

Notice of Counterclaim

Use this form when:

You are the Defendant (being sued by the Plaintiff) and

- You have a claim against the Plaintiff based on the same incident, event or claim filed by the Plaintiff against you.
- You must file this Notice of Counterclaim far enough in advance so the Plaintiff is served at least seven (7) days before the first hearing.

This form has a front and a back. Complete and sign the Notice of Counterclaim. Print both sides of this Notice of Counterclaim and bring to the court to be filed and served.

The court will not hear and decide your case until you serve the Plaintiff both the front and the back of the Notice of Counterclaim.

SCROLL DOWN FOR

Notice of Counterclaim

NOTICE OF COUNTERCLAIM

TIPPECANOE SUPERIOR COURT No. 4
Courthouse, 301 Main Street
Lafayette, Indiana 47901
Telephone: (765) 423-9266

CAUSE NO. 79D04-_____ -PL/SC-_____

Plaintiff requests service by:
 Sheriff of Tippecanoe/_____ County
 Certified Mail

Counter Plaintiff 1 (original Defendant 1)

Counter Defendant 1 (original Plaintiff 1)

Address _____
Address _____
City _____ State _____ Zip _____
Telephone (_____) _____
Email _____

Address _____
Address _____
Address _____
City _____ State _____ Zip _____
Telephone (_____) _____
Email _____

Counter Plaintiff 2 (original Defendant 2)

Counter Defendant 2 (original Plaintiff 2)

Address _____
Address _____
City _____ State _____ Zip _____
Telephone (_____) _____
Email _____

Address _____
Address _____
Address _____
City _____ State _____ Zip _____
Telephone (_____) _____
Email _____

If Counter Plaintiff is represented by an Attorney:
Attorney _____
Attorney No. _____
Address _____
Address _____
City _____ State _____ Zip _____
Telephone (_____) _____
Email _____

CLERK'S NOTICE OF CLAIM TO COUNTER DEFENDANT

You, the original Plaintiff (now Counter Defendant), have been countersued by the original Defendant (now Counter Plaintiff) whose name appears above. This counterclaim, and your original claim, will be heard in the Tippecanoe Superior Court No. 4 on the same date, time and place as your original claim. The Court may enter a default judgment against you if you fail to appear. The Counter Plaintiff's claim is for:

- Contract, Note or Account (copy attached)
- Personal injury or property damage
- Other _____

A brief statement of the Counter Plaintiff's counter claim against you is as follows: _____

The Counter Plaintiff demands judgment against you for \$ _____ plus interest from the date of the filing of this Claim at the rate of _____ % and court costs of this action.

_____, 20_____
Date

Counter Plaintiff or Attorney signature
(Attorney must sign if Counter Plaintiff is represented by an attorney)

(See important information and SHERIFF'S RETURN OF SERVICE on reverse side)

IMPORTANT INFORMATION CONCERNING THIS COUNTERCLAIM

(1) The original Defendant (now Counter Plaintiff) must file any counterclaim with the Clerk to allow enough time for the claim to be mailed and received by the original Plaintiff (now Counter Defendant) at least seven (7) days before the first scheduled hearing. The original Defendant (now the Counter Plaintiff) does not waive a possible counterclaim against the original Plaintiff by not filing a counterclaim at the same time as the original claim filed by the Plaintiff. But the original Defendant does waive any amount of the counterclaim over the jurisdictional limit of \$8,000 by filing a counterclaim.

(2) A Counterclaim is filed by the original Defendant in the same case and under the same cause number as the original Notice of Claim naming the Counter Plaintiff as the Defendant. No additional court costs are paid. However, the Counter Plaintiff must pay the service fees (either Certified Mail or Sheriff's Service Fees) to serve to Counterclaim on the Counter Defendant.

(3) The Counter Plaintiff or the Counter Defendant may represent themselves individually or be represented by an attorney. A Small Claims Manual is available at the Clerk's or the Court's office (or at the website www.tippecanoe.in.gov). The Plaintiff and Defendant should bring to trial all witnesses, documents, exhibits and evidence in their possession or under their control concerning this claim. Many times, the Court will not conduct the trial or hear a contested case at the first scheduled hearing date unless time permits and both parties are prepared to proceed at that time.

(4) A default judgment may be entered against the Counter Defendant if he or she fails to appear for the first scheduled hearing date or any subsequent trial date. If the Plaintiff fails to appear, the case will be dismissed (but may be refiled).

(5) If the Counter Defendant does not dispute the Counter Plaintiff's claim, the Counter Defendant may still appear to allow the Court to establish the method for paying the judgment.

(6) Any request for a continuance of a first scheduled hearing or any trial date by either party should be filed with the Court at least seven (7) days before the court date. Forms to request a continuance are available at the Clerk's or Court's office or on the website. The party requesting the continuance must notify the other party of the request. Any request for a continuance will not be considered unless in writing and served on the other party.

(7) If a settlement of this counterclaim is made out of Court, it should be in writing and signed by both parties. Forms to file an Agreed Judgment are available at the Clerk's or Court's office or on the website. The Agreed Judgment shall be filed with the Court, be entered in the Small Claims Docket and have the same effect as a judgment of the Court.

(7) Any exhibits or documents you may offer at trial will be retained by the Court for at least 45 days and no more than 120 days after any hearing that results in a judgment. You may make arrangements to pick up your exhibits and documents any time 45 days after judgment has been entered. If an appeal is filed, these exhibits will remain permanently with the Court. You will receive no further notices regarding your evidence.

SHERIFF'S RETURN OF SERVICE of NOTICE OF COUNTERCLAIM

I certify that on the below date, I served this Notice of Counterclaim by:

- Delivering a copy to the person of the Counter Defendant (original Plaintiff); **OR**
- By leaving a copy either:
 - Posted prominently at the residence of the counter Defendant listed on the front of this Notice; **OR**
 - With a person of suitable age and discretion residing therein, name _____; **OR**
 - At the Counter Defendant's place of work, employment or business listed on the front of this Notice.

AND

- By mailing a copy of this Notice to the Counter Defendant (1st Class Mail) to the address listed on the front of this Notice (date mailed if different from below: _____, 20____).
- I was unable to serve this Notice of Counterclaim because _____

_____, 20____
Date

Sheriff of Tippecanoe/_____ County

BY: _____