

INSTRUCTIONS ON FILING A COUNTER-CLAIM FOR DAMAGES

- Use this form when a small claims case has been filed against you and you want to file a counter-claim.
- You must complete the entire form. You must also include a short and clear statement describing why you are filing the claim in the summary portion of the form.
- Once the form is completed, bring it with at least two extra copies to the small claims office. The court will not make copies for you. If your claim is based on a contract, a copy of the contract must be attached to each copy of the claim form. If based on an unpaid account, a copy of the most recent bill or account statement must be attached to each copy of the claim form. All counter-claims must be filed at least seven days before the trial on the original claim.
- If you have any further questions, feel free to contact our office at 379-1610. Most questions can be answer by referring to the small claims manual and the frequently asked questions.

COUNTER-CLAIM FORM

CASE NO. _____

Small Claims Division

Bartholomew Superior Court No. 2
Courthouse 3rd Floor, 234 Washington Street
Columbus, Indiana 47201
Telephone No. (812) 379-1610

Attorney _____

Counter-Claimant _____

Address _____

Telephone _____

AGAINST

Name of Counter-Defendant

Address

City, State, Zip Code

Telephone No.

TO THE COUNTER-DEFENDANT(S): You have been counter-sued by the Counter-Claimant whose name appears above.

You and the Counter-Claimant are to appear on the ____ day of _____, 20____, at ____ o'clock __m.
at the Bartholomew Superior Court No. 2 located on the third floor of the Bartholomew County Courthouse, Third and
Washington Streets, Columbus, Indiana.

COUNTER-CLAIM FOR DAMAGES

Comes now the Counter-Claimant, and for cause of action against Counter-Defendant(s), says: That the Counter-Defendant(s)
is/are indebted to the Counter-Claimant in the amount of _____ Dollars,
which amount has not been paid and is now due and owing. (brief summary)

WHEREFORE, Counter-Claimant prays for judgment against the Counter-Defendant(s), in the amount of _____
plus any other proper relief.

Signed _____
Counter-Claimant

Following manner of service is hereby designated:

_____ Certified Mail on the Counter-Defendant as indicated above or in care of his employment to wit:

_____ Service on Counter-Defendant by sheriff as indicated above or in care of his employment, to wit:

INSTRUCTIONS FOR BOTH PARTIES

1. TRIAL: Both parties must appear for trial at the Bartholomew Superior Court No. 2 in the Courthouse, Third Floor, Columbus, Indiana, at the date and time shown on the reverse side. If the Claimant fails to appear, the Claim may be dismissed. If the Defendant fails to appear, a default judgment against him may be entered and he may be required to pay the full amount, plus costs.

2. PROCEDURE: Simply tell your side of the case. There are no technical rules. Although you do not need to hire an attorney you may retain one **PRIOR TO TRIAL DATE**. Be prepared on the trial date. Bring all witnesses and documents with you. SUBPOENAS (an order to appear issued by the Court) may be issued if needed. Contact the Court as soon as possible. Documents you may need include books, records, receipts, warranties, etc.

3. CORPORATIONS: A corporation must appear by attorney, or, in unassigned claim not exceeding fifteen hundred dollars (\$1,500.00), by a full-time employee of the corporation designated by the Board of Directors to appear as the corporation in the presentation or defense of Claims arising out of the business of the corporation. A compliance form can be obtained upon request at the small claims office.

4. CONTINUANCES: If you are unable for good cause to appear at the time and place designated above, you must file a written request that the hearing be continued. Your request must specifically state why you cannot come to the hearing. All requests for continuances must be filed no later than seven (7) days before the hearing is scheduled.

5. COUNTER-CLAIMS: If you have a Claim for money against the Claimant arising out of the same transaction or occurrence, you may file a counter-claim with the Court. Counter-claim must be filed at least **seven (7)** days prior to the trial date. If the amount of your counter-claim exceeds the jurisdiction of this Court, you give up the right to the excess over that amount by filing your counter-claim in the small claims division. Both the Claimant's claim and your counter-claim will be heard at the same trial. However, if you wish to file a counter-claim larger than the jurisdiction of this Court all formal and technical rules will apply and for this reason, it is advisable that you contact an attorney.

6. GENERAL QUESTIONS: Court personnel may be able to answer general questions about the procedure and practices. The telephone number is **379-1620**. However, if you need legal advice, you **MUST** contact an attorney as neither the judge nor Court personnel can advise you.

7. COURT COSTS: The Claimant has to pay court costs when the lawsuit is filed. If the Claimant wins, the Defendant will be required to pay court costs, interest and attorney fees (in some cases) to the Clerk of the Court.

8. CHANGE OF TELEPHONE OR ADDRESS: Advise the Court of any changes in telephones or addresses after the lawsuit is filed.

9. PAYMENTS: Payments must be made to the Clerk of the Courts unless other procedures are established by the Court.

10. WHEN PAID IN FULL: When a judgment has been PAID IN FULL by the Defendant, the Claimant or Counsel **MUST** go to the office of the Clerk of the Courts, first floor of the Courthouse, and release the judgment against the Defendant.

11. NONPAYMENT OF JUDGMENT: When a losing Defendant fails to pay the judgment as ordered by the Court, you may file proceedings to gain information concerning the Defendant's assets. There are generally no additional costs for this proceeding, however, there may be exceptions.

12. JURY TRIAL: The Claimant has waived his right to jury trial by filing this small claim. A Defendant may request a jury trial by filing a written request with the Court stating the reasons, including the statement that there are questions of fact requiring jury trial, and that the request is made in good faith. It **MUST** be filed within ten (10) days from the date you received this notice or the jury trial is waived. The Defendant must also pay an additional fee upon the jury trial request. Jury trials are tried under formal rules of procedure and evidence, and for this reason it is advisable that you contact an attorney.

13. JURISDICTION: You must file the Claim in the county where the transaction or occurrence took place, where the obligation was incurred or where it is to be performed, or where the Defendant resides or has his place of employment.

14. APPEAL: The decision of the Court may be appealed to the Indiana Court of Appeals. You will be unable to appeal unless you notify an attorney in time to allow him to take action within thirty (30) days after judgment is entered. For this reason you should contact an attorney not later than seven (7) days after judgment.