer.

Notes for 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

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

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

jurisdiction: the court's authority to decide on a claim

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,

Form 2CC—*continued*

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.

Why you have received this form

You have received this completed notice of counterclaim form because the defendant in your claim wants to make a counterclaim against you in the District Court. This notice of counterclaim tells you and the court what the defendant’s counterclaim is about.

The person making the counterclaim against you is the defendant. You are the plaintiff.

What to do next if you are the plaintiff

You must respond to this notice of counterclaim within 20 working days. To respond to the defendant, fill in form 3CC (response by plaintiff (for counterclaim)). You can get a copy of form 3CC from www.justice.govt.nz/civil, your local District Court, or your lawyer.

What happens if you do not respond to the defendant

If you do not respond to this notice of counterclaim within 20 working days, the court may decide you have to pay or give the defendant 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 counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—*continued*

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

Further information for plaintiff

What if you think the District Court is not the proper place to decide on this counterclaim?

You may think the District Court is not the proper court or place to decide on the defendant’s counterclaim (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 counterclaim, you must file and serve form G 7 (appearance under protest to jurisdiction), instead of serving form 3CC. You can get a copy of form G 7 from www.justice.govt.nz/civil, your local District Court, or your lawyer.

Filed at: [*copy this information from form 2 (you must file this form at the same District Court where the plaintiff filed form 2)*]

File reference number (CIV): [*copy this information from form 2*]

Date filed:

Form 2CC—*continued*

Section 1: Defendant's details

1A Defendant's name

Write your full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an 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 Defendant's address for service

If a lawyer is not making this counterclaim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim*.

Street address:

*If a lawyer is making this counterclaim on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

1D Defendant'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 Defendant's contact details

Write down your telephone and fax numbers and an email address if you have one.

Form 2CC—*continued*

Telephone number:
Other telephone number:
Fax number:
Email address:

1F Do you have a lawyer?

If you have a lawyer who is making this counterclaim on your behalf, write their details 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:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Plaintiff's details

Copy the information from form 2 (notice of claim, section 1), which you received from the plaintiff.

2A Plaintiff's name

Write the plaintiff's full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

Form 2CC—*continued*

2B Plaintiff's trading name

If the plaintiff in 2A above has a different trading name, write the trading name here.

Trading name:

2C Plaintiff's address for service

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

Street address:

2D Plaintiff's postal address

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

Postal address:

2E Plaintiff's contact details

If you know the plaintiff's telephone and fax numbers and email address, write them here.

Telephone number:

Other telephone number:

Fax number:

Email address:

2F Does the plaintiff have a lawyer who is dealing with this counterclaim on their behalf?

If you know the contact details of the lawyer who is dealing with this counterclaim on the plaintiff's behalf, write them 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:

Form 2CC—*continued*

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 3: Your description of the facts of the counterclaim, and any supporting legal references

State concisely the facts of your counterclaim 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 counterclaim (give the Act, section, and case).

3A Connection between the defendant and plaintiff

What is the connection between you and the plaintiff?

(For example, the plaintiff may have agreed to do something for you, or you and the plaintiff may have had a traffic accident.)

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

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra pages*] extra pages for section 3A.

3B Details of duty the plaintiff owes the defendant

What duty does the plaintiff owe you? What obligation do they have to you?

(For example, the plaintiff has a duty to properly complete work on time, or the plaintiff has a duty to comply with the road rules.)

Was there a contract (an agreement or understanding) between you and the plaintiff?

Form 2CC—*continued*

What terms from that contract are relevant to your counterclaim?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3B.

3C What happened that led to this counterclaim

What did the plaintiff do (or not do) that led you to make this counterclaim?

(Include relevant dates, times, places, and other similar details.)

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3C.

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

What facts justify what you are asking the plaintiff to do to settle your counterclaim?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3D.

3E Loss suffered by the defendant

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

Legal references (if any):

Form 2CC—*continued*

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3E.

Section 4: What you are asking for from the plaintiff**4A What are you asking the plaintiff to give you or to do?**

Clearly state what you are asking for from the plaintiff. For example, this could be—

- money, compensation, or damages:

or

- things you want the plaintiff to do, or things you want the plaintiff to stop doing.

If you are asking for money, write the amount.

I want the plaintiff to [*specify*].

I am asking for the following amount of money from the plaintiff: \$[*amount*]

4B Are you also claiming interest?

If you are asking for money from the plaintiff in 4A above, state 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 counterclaim, I am asking the plaintiff for \$[*amount*] 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 plaintiff 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.

Form 2CC—*continued*

I calculated this amount of interest as follows: [*specify*].
The legal basis for the interest I am claiming is [*specify*].

4C What costs and expenses are you claiming?

Write your costs and expenses below.

I claim \$[*amount*] for the filing fee on this counterclaim.

I claim \$[*amount*] for serving this form (estimated).

I claim \$[*amount*] for preparing this form (if prepared by a lawyer).

Total \$[*amount*]

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 counterclaim are true and correct.

Signature of the defendant:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

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

Notes

More information about 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

Form 2CC—*continued*

the defendant. All the forms in the process are listed in the earlier notes section.

You can find out more about the counterclaim process at:
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 do not 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.

Form 3
Response by defendant
Notes for defendant

rr 2.12, 2.13

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

counterclaim: an independent claim against the person making the original claim

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

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

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.

What this form is for

Use this response by defendant form to respond to a claim made against you in a District Court. You will have received form 2 (notice of claim) from the plaintiff, outlining their version of the facts about the claim.

This form tells the plaintiff and the court your version of the facts.

Form 3—*continued***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. For more information about who can sign this form, *see* under Further information for defendant.

How to fill in this form

- 1 Remove any notes pages for you, the defendant.
- 2 Fill in **all** 6 sections of the form.

What to do when you have completed this form

When you have completed this response by defendant form, you must serve the form on the plaintiff.

See instructions for how to serve forms under Further information for defendant.

