

FRANKLIN COUNTY MUNICIPAL COURT

SMALL CLAIMS DIVISION

HOW TO FILE A COUNTERCLAIM

What is a counterclaim?

A counterclaim is a claim filed by a defendant against a plaintiff. If you have been sued and you have a claim that arose out of the same subject matter described in the plaintiff's complaint, you must file a counterclaim or your claim may be waived.

If you have a claim against the plaintiff that is unrelated to the facts presented in the plaintiff's claim, you may choose to file a counterclaim now or you may file your claim separately. If you choose to file your claim separately it will be treated as a new lawsuit and you will be required to pay the filing fees and court fees associated with filing new lawsuits.

What is the jurisdictional limit for a counterclaim in the Small Claims Division?

Your counterclaim cannot exceed \$6,000, not including court costs and interest. You cannot ask for anything other than money in a small claims case. Also, you cannot file for libel, slander, abuse of (legal) process, malicious prosecution, or to recover "punitive damages."

If you have a counterclaim for more than \$6,000, or want something other than money, then the case may need to be transferred to the General Division. A fee of \$45.00 is required to transfer the case to the General Division. If the fee is not paid, the case will remain in the Small Claims Division where it is subject to the jurisdictional limit of \$6,000.

When should I file my counterclaim?

The counterclaim must be filed at least seven (7) days before the trial date. If you want to file a counterclaim less than seven days before the trial date, you must request permission from the magistrate.

How do I complete the counterclaim form?

Enter the names of the parties and