

Procedural Fact Sheets (Civil) – Supreme and District Courts

Counterclaims, answers, replies, and particulars

Making a counterclaim

A counterclaim is a claim by the defendant against the plaintiff which is dealt with in the same trial as that of the plaintiff's claim. [rule 177](#) A counterclaim must:

- Use [form 18](#).
- Be included in the same document as the defence.
- Be served within the same timeframe as the defence. [rule 179](#)

The defendant must pay a fee on filing of a counterclaim. [Schedule 1 – Originating process, Uniform Civil Procedure \(Fees\) Regulation 2019](#)

A defendant may counterclaim against the plaintiff and, in addition, any any other person the defendant believes is liable for the loss or damage the subject of the counterclaim. [rule 178](#)

There are special rules about the way a defendant must plead any damages claimed in the counterclaim. Damages are a sum of money awarded by the court for the purpose of replacing the value of the claimant's property, or right, which has been lost or damaged, or to cover expenses, loss, pain, and suffering relating to a person's injury or death.

The counterclaim must state:

- The type/s of general damages. [rule 155](#)
- A description of the damage claimed for each type. [rule 155](#)
- The amount of money claimed as damages.
- The type of loss suffered.
- The circumstances in which the loss was suffered.
- The basis on which the amount claimed has been worked out.
- Other matters which must be specifically pleaded. [rule 150](#)

Answers

If the defendant makes a counterclaim in the defence, the plaintiff should include a response to the counterclaim in their reply. This response is known as an answer.

The plaintiff must respond to the counterclaim in the same way as a defendant responds to a statement of claim by:

- Responding to every paragraph.
- Denying any allegations of fact that they do not admit.
- Including all material facts on which they will rely in proving their defence to the counterclaim.
- Filing and serving the answer within 14 days of the counterclaim being served. [rule 164](#)

Replying to a defence

Regardless of whether a counterclaim is filed, the plaintiff should file and serve a reply if the defendant has raised new facts in the defence. A reply is usually the last pleading filed.

- There is no approved form for the reply, but it must comply with [rule 146](#).
- The reply must be filed and served within 14 days after the day of service of the defence. [rule 164](#)

Requesting or providing particulars

If one party (the requesting party) believes that the other party (the responding party) has not provided sufficient information in their statement of claim or defence to explain the case the responding party will rely on at trial, the requesting party may serve a Request for Further and Better Particulars.

- [Rules 157 to 159](#) describe the information which must be provided to explain each party's case.
- A request for information (known as a request for particulars) may be served on the responding party in a formal court document or may be contained in correspondence.
- If the responding party accepts that the requesting party is entitled to be provided with the particulars, the responding party must provide the particulars by:
 - Filing and serving an amended pleading; or
 - Filing and serving a court document containing the particulars. [rule 160](#)
- There is no approved court form for particulars.

The document containing the particulars should bear the court heading and an explanatory title, e.g., "Further and better particulars of the statement of claim filed ..."

It should refer to the request in response to which the particulars are provided, e.g., "1. The following particulars are provided in response to the request of the (insert party) made (insert date of request)."
- If the responding party fails or refuses to provide the particulars, or the requesting party is not satisfied with the responding party's response to their request, the requesting party may apply to the court for an order requiring the responding party to provide the information by filing and serving an interlocutory application. [rule 161](#)