Before you serve this form on the plaintiff, you must remove the notes 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 claim process

For more information about the claim process, *see* the notes at the end 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 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

Further information for defendant

Who can sign this form

You can sign this form if—

- you are responding to the claim yourself:

Form 3—*continued*

or

- you are authorised to sign on behalf of the defendant—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is responding to the claim.

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

How to serve forms

You must serve this form on the plaintiff by taking or sending the completed form to them at their address for service.

Do not file this form at a court. Make sure you keep copies of all forms in the process.

Serve the form within 20 working days. You must serve your response no more than 20 working days after you receive form 2 (notice of claim) from the plaintiff. If you do not serve this response within 20 working days, the court may decide you have to pay or give the plaintiff what they claimed in form 2 (this is called judgment).

What if the plaintiff sends you their response late?

When you serve this form, the plaintiff has 20 working days to respond by sending you form 4 (plaintiff's information capsule) (the next form in the process). If the plaintiff is late sending you their response, their claim will end.

What if you admit the facts stated in the plaintiff's form 2?

If you admit the facts stated in the plaintiff's form 2 (notice of claim) under option 1 or option 2 in Section 3 of this form, the plaintiff may apply for judgment under rule 2.39.1 of the District Courts Rules 2009.

Notes for 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

Form 3—*continued*

counterclaim: an independent claim against the person making the original claim

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

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

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.

Why you have received this form

You have received this completed response by defendant form because you have made a claim against someone else (the defendant). This form is the defendant's response to your notice of claim. The form tells you the defendant's version of the facts about the claim.

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 must serve an information capsule on the defendant within 20 working days. An information capsule tells the defendant the most

Form 3—*continued*

important information about your case. It is a summary of the information you intend to rely on for your case.

To respond to the defendant, fill in form 4 (plaintiff's information capsule).

You can get a copy of form 4 from 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 response by defendant within 20 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 claim process

For more information about the claim process, *see* the notes at the end 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 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

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Section 1: Defendant's details

1A Defendant's name

Write your full name.

or

Form 3—*continued*

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an 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 Defendant's address for service

If a lawyer is not making this response on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim*.

Street address:

*If a lawyer is making this response on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

1D Defendant'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 Defendant's contact details

Write down your telephone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Email address:

Form 3—*continued*

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 defendant's lawyer

Name:

Firm:

Contact details of defendant's lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Plaintiff's details

Copy the information from form 2 (notice of claim, section 1), which you received from the plaintiff.

2A Plaintiff's name

Write the plaintiff's full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

2B Plaintiff's trading name

If the plaintiff in 2A above has a different trading name, write the trading name here.

Trading name:

Form 3—*continued***Section 3: Your response to the claim**

See form 2 (notice of claim, section 4), where the plaintiff outlined what they are asking for from you.

3A Choose 1 of the following 4 options.*Option 1*

You admit the facts stated in the plaintiff's form 2, and agree with the claim in full and will give them the payment or compensation they have asked for.

If you choose option 1, write down the details of the payment or compensation you will give the plaintiff. Then go to section 6: Your signature.

I admit the facts stated in the plaintiff's form 2, and agree with the plaintiff's claim in full and will give them the payment or compensation they have asked for.

I will give the plaintiff [specify].

Option 2

You admit the facts stated in the plaintiff's form 2, and agree with the plaintiff's claim in full, but want to give them a different payment or compensation.

If you choose option 2, write down the details of the payment or compensation you want to give the plaintiff. Explain why you are offering a different payment or compensation. Then go to section 6: Your signature.

I admit the facts stated in the plaintiff's form 2, and agree with the plaintiff's claim in full, but I want to give them the following payment or compensation.

I will give the plaintiff [specify] because [specify reasons].

Option 3

You do not agree with the plaintiff's claim.

If you choose option 3, write down the details of why you do not agree with the plaintiff's claim. Then complete sections 4, 5, and 6.

I do not agree with the plaintiff's claim because [specify reasons].

Form 3—*continued*

Option 4

You agree with part of the plaintiff's claim and disagree with part of the plaintiff's claim.

If you choose option 4, write down which parts of the plaintiff's claim you agree with and the details of why you do not agree with the rest of the plaintiff's claim. Then complete sections 4, 5, and 6.

I agree with the following parts of the plaintiff's claim:

I disagree with the rest of the plaintiff's claim because [*specify reason(s) and provide legal references (if any)*].

List each reason separately as Reason 1, Reason 2, and so on and provide legal references (if any).

Reason 1

Legal references

Reason 2

Legal references

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3.

Section 4: Your description of the facts of the claim, and any supporting legal arguments

Fill in this section if you chose option 3 or 4 in section 3.

If you chose option 1 or 2, you do not need to fill in this section.

4A What are the facts of the claim from your point of view?

State concisely the facts of the claim from your point of view. Make sure you write down any facts that were not listed in the plaintiff's notice of claim if you think you will rely on these facts if the claim goes to court. Refer to form 2 (notice of claim, section 3).

Form 3—*continued*

The next section explains how to make counterclaims (your own, independent claims against the plaintiff). Do not list counterclaims here.

The following questions will help you think about your answers for this part of the form:

- what is the connection between you and the plaintiff?
- does the plaintiff owe you a duty to do anything or act in a particular way? If so, why?
- was there a contract (agreement) between you and the defendant? What terms from that contract are relevant to your claim?
- what happened? Why do you disagree with the plaintiff's claim? (Include relevant dates, times, places, and other similar details.)
- are there any facts stated in the notice of claim that you did not know about or could not have reasonably found out about? Why didn't you know these facts?

List each fact separately, as Fact 1, Fact 2, and so on.

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4A.

4B Do you disagree with any facts in the plaintiff's claim?

If you disagree with any part of the plaintiff's notice of claim, state concisely any facts and details that you will rely on in court.

Note that you must list here **all** the facts you disagree with in the notice of claim. The court will assume you agree with any facts that are not listed here.

List each fact separately, as Fact 1, Fact 2, and so on.

Form 3—*continued*

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4B.

Section 5: Your counterclaims against the plaintiff

Fill in this section if you chose option 3 or 4 in section 3, but **only** if you have a counterclaim against the plaintiff. If you chose option 1 or 2, you do not need to fill in this section.

