

O. 6, r. 7(3),
r. 8(2), r. 9(2)

DEFENCE / DEFENCE AND COUNTERCLAIM
/ DEFENCE TO COUNTERCLAIM

(Title as in action)

Defence/Defence to Counterclaim

1. [Defence/defence to counterclaim is to be a paragraph-by-paragraph response to the whole statement of claim/counterclaim in this format:
 - (1): [Set out claimant's claim]
 - (1): [Set out defendant's defence]
 - (2): [Set out claimant's claim]
 - (2): [Set out defendant's defence]Note: The last pleading must incorporate all previous pleadings].
2. [State whether defendant is contending that the Court has no jurisdiction over the case].
3. [State whether defendant is contending that the Court should not exercise jurisdiction over the case].
4. [State whether the proceedings should be stayed or struck out or that the Court should grant some other relief].
5. [State whether defendant is admitting the claim and will immediately pay the amount of the claim and/or comply with the non-monetary remedies sought in the statement of claim].
6. [State whether defendant is admitting the claim but offering an alternative remedy to that requested in the statement of claim].
7. [Defendant must succinctly and precisely explain his or her denial(s) and/or non-admission(s) as well as the essential facts upon which he or she relies].
8. [Defendant must state specifically any matter, for example, performance, release, any relevant statute of limitation, fraud or any fact showing illegality –
 - (a) Which he or she alleges makes any aspect of the statement of claim unmaintainable;
 - (b) Which, if not specifically stated, might take the claimant by surprise; or
 - (c) Which raises issues of fact not arising out of the statement of claim].

9. [The following matters must be pleaded –
 - (a) Material facts;
 - (b) Particulars of any misrepresentation, fraud, breach of trust, wilful deceit or undue influence; and
 - (c) Particulars of facts where there is allegation as to the condition of the mind of any person, whether any disorder or disability of mind, or any malice, fraudulent intention or other condition of mind except knowledge].
10. [The following should not be pleaded –
 - (a) Evidence by which material facts are to be proved;
 - (b) Points of law; and
 - (c) Legal arguments and submissions].

Counterclaim

1. [State the jurisdictional basis upon which the counterclaim is founded and, if the basis is statutory, to make reference to the relevant source legislation or its provision(s)].
2. [Provide a succinct and precise account of the facts justifying the counterclaim in numbered paragraphs].
3. [State the relief or remedy, including interest and costs, which the defendant seeks in numbered paragraphs].
4. [State whether the interest claimed is contractual, the rate of interest and the period claimed].
5. [State whether the costs claimed are contractual and the amount of costs claimed].
6. [If this is an action for personal injuries, enclose a medical report and a statement of the special damages claimed. A claim for provisional damages must be pleaded].

Certification by defendant and solicitor

I, [name of defendant], certify that all the statements made above are true to the best of my knowledge and belief.

I, [name of solicitor] certify that I have informed the defendant of his obligation above.

Signature of defendant

Signature of solicitor

Defendant

Solicitor for the defendant

[Name]

[Name of solicitor]
