

NOTES

Form 3

1

(Rule 3-4 (1))

[Style of Proceeding]

[Add the following to the style of proceeding to identify each person, not named as party in the notice of civil claim, against whom the counterclaim is brought.]

and

Defendant(s) by way of counterclaim

COUNTERCLAIM

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

2

Filed by:[party(ies)].....

3

To:[name(s) of party(ies) against whom the counterclaim is brought].....

This action has been brought by the plaintiff(s) against the defendant(s) for the relief set out in the notice of civil claim filed in this action.

TAKE NOTICE that the defendant(s)[state name(s)]..... claim(s) against you for the relief set out in Part 2 below.

IF YOU INTEND TO RESPOND to the claim made against you in this counterclaim, or if you have a set-off or counterclaim that you wish to have taken into account at the trial, YOU MUST FILE a response to counterclaim in Form 4 in the above-named registry of this court within the time for response to counterclaim described below and SERVE a copy of the filed response to counterclaim on the address for service of the defendant(s) bringing this counterclaim.

YOU OR YOUR LAWYER may file the response to counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to counterclaim within the time for response to counterclaim described below.

Time for response to counterclaim

A response to counterclaim must be filed and served on the defendant(s) bringing this counterclaim,

- (a) if you were served with the counterclaim anywhere in Canada, within 21 days after that service,
- (b) if you were served with the counterclaim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the counterclaim anywhere else, within 49 days after that service, or
- (d) if the time for response to counterclaim has been set by order of the court, within that time.

Claim of the Defendant(s) Bringing the Counterclaim

4 Part 1: STATEMENT OF FACTS

[Using numbered paragraphs, set out a concise statement of the material facts giving rise to the counterclaim.]

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[If any party sues or is sued in a representative capacity, identify the party and describe the representative capacity.]

Part 2: RELIEF SOUGHT

5 *[Using numbered paragraphs, set out the relief sought and indicate against which party(ies) that relief is sought. Relief may be sought in the alternative.]*

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Part 3: LEGAL BASIS

6 *[Using numbered paragraphs, set out a concise summary of the legal bases on which the defendant(s) bringing this counterclaim intend(s) to rely in support of the relief sought and specify any rule or other enactment relied on. The legal bases for the relief sought may be set out in the alternative.]*

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7 Address for service of the defendant(s) bringing this counterclaim: *[Set out the street address of the address for service. One or both of a fax number and an e-mail address may be given as additional addresses for service.]*

Fax number address for service (if any):

E-mail address for service (if any):

The address of the registry is:

Date:[dd/mmm/yyyy].....

.....

Signature of

[] filing party [] lawyer for filing party(ies)

.....[*type or print name*].....

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

NOTES

Court forms are available at: http://www.ag.gov.bc.ca/courts/other/supreme/2010SupRules/info/index_civil.htm.

They can be completed online and filed electronically using Court Services Online:
www.courtservicesonline.gov.bc.ca.

They can also be printed and completed manually; or completed online, printed and filed.

File this form in the court registry and serve it on all parties of record.

1. The style of proceeding is the part at the top of the document that identifies your case within the court system. You will use the style of proceeding on every one of your documents, whether they are filed in the court registry or not. Insert the court number, the location of the registry (e.g., Vancouver), as it is part of your style of proceeding. Write in the names of the plaintiff and defendant in capital letters (not addresses) in the style of proceeding.
 2. Put your name here.
 3. Put the names of the others that you are bringing the action (counterclaim) against.
 4. “Material facts” are the facts that relate to your claim. Set out your story.
 5. “Relief sought” is a summary of what orders you are asking the court to make (e.g., that the plaintiff pay \$3,500 in damages for the cost of repairing my car).
 6. Set out the legal basis of your claim, including the Court Rules, legislation, and case law that support your claim (e.g., the defendant’s stairs were rotten and unsafe contrary to *The Occupiers’ Liability Act*, s. 3; calculation of damages in a wrongful dismissal case as described in *Brown v. Smith*, 2009 BCSC 200, etc.).
 7. Your address must be a physical location (not just a post office box) where documents can be delivered.
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