5A Do you have any counterclaims to make against the plaintiff?

Counterclaims are your own, independent claims against the plaintiff. To make a counterclaim, you must—

- file form 2CC (notice of counterclaim) against the plaintiff at court:
- attach a copy of form 2CC to this response by defendant form (form 3) before you serve it on the plaintiff.

You must file form 2CC and serve both form 2CC and form 3 (this form) no more than 20 working days after you receive form 2 (notice of claim) from the plaintiff.

You can get a copy of form 2CC from

www.justice.govt.nz/civil, your local court, or your lawyer.

If you are making a counterclaim against the plaintiff, please select the following paragraphs:

- I have filed form 2CC against the plaintiff at court.
- I have attached a copy of form 2CC to this form.

Form 3—*continued***Section 6: Your signature****6A 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 response by defendant are true and correct.

Signature of defendant:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

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

Notes

More information about 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 near the front 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 do not 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.

Form 3—*continued*

It is important that you keep your own copies of all the forms you send or receive.

Form 3CC rr 2.12, 2.13, 2.27, 2.28
Response by plaintiff (for counterclaim)
Notes for 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

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

jurisdiction: the court's authority to decide on a claim

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 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.

What this form is for

Use this response by plaintiff (for counterclaim) form to respond to a counterclaim made against you in the District Court. You will have

Form 3CC—*continued*

received form 2CC (notice of counterclaim) from the defendant, outlining their version of the facts about the counterclaim.

This form tells the defendant and the court your version of the facts.

Who needs to fill in this form

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

The person making the counterclaim against you is the defendant.

For more information about who can sign this form, *see* under Further information for plaintiff.

How to fill in this form

- 1 Remove any notes pages for you, the plaintiff.
- 2 Fill in **all** 5 sections of the form.

What to do when you have completed this form

When you have completed this response by plaintiff (for counterclaim) form, you must serve the form on the defendant.

See instructions for how to serve forms under Further information for plaintiff.

Before you serve this form on the defendant, you must remove the notes 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 counterclaim process

For more information about the counterclaim process, *see* the notes at the end 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 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 3CC—*continued*

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Further information for plaintiff

Who can sign this form

You can sign this form if—

- you are responding to the counterclaim yourself:
- or*
- you are authorised to sign on behalf of the plaintiff—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is responding to the counterclaim.

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

How to serve forms

You must serve this form on the defendant by taking or sending the completed form to them at their address for service.

Do not file this form at a court. Make sure you keep copies of all forms in the process.

Serve the form within 20 working days. You must serve your response no more than 20 working days after you receive form 2CC (notice of counterclaim) from the defendant. If you do not serve this response within 20 working days, the court may decide you have to pay or give the defendant what they claimed in form 2CC (this is called judgment).

What if the defendant sends you their response late

When you serve this form, the defendant has 20 working days to respond by sending you form 4CC (defendant's information capsule (for counterclaim)) (the next form in the process). If the defendant is late sending you their response, their counterclaim will end.

What if you admit the facts stated in the defendant's form 2CC?

If you admit the facts stated in the defendant's form 2CC (notice of counterclaim) under option 1 or option 2 in Section 3 of this form, the

Form 3CC—*continued*

defendant may apply for judgment under rule 2.39.2 of the District Courts Rules 2009.

Notes for 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

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

jurisdiction: the court's authority to decide on a claim

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 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.

Form 3CC—*continued***Why you have received this form**

You have received this completed response by plaintiff (for counterclaim) form because you have made a counterclaim against the plaintiff. This form is the plaintiff's response to your notice of counterclaim. The form tells you the plaintiff's version of the facts about the counterclaim.

The person you are making the counterclaim against is the plaintiff. You are the defendant.

What to do next if you are the defendant

You must serve an information capsule on the plaintiff within 20 working days. An information capsule tells the plaintiff the most important information about your case. It is a summary of the information you intend to rely on for your case.

To respond to the plaintiff, fill in form 4CC (defendant's information capsule (for counterclaim)). You can get a copy of form 4CC from www.justice.govt.nz/civil, your local court, or your lawyer.

What happens if you do not respond to the plaintiff

If you do not respond to this response by plaintiff (for counterclaim) within 20 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.

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 counterclaim process

For more information about the counterclaim process, *see* the notes at the end 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 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 3CC—*continued*

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

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Section 1: Plaintiff's details

1A Plaintiff's name

Write your full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an 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

If a lawyer is not making this response on your behalf, write down an address of a place in New Zealand where you can receive all documents about this counterclaim*.

Street address:

*If a lawyer is making this response on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

Form 3CC—*continued***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 telephone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Email address:

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:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Defendant's contact details

Copy the information from form 2CC (notice of counterclaim, section 1), which you received from the defendant.

Form 3CC—*continued*

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, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an 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:

Section 3: Your response to the counterclaim

See form 2CC (notice of counterclaim, section 4), where the defendant outlined what they are asking for from you.

3A Choose 1 of the following 4 options.

Option 1

You admit the facts stated in the defendant's form 2CC, and agree with the counterclaim in full and will give them the payment or compensation they have asked for.

If you choose option 1, write down the details of the payment or compensation you will give the defendant. Then go to section 5: Your signature.

I admit the facts stated in the defendant's form 2CC, and agree with the defendant's counterclaim in full and will give them the payment or compensation they have asked for.

I will give the defendant [*specify*].

Form 3CC—*continued**Option 2*

You admit the facts stated in the defendant’s form 2CC, and agree with the defendant’s counterclaim in full, but want to give them a different payment or compensation.

If you choose option 2, write down the details of the payment or compensation you want to give the defendant. Explain why you are offering a different payment or compensation. Then go to section 5: Your signature.

I admit the facts stated in the defendant’s form 2CC, and agree with the defendant’s counterclaim in full, but I want to give them the following payment or compensation.

I will give the defendant [*specify*] because [*specify reasons*].

Option 3

You do not agree with the defendant’s counterclaim.

If you choose option 3, write down the details of why you do not agree with the defendant’s counterclaim. Then complete sections 4 and 5.

