

HOW TO COUNTERSUE

SMALL CLAIMS

If you believe the party suing you owes you money, you can countersue.

As the defendant you would file a *Defendant's Claim* (Form SC-120). Both cases will be heard at the same time. If your claim is for \$5,000 or less (\$4,000 if you are suing a guarantor or \$2,500 if the guarantor does not charge a fee for the service) file the *Defendant's Claim* at the small claims court where the Plaintiff filed and pay the filing fee of \$22.00.

You must notify the other party (plaintiff).

You must have a copy of the *Defendant's Claim* served on the plaintiff(s) at least 5 days before the trial date. However, if you were served with the plaintiff(s)'s claim 10 days or less before the trial date, you can serve the defendant's claim at least 1 day before the trial date. You cannot serve the *Defendant's Claim* yourself.

If your counterclaim exceeds the jurisdictional limit.

If the amount you are suing for exceeds the limit of the small claims court (\$5,000) and you want your case to be heard in the civil division of the superior court, you must first file a *Summons* and *Complaint* in that division. You will need to have someone who is not a party to the action serve a copy of the *Summons* and *Complaint* on the plaintiff(s). The person who served the *Summons* and *Complaint* will need to complete a *Proof of Service* (for further information on service see section "You May Not Serve the Claim Yourself!"). The original *Proof of Service* and *Summons* (has the court seal in lower left corner) must be filed with the court and you will need to make copies prior to filing for your records. You will need to bring to the small claims clerk a copy of the filed *Complaint*, a copy of the *Proof of Service*, a *Declaration*, an order for the commissioner to sign, and a fee to pay to transfer the matter to the civil division. Please check with the court clerk for the current transfer fee amount.

Upon the court receiving the above documents.

The small claims court will usually transfer its file to the superior court. In this manner, both the plaintiff's and defendant's claims will be heard together.