

## **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. **All Counter-Claims must be filed at least seven (7) days before the trial on the original claim.**
- You must complete the entire form. You must also include a short and clear statement describing why you are filing the Counter-Claim in the summary portion of the Counter-Claim Form.
- If your Counter-Claim is based on a contract, a copy of the contract **must** be attached. If your Counter-Claim is based on an unpaid account, a copy of the most recent bill or account statement **must** be attached to the Counter-Claim Form.
- The appropriate Appearance Form (*Individual Appearance OR Appearance for Sole Proprietorship, Partnership, Corporation, LLC, LLP, or other Business Organization*) must be completed and submitted at the same time the Counter-Claim is submitted. If you provide an email address on the Appearance Form, the **only** notice of future Court hearings and Orders you will receive will be through email notification. If you do not use your email address on a regular basis, please do not list it.
- Once the forms are completed, bring the forms to the Small Claims Office.
- If you have any further questions, feel free to contact our office at (812)379-1620. Most questions can be answered 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

Counter-Plaintiff \_\_\_\_\_

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-Plaintiff whose name appears above.

You and the Counter-Plaintiff are to appear on \_\_\_\_\_ at the Bartholomew Superior Court No. 2 located on the third floor of the Bartholomew County Courthouse, 234 Washington Street, Columbus, Indiana.

**COUNTER-CLAIM FOR DAMAGES**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Signed \_\_\_\_\_  
Counter-Plaintiff

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/IMPORTANT INFORMATION

1. Each Defendant must be served properly under Indiana Rules of Trial Procedure 4-4.17 and 86 for the Court to have jurisdiction. If Plaintiff is using a Private Process Server, Plaintiff shall file a Return Notice of Claim with the Court after attempting Service for each Defendant. The Court cannot proceed without proper service.
2. You do not have to have an attorney to file or respond to a Small Claim. Individual human beings can either hire an attorney or represent themselves in a Small Claim case regardless of the amount of the claim. However, when the claim exceeds \$6,000, corporate entities, including LLCs or trusts, must be represented by an attorney. If the claim is less than \$6,000, corporate entities, including LLCs or trusts, may be represented by a FULL-TIME EMPLOYEE as explained in paragraph 3. A FULL-TIME EMPLOYEE may also represent sole proprietorships and partnerships when the claim does not exceed \$6,000. When the claim exceeds \$6,000, either an attorney, the owner, or a partner must represent sole proprietorships and partnerships.
3. A corporate entity, sole proprietorship, partnership, LLC, LLP, or trust that wishes to designate an employee or trustee to represent it must file a properly executed Certificate of Compliance in each case appointing the person as its representative pursuant to Indiana Small Claim Rule 8(C).
4. A Court may sanction a designated employee or trustee and the entity represented by such designation for failure to comply with these rules or local rules of Court. Sanctions may include assessments of costs or reasonable attorney's fees, the entry of a default judgment, the dismissal of a claim with or without prejudice, fines, and/or incarceration.
5. Plaintiff waives the right to trial by jury by filing a Small Claim. The Defendant may, within ten (10) days following service of the Notice of Claim, demand a trial by jury, in writing, specifying that the demand is made in good faith and supplying the affidavit required by Indiana Code 33-29-2-7. The Defendant must pay the difference in filing fees to the Clerk's Office at the time of the jury request.
6. The Defendant must file any counter claim with the Court in time to be mailed and received by the Plaintiff at least seven (7) calendar days prior to the trial date.
7. A claim must be filed in the county where the Defendant resides or has his/her place of employment, the transaction or occurrence took place, or where the obligation was incurred.
8. Court costs must be paid in advance. The Court may order a Defendant to reimburse the Plaintiff for Court costs.
9. This Court cannot award more than \$10,000 in a Small Claims action.
10. All parties and their representatives must complete and file an Appearance form with the Court.
11. Requests to continue the trial by either party must be received by the Court at least two (2) business days before the trial date. Continuances are generally not favored and are not granted by telephone. Requests to continue can be mailed or delivered to Bartholomew Superior Court 2 Small Claims, 234 Washington Street, Columbus, IN 47201. The Court's phone number is (812)379-1620.
12. Bring to trial all documents, photos, etc. that you wish to submit concerning this claim. Written lists of damages with written explanations are very helpful to the Court. The Court will not consider exhibits displayed solely on electronic devices. Printed documents and photos should be of good quality and organized. The Clerk will furnish subpoenas if requested.
13. The Court will conduct a contested trial on the first trial setting, so both parties should be prepared to proceed. Notify the Court at least two (2) business days in advance if the trial will take longer than thirty (30) minutes.
14. Be on time for trial. A claim may be dismissed or judgment may be entered against an absent party.
15. Parties may settle the case before trial, but they are not required to do so. If the case is settled before trial, Plaintiff shall either dismiss the case or file an Agreed Judgment with the Court. Both Plaintiff and Defendant must sign the Agreed Judgment. The Court has Agreed Judgment forms available upon request. Even if a Defendant agrees to a judgment, he/she may appear in Court to establish a method by which the judgment may be paid.
16. An appeal must be initiated within thirty (30) days of the entry of judgment. Appeals are complicated and an attorney should be consulted regarding an appeal.
17. A Small Claims Manual and all Small Claims forms are available at [www.bartholomew.in.gov](http://www.bartholomew.in.gov) or the Small Claims Office. Small Claims rules can be found at [www.in.gov/courts/rules/small\\_claims](http://www.in.gov/courts/rules/small_claims). You can find information about cases at [www.public.courts.in.gov](http://www.public.courts.in.gov) or [www.pscs.in.gov](http://www.pscs.in.gov).

STATE OF INDIANA

SS: IN THE BARTHOLOMEW SUPERIOR COURT NO 2

COUNTY OF BARTHOLOMEW

CASE NO: 03D02-\_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s)

vs

\_\_\_\_\_  
Defendant(s)

**INDIVIDUAL APPEARANCE**

*This Appearance Form must be filed on behalf of every party in a civil case.*

1. My Name is \_\_\_\_\_ and I am

Initiating (filing) \_\_\_\_\_

*If you are the Plaintiff, check Initiating*

Responding (answering or defending) \_\_\_\_\_

*If you are Defendant, check Responding*

Intervening \_\_\_\_\_

2. Contact information for receiving legal service of documents and case information is required by Court Rules: (NOTE: *If you are the Initiating party and this case, or a related case, involves a protection from abuse order, a workplace violence restraining order, or a no-contact order, you must provide an address for the purpose of legal service of documents but that address should not be one that exposes the whereabouts of a petitioner*)

**THIS INFORMATION IS REQUIRED:**

(IF AN EMAIL ADDRESS IS PROVIDED, THE ONLY NOTICE OF FUTURE COURT HEARINGS WILL BE THROUGH EMAIL NOTIFICATION. IF YOU DO NOT USE YOUR EMAIL ADDRESS ON A REGULAR BASIS, PLEASE DO NOT LIST IT.)

**Address:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

OR, if in the related case, you have used the Attorney General Confidential address, you may check \_\_\_\_\_ Attorney General confidential address (contact the Attorney General 1-800-321-1907 or email address is confidential@atg.state.in.us)

3. This is a \_\_\_\_\_ case type as defined in administrative Rule 8(B)(3).  
(Clerk will supply this information).

4. I will accept service by FAX at the following number \_\_\_\_\_

\_\_\_\_\_  
Signature - Self-Represented Party