I do not agree with the defendant’s counterclaim because [*specify reasons*].

Option 4

You agree with part of the defendant’s counterclaim and disagree with part of the defendant’s counterclaim.

If you choose option 4, write down which parts of the defendant’s counterclaim you agree with and explain why you do not agree with the rest of the defendant’s counterclaim. Then complete sections 4 and 5.

I agree with the following parts of the defendant’s counterclaim:

I disagree with the rest of the defendant’s counterclaim because [*list each reason separately, as Reason 1, Reason 2, and so on, and provide legal references (if any)*].

Form 3CC—*continued*

Reason 1

Reason 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3A.

Section 4: Your description of the facts of the counterclaim, and any supporting legal arguments

Fill in this section if you chose option 3 or 4 in section 3A.

If you chose option 1 or 2, you do not need to fill in this section.

4A What are the facts of the counterclaim from your point of view?

State concisely the facts of the counterclaim from your point of view.

Make sure you write down any facts that were not listed in the defendant's notice of counterclaim if you think you will rely on these facts if the counterclaim goes to court. Refer to form 2CC (notice of counterclaim, section 3).

The following questions will help you think about your answers for this part of the form:

- what is the connection between you and the defendant?
- does the defendant owe you a duty to do anything or act in a particular way? If so, why?
- was there a contract (agreement) between you and the defendant? What terms from that contract are relevant to your claim?
- what happened? Why do you disagree with the defendant's counterclaim? (Include relevant dates, times, places, and other similar details.)
- are there any facts stated in the notice of counterclaim that you did not know about or could not have reasonably found out about? Why didn't you know these facts?

Form 3CC—*continued*

List each fact separately, as Fact 1, Fact 2, and so on.

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4A.

4B Do you disagree with any facts in the defendant’s counterclaim?

If you disagree with any part of the defendant’s notice of counterclaim, state concisely any facts and details that you will rely on in court.

Note that you must list here **all** the facts you disagree with in the notice of counterclaim. The court will assume you agree with any facts that are not listed here.

List each fact separately, as Fact 1, Fact 2, and so on.

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4B.

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 response by plaintiff (for counterclaim) are true and correct.

Form 3CC—*continued*

Signature of plaintiff:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

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

Notes

More information about 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 in the earlier notes section.

You can find out more about the counterclaim process at:

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.

Form 6A

rr 2.39, 2.39A

Application for judgment

Notes for plaintiff (and defendant applying for
costs where claim discontinued)**Definitions of words used in this form****affidavit:** a written statement given under oath**defendant:** the person who a claim is against**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** when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time**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 (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 claim** a claim started by the plaintiff that the defendant 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.

What this form is for

Use this form to apply for judgment if—

- you want the court to judge your claim in your favour because the defendant has not returned their documents or information in time:

or

Form 6A—*continued*

- you want the court to judge your claim in your favour because the defendant's response either contains an admission of the facts stated in your notice of claim or does not disclose any defence to your claim.

or

- you are a defendant applying for judgment for costs because the claim against you was, or is treated as having been, discontinued.

For more information about applying for judgment, *see* under Further information for plaintiff.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the plaintiff (or you are the defendant and are applying for costs).

The person you are making the claim against is the defendant (or plaintiff whose claim has been discontinued).

Fill in this form if—

- it has been more than 20 working days since you served form 2 (notice of claim on the defendant) and you have not received form 3 (response by defendant) from them:

or

- it has been more than 20 working days since you served form 4 (plaintiff's information capsule) on the defendant and you have not received form 5 (defendant's information capsule) from them:

or

- you are applying for judgment because the defendant's response either contains an admission of the facts stated in your notice of claim or does not disclose any defence to your claim.

or

- you are the defendant and are applying for judgment for costs because the plaintiff's claim against you has been discontinued, or is treated as having been, discontinued.

Note: You must swear or affirm one of the affidavits in section 3.

Form 6A—*continued*

For more information about who can sign this form, *see* under Further information for plaintiff.

How to fill in this form

- 1 Remove any notes pages for you, the plaintiff (or the defendant, as the case may be).
- 2 Fill in **all** 4 sections of the form.

Note: You must swear or affirm one of the affidavits in section 3.

For more information about what to do when you have completed this form, *see* under Further information for plaintiff.

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 claim process

For more information about the claim process, *see* the notes at the end 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

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Further information for plaintiff

Information about applying for judgment

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

If you have not received form 3 from the defendant

To get judgment, you can file this form from the 21st working day after you served form 2 (notice of claim) on the defendant. You must

Form 6A—*continued*

file this application for judgment no more than 90 working days after you served form 2 on the defendant.

If you have not received form 5 from the defendant

To get judgment, you can file this form from the 21st working day after you served form 4 (plaintiff's information capsule) on the defendant. You must file this application for judgment no more than 90 working days after you served form 4 on the defendant.

If you are applying for judgment because the defendant's response either contains an admission of the facts or it does not disclose any defence to your claim

To get judgment, you can file this form from the 21st working day after the defendant's response was served on you. You must file this application for judgment no more than 90 working days after the defendant's response was served on you.

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 (or the defendant, as the case may)—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the claim.

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.

Form 6A—*continued*

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 claim.

What to do when you have completed the form

- 1 File the form at the same District Court where form 2 was filed and pay the required fee.
- 2 File copies of forms 3, 4, and 5 (if you have sent/received them) at the same time as you file this form.

How to file a form at court

To file this form, send or take the original form (including the sworn affidavit) to the Registrar at the same District Court where form 2 (notice of claim) was filed and pay the required fee.

If you are applying for judgment because you have not received form 3 or form 5 from the defendant, then you must also file a copy of forms 3 and 4 (if you have sent/received them) with this form. If you are applying for judgment because the defendant's response either contains an admission of the facts stated in your notice of claim or does not disclose any defence to your claim, then you must file form 3 with this form. If you are the defendant and are applying for judgment for costs because the plaintiff's claim against you has been, or is treated as having been, discontinued, then you must file forms 3, 4, and 5 (if you have sent/received them).

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 within the 90-working day period that applies under rule 2.39. The 90-working day period starts—

- on the day after you served form 2 (notice of claim) on the defendant (if you are applying for judgment because the defendant has not served form 3 on you):

Form 6A—*continued*

or

- on the day after you served form 4 (plaintiff's information capsule) on the defendant (if you are applying for judgment because the defendant has not served form 5 on you):

or

- on the day after the defendant served form 3 (defendant's response) on you (if you are applying for judgment because the defendant's response either contains an admission of the facts or does not disclose any defence).

or

- on the day after you served form 3 (defendant's response) on the plaintiff or (as the case may be) on the day after you served form 5 (defendant's information capsule) on the plaintiff (if you are applying for judgment for costs because the plaintiff's claim against you has been, or is treated as having been, discontinued).

If you do not file this form 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.

Form 6A—*continued*Filed at: [*copy this information from form 2*]File reference number (CIV): [*copy this information from form 2*]

Date filed:

Section 1: Plaintiff's (or 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 claiming (for example, attach invoices from your interpreter, a printing shop, or your document server).

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

Costs (lawyer's fees only): \$[*amount (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): \$[*amount*]

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.

[*specify reasons*]

To be completed by the court

*Costs and disbursements approved as in the memorandum.

or

*Costs and disbursements as fixed.

*Select the paragraph that applies.

Form 6A—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Section 1C: 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 plaintiff:

Full name and address:

Section 2:

To be completed by the court

***Costs and disbursements approved as in the memorandum.**

or

***Costs and disbursements as fixed.**

***Select the paragraph that applies.**

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Section 3: Affidavit

3A Swear the appropriate affidavit

You must select and complete one of the affidavits below (option 1 or option 2), then get a Registrar or Deputy Registrar,

Form 6A—*continued*

Justice of the Peace, lawyer, or Judge to swear or affirm that your affidavit is true and sign below.

[*Select the affidavit that applies*].

Option 1—You have not received form 3 from the defendant

Use this affidavit if it has been more than 20 working days since you served form 2 (notice of claim) on the defendant and you have not received form 3 (response by defendant) from them.

I, [full name, occupation]

of [address]

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

- form 2 (notice of claim) was filed at [name of District Court] District Court on [date you filed form 2]:
- form 2 (notice of claim) was served on the defendant [defendant's full name] on [date form 2 was served] by [name of person who served form 2] at [place where form 2 was served]:
- form 3 (response by defendant) was **not** served on me (the plaintiff) by [date].

*Select one.

Signature of plaintiff:

Sworn/Affirmed* at: [place]

Date:

By: [plaintiff's name]

Before me: [Name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

Form 6A—*continued*

Option 2—You have not received form 5 from the defendant

Use this affidavit if it has been more than 20 working days since you served form 4 (plaintiff's information capsule) on the defendant and you have not received form 5 (defendant's information capsule) from them.

I, [full name, occupation]

of [address]

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

- form 3 (response by defendant) was served on me (the plaintiff) on [date form 3 was served]:
- form 4 (plaintiff's information capsule) was served on the defendant on [date form 4 was served]:
- form 5 (defendant's information capsule) was **not** served on me (the plaintiff) by [date].

*Select one.

Signature of plaintiff:

Sworn/Affirmed* at: [place]

Date:

By: [plaintiff's name]

Before me: [name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

Option 3—The defendant has admitted the facts stated in your notice of claim or the defendant's response does not disclose any defence

Use this affidavit if you have received form 3 (defendant's response) and it contains an admission of the facts stated in

Form 6A—*continued*

form 2 (notice of claim) or does not disclose any defence to your claim.

I, [full name, occupation]

of [address]

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

- form 3 (response by defendant) was served on me (the plaintiff) on [date form 3 was served];
- the defendant, in form 3, has admitted the facts stated in my form 2 (notice of claim) and agreed to my claim in full or the defendant's form 3 discloses no defence to the claim in my form 2*.

*Select one.

Signature of plaintiff:

Sworn/Affirmed* at: [place]

Date:

By: [plaintiff's name]

Before me: [Name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

Option 4—The plaintiff's claim has been, or is treated as having been, discontinued and you are applying for judgment for costs

Use this affidavit if the plaintiff's claim against you has been, or is treated as having been, discontinued.

I, [full name, occupation]

of [address]

Form 6A—*continued*

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

- form 3 (response by defendant) was served on the plaintiff on [date form 3 was served]:
- form 5 (defendant's information capsule) was served on the plaintiff on [date form 3 was served]*.

*Select only if served.

Signature of defendant:

Sworn/Affirmed* at: [place]

Date:

By: [defendant's name]

Before me: [name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

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: [copy this information from form 2]

File reference number (CIV): [copy this information from form 2]

Plaintiff's name:

Plaintiff's address:

Plaintiff's occupation:

Defendant's name:

Defendant's address:

Defendant's occupation:

Form 6A—*continued*

Because [the defendant has not served form 3 (response by defendant) on the plaintiff *or* the defendant has not served form 5 (defendant's information capsule) on the plaintiff *or* the defendant has admitted the facts stated in the plaintiff's notice of claim and agreed to the plaintiff's claim in full *or* the defendant's response does not disclose any defence to plaintiff's claim *or* the plaintiff's claim has been, or is treated as having been, discontinued]*, the court makes the following judgment.

*Select appropriate ground.

The defendant/plaintiff* must pay the plaintiff/defendant*:

[\$[write the amount you are claiming from form 2 (section 4A)]

[\$[subtract any amounts paid since claim filed)]

[\$[write the amount of interest and calculations claimed from form 2 (section 4B)]

[\$ [copy the total costs and disbursements from section 1A of this form].

Total amount the defendant/plaintiff* must pay the plaintiff/defendant*:

[\$[write the amount]

To be completed by the court

Date:

Signature: (Registrar/Deputy Registrar*)

*Select one.

Sealed: [date]

Form 6CCA rr 2.27, 2.28, 2.39, 2.39A

Application for judgment (for counterclaim)

Notes for defendant (and plaintiff applying for
costs where counterclaim discontinued)

Definitions of words used in 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.

Form 6CCA—*continued***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* under Further information for defendant.

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 20 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 20 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.

or

- you want the court to judge your counterclaim in your favour because the plaintiff's response either contains an admission of the facts stated in your notice of counterclaim or does not disclose any defence to your counterclaim.

or

- you are a plaintiff applying for judgment for costs because the counter claim against you was, or is treated as having been, discontinued.

For more information about who can sign this form, *see* under Further information for defendant.

How to fill in this form

- 1 Remove any notes pages for you, the defendant.

Form 6CCA—*continued*

2 Fill in **all** 4 sections of the form.

Note: You must swear or affirm one of the affidavits in section 3.

For more information about what to do when you have completed this form, *see* under Further information for defendant.

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 counterclaim process

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

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 this form from the 21st 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.

Form 6CCA—*continued**If you have not received form 5CC from the plaintiff*

To get judgment, you can file form 6CCA from the 21st 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.

If you are applying for judgment because the plaintiff's response either contains an admission of the facts or it does not disclose any defence to your counterclaim

To get judgment, you can file this form from the 21st working day after the plaintiff's response was served on you. You must file this application for judgment no more than 90 working days after the plaintiff's response was served on you.

If you are applying for judgment because the plaintiff's counterclaim against you has been, or treated as having been discontinued

To get judgment, you can file this form from the 21st working day after you served your response for counterclaim on the defendant or (as the case may be) after you served your information capsule for counterclaim on the defendant. You must file this application for judgment no more than 90 working days after the relevant period starts.

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 (or the plaintiff, as the case may be)—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the counterclaim.

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

Form 6CCA—*continued*

How to swear or affirm an affidavit

You must swear 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.

What to do when you have completed the form

- 1 File the form at the same District Court where form 2 was filed and pay the required fee.
- 2 File copies of forms 3CC, 4CC, and 5CC (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 this form, send or take the original form (including the sworn affidavit) to the Registrar at the same District Court where form 2 was filed and pay the required fee.

You must also file copies of forms 3CC, 4CC, and 5CC (if you have sent or received them) with this form.

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

Form 6CCA—*continued***What happens if you do not file this form within 90 working days?**

You must file this application within the 90-working day period that applies under rule 2.39. The 90-working day period starts—

- on the day after you served form 2CC (notice of counterclaim) on the plaintiff (if you are applying for judgment because the plaintiff has not served form 3CC on you):

or

- on the day after you served form 4CC (defendant's information capsule (for counterclaim)) on the plaintiff (if you are applying for judgment because the plaintiff has not served form 5CC on you):

or

- on the day after the plaintiff served form 3CC (plaintiff's response) on you (if you are applying for judgment because the Plaintiff's response either contains an admission of the facts or does not disclose any defence).

or

- on the day after you served form 3CC (plaintiff's response) on the defendant or (as the case may be) on the day after you served form 5CC (plaintiff's information capsule) on the defendant (if you are applying for judgment for costs because the defendant's counterclaim against you has been, or is treated as having been, discontinued).

If you do not file this form 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.

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Date filed:

Form 6CCA—*continued*

Section 1: Defendant's (or plaintiff'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 claiming (for example, attach invoices from your interpreter, a printing shop, or your document server).

I (the defendant *or* plaintiff) am now applying for judgment. I am claiming the following costs and disbursements:

Costs (lawyer's fees only): \$[*amount (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): \$[*amount*]

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.

*Select the paragraph that applies.

Date:

Signature:

(Registrar/Deputy Registrar*)

Form 6CCA—*continued*

*Select one.

Section 2:**To be completed by the court*****Costs and disbursements approved as in the memorandum.****or*****Costs and disbursements as fixed.**

*Select the paragraph that applies.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

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.

[Select the affidavit that applies].

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

Use this affidavit if it has been more than 20 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, *[full name, occupation]*

of *[address]*

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

Form 6CCA—*continued*

- form 2CC (notice of counterclaim) was filed at [*name of District Court*] District Court on [*date you filed form 2CC*]:
- form 2CC (notice of counterclaim) was served on the plaintiff [*plaintiff's full name*] on [*date form 2CC was served*] by [*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*].

*Select one.

Signature of defendant:

Sworn/Affirmed* at: [*place*]

Date:

By: [*defendant's name*]

Before me: [*name of person administering oath or affirmation*]

Designation of person administering oath or affirmation: [*for example, Deputy Registrar of the District Court at Christchurch*]

Signature of person administering oath or affirmation:

*Select one.

Option 2—You have not received form 5CC from the plaintiff
Use this affidavit if it has been more than 20 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, [*full name, occupation*]

of [*address*]

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

Form 6CCA—*continued*

- form 3CC (response by plaintiff (for counterclaim)) was served on me (the defendant) on [*date form 3 was served*]:
- form 4CC (defendant’s information capsule (for counterclaim)) was served on the plaintiff on [*date form 4 was served*]:
- form 5CC (plaintiff’s information capsule (for counterclaim)) was **not** served on me (the defendant) by [*date*].

*Select one.

Signature of defendant:

Sworn/Affirmed* at: [*place*]

Date:

By: [*defendant’s name*]

Before me: [*name of person administering oath or affirmation*]

Designation of person administering oath or affirmation: [*for example, Deputy Registrar of the District Court at Christchurch*]

Signature of person administering oath or affirmation:

*Select one.

Option 3—The plaintiff has admitted the facts stated in your notice of counterclaim or the plaintiff’s response does not disclose any defence

Use this affidavit if you have received form 3CC (plaintiff’s response) and it contains an admission of the facts stated in form 2CC (notice of counterclaim) or does not disclose any defence to your counterclaim.

I, [*full name, occupation*]

of [*address*]

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

Form 6CCA—*continued*

- form 3CC (response by plaintiff) was served on me (the defendant) on [date form 3CC was served]:
- the plaintiff, in form 3CC, has admitted the facts stated in my form 2CC (notice of counterclaim) and agreed to my counterclaim in full or the plaintiff's form 3CC discloses no defence to the counterclaim in my form 2CC*.

*Select one.

Signature of defendant:

Sworn/Affirmed* at: [place]

Date:

By: [defendant's name]

Before me: [name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

Option 4—The defendant's counterclaim has been, or is treated as having been, discontinued and you are applying for judgment for costs

Use this affidavit if the defendant's counterclaim against you has been, or is treated as having been, discontinued.

I, [full name, occupation]

of [address]

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

- form 3CC (response by plaintiff) was served on the defendant on [date form 3 was served]:
- form 5CC (plaintiff's information capsule) was served on the defendant on [date form 3 was served]*.

Form 6CCA—*continued*

*Select only if served.

Signature of plaintiff:

Sworn/Affirmed* at: [*place*]

Date:

By: [*name of plaintiff*]

Before me: [*name of person administering oath or affirmation*]

Designation of person administering oath or affirmation: [*for example, Deputy Registrar of the District Court at Christchurch*]

Signature of person administering oath or affirmation:

*Select one.

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: [*copy this information from form 2*]

File reference number (CIV): [*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) on the defendant *or* the plaintiff has not served form 5CC (plaintiff's information capsule (for counterclaim)) on the defendant *or* the plaintiff has admitted the facts stated in the defendant's notice of counterclaim and agreed to the counterclaim in full *or* the plaintiff's response does not disclose any defence to defendant's notice of counterclaim *or* the defendant's counterclaim has been, or

Form 6CCA—*continued*

is treated as having been, discontinued]* the court makes the following judgment.

*Select one.

The plaintiff/defendant* must pay the defendant/plaintiff*:

[\$[write the amount you are claiming from form 2CC (section 4A)]

[\$[subtract any amounts paid since counterclaim filed)]

[\$[write the amount of interest and calculations claimed from form 2CC (section 4B)]

[\$ [copy the total costs and disbursements from section 1A of this form].

Total amount the plaintiff/defendant* must pay the defendant/plaintiff*:

[\$[write the amount]

To be completed by the court

Date:

Signature: (Registrar/Deputy Registrar*)

Sealed: [date]

*Select one.

Form 19A
Freezing order

r 3.53

To the respondent [*name*]

- 1 The court has considered the applicant's application for a freezing order, and has heard [*name of applicant or applicant's counsel*] in support.
- 2 The court is satisfied, having regard to all the circumstances disclosed by affidavit evidence filed in support of the application, that there is a danger that judgment in favour of the applicant will be wholly or partly unsatisfied, because the assets listed in paragraph 3 will be removed from New Zealand or otherwise dealt with.
- 3 This freezing order is made in respect of the following assets: [*set out a comprehensive list, with description adequate to identify each asset*].
- 4 Subject to paragraph 5, this order restrains you from removing any of the assets listed in paragraph 3 from New Zealand, or from disposing of, dealing with, or diminishing the value of, those assets.
- 5 This freezing order does not prohibit you from dealing with the assets covered by the order for the purpose of—
 - (a) paying ordinary living expenses; or
 - (b) paying legal expenses related to the freezing order; or
 - (c) disposing of assets, or making payments, in the ordinary course of your business, including business expenses incurred in good faith.
- 6 *Include this paragraph only if the freezing order was made without notice to the respondent*
As the freezing order has been made without notice to you, it will have no effect after [*state the particular date inserted by the court*], unless on that date it is continued or renewed. On that date you or your counsel are entitled to be heard by the court in opposition to the continuation or renewal of the order.
- 7 You may apply to the court by interlocutory application to discharge or vary the order. If you apply, you must give the applicant notice of not less than [*specify period fixed by the court*].
- 8 *Omit this paragraph if no undertaking has been required by the court.*

Form 19A—*continued*

An undertaking as to damages given by the applicant is attached.

- 9 [State any other special terms that the court has ordered].
- 10 This order does not affect anyone outside New Zealand until it is declared enforceable by a court in the relevant country, (in which case it affects a person only to the extent that it has been declared enforceable) unless the person is—
- (a) a person to whom this order is addressed, or an officer of that person, or an agent appointed by power of attorney of that person; or
 - (b) a person who—
 - (i) has been given written notice of this order at that person’s residence or place of business within New Zealand; and
 - (ii) is able to prevent acts or omissions outside the jurisdiction of this court that constitute, or assist, a breach of this order.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Schedule 4 r 25(c)
**Other amendments forms 4, 4CC, 5, 5CC,
6, 6CC, and 7**

Form 4

Further information for plaintiff: omit “30” in each place where it appears and substitute in each case “20”.

Notes for defendant: omit “30” in each place where it appears and substitute in each case “20”.

Form 4CC

Further information for defendant: omit “30” in each place where it appears and substitute in each case “20”.

Notes for plaintiff: omit “30” in each place where it appears and substitute in each case “20”.

Form 5

Further information for defendant: omit “30” in each place where it appears and substitute in each case “20”.

Form 5CC

Further information for plaintiff: omit “30” in each place where it appears and substitute in each case “20”.

Form 6

Paragraph 1C: revoke and substitute:

“1C Plaintiff’s address for service

If a lawyer is not pursuing this claim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim*.

Street address:

*If a lawyer is pursuing this claim on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

Form 6CC

Paragraph 1C: revoke and substitute:

“1C Defendant’s address for service

If a lawyer is not pursuing this counterclaim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim*.

Street address:

*If a lawyer is pursuing this counterclaim on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

Form 7

Paragraph 3: omit “30” and substitute “20”.

Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on the 28th day after the date of their notification in the *Gazette*, amend the District Courts Rules 2009 (the **principal rules**).

Rule 2 relates to commencement.

Rule 3 provides that the rules amend the District Courts Rules 2009.

Rule 4 amends rule 1.9 of the principal rules to clarify that references in the principal rules to the time allowed for taking any action are to be read as references to the relevant period specified by the rules or allowed in any case by a court under rule 1.18, as the case may be.

Rule 5 amends rule 1.18 of the principal rules to clarify that a proceeding does not come to an end just because the time allowed by rule 2.10, 2.14, 2.17, 2.39, 2.47, or 3.40, or any other rule for taking any action in that proceeding expires, if that time is later extended under rule 1.18.2.

Rule 6 amends rule 1.24 of the principal rules to require the use of cover sheets where prescribed forms are used.

Rule 7 amends rule 2.2 of the principal rules by substituting the overview diagram set out in *Schedule 1*.

Rule 8 consequentially amends rule 2.3.3 of the principal rules to recognise that the summary judgment procedure in new *rules 2.42 and 2.43* can affect the usual operation of rules 2.10 to 2.17.

Rule 9 amends rule 2.12 of the principal rules to reduce the service period of a response from 30 to 20 working days.

Rule 10 amends rule 2.14 of the principal rules and relates to a plaintiff's information capsule. The amendment—

- reduces the service period from 30 to 20 working days;
- requires the plaintiff, as soon as practicable and at the plaintiff's cost, to give the defendant a copy of each essential document listed or described in the plaintiff's information capsule that is requested by the defendant.

Rule 11 amends rule 2.15 of the principal rules and relates to a defendant's information capsule. The amendment—

- reduces the service period from 30 to 20 working days;
- requires the defendant, as soon as practicable and at the defendant's cost, to give the plaintiff a copy of each essential document listed or described in the defendant's information capsule that is requested by the plaintiff.

Rule 12 amends rule 2.16 of the principal rules by substituting the overview diagram set out in Schedule 2.

Rule 13 amends rule 2.22 of the principal rules and reduces the third party response service period from 30 to 20 working days.

Rule 14 amends rule 2.27 of the principal rules and reduces the counterclaim service period from 30 to 20 working days.

Rule 15 amends rule 2.30 of the principal rules and reduces the period of service for a notice of a claim between defendants from 30 to 20 working days.

Rule 16 inserts *new rules 2.38A and 2.38B* to provide for the amendment of pleadings.

New rule 2.38A applies where a proceeding is following the notice of claim, response, and capsule procedure. This rule provides that—

- if a notice of claim or counterclaim has been filed and served, but a response has not been served within the time allowed, the plaintiff or counterclaimant has 10 working days (after the last day on which the response was allowed to be served) to file an amended notice of claim or counterclaim, and serve a copy of it on the other parties. After that period expires, the amendment can be made only with the leave of the court;
- if a response has been served, a party may at any time before a trial date is allocated file or serve, as the case may be, any amended pleading and serve a copy of it on the other parties, and contemporaneously serve an appropriately updated information capsule on the other parties;
- in any case, once a trial date has been allocated, any party may at any time before trial file an amended pleading only with the leave of the court or by consent of all the parties;
- if a claim or counterclaim is amended, the party responding must do so within 10 working days after the amendment is filed.

New rule 2.38B applies where a proceeding is following the High Court Rules procedure. The provisions of High Court Rule 7.77 (2) to (8) (filing of amended pleading) apply in such cases.

Rule 17 replaces rule 2.39 of the principal rules with the following new rules:

New rule 2.39 adds the following grounds on which a plaintiff can apply for judgment:

- the defendant's form 3 contains an admission of the facts stated in the plaintiff's form 2 (notice of claim):
- the defendant's form 3 does not disclose any defence to the plaintiff's form 2.

New rule 2.39A specifies the documents that have to be filed in support of an application for judgment and the time allowed for filing documents.

Rule 18 revokes and replaces rules 2.42 and 2.43 of the principal rules, which provide for summary judgment, and establishes a new procedure. This procedure will be available—

- to enforce an agreed settlement:
- to recover a debt under section 23 or 24 of the Construction Contracts Act 2002:
- in any other proceedings commenced under the principal rules (other than appeals under Part 14).

The main features of the new procedure are—

- applications to enforce an agreed settlement or to recover a debt under section 23 or 24 of the Construction Contracts Act 2002 can be made within 20 working days after the proceeding starts:
- in a case where a response is required, an application can be made within 20 working days after the date on which the response is served:
- the court can give leave to file an application later than the fixed 20-day periods:
- the time limits for filing a notice of opposition or affidavit in reply are shortened:
- if an application for summary judgment by a plaintiff, defendant, or counterclaimant is dismissed, the court must decide

**District Courts (General) Amendment
Rules 2011**

Explanatory note

the mode of trial (short trial, simplified trial, or full trial) when giving judgment:

- a decision to allocate a simplified trial or full trial results in judicial directions conference with the possibility of a judicial settlement conference as well:
- former rule 12.17 (which applies various High Court Rules about summary judgment) is relocated with consequential amendments as *new rule 2.43A*.

A diagram is included in *new rule 2.42*.

Rule 19 amends rule 2.46 of the principal rules to provide that a party has no right to apply for a review of a decision under *rule 2.43.7(a)* to allocate a short trial (where an application for summary judgment has been dismissed).

Rule 20 amends rule 2.48.2 to enable a Judge to allocate a short trial after a settlement conference.

Rule 21 consequentially amends rule 2.49 to reflect the new summary judgment procedure and the new discovery procedure.

Rule 22 amends rule 3.53 of the principal rules to provide that an interlocutory injunction to which section 42(2) of the District Courts Act 1947 applies (restraining a party to a proceeding from removing from New Zealand, or otherwise dealing with, assets in New Zealand) must be in *form 19A* (freezing order). That form is set out in the Schedule of these regulations and is based on High Court Rules form G 38.

Rule 23 amends rule 6.1.1 of the principal rules to require that applications under any of sections 140, 210, 211, and 214 of the Unit Titles Act 2010 are to be filed as originating applications.

Rule 24 revokes rule 12.17 of the principal rules as it is relocated as new rule 2.43A.

Rule 25 amends Schedule 1 of the principal rules and relates to prescribed forms. New forms 2, 2CC, 3, 3CC, 6A, and 6CCA are substituted and forms 4, 5, 5CC, 6, 6CC, and 7 are amended. The new forms and amendments result from a review carried out by the Rules Committee and changes to the principal rules.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*:

**District Courts (General) Amendment
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These rules are administered by the Ministry of Justice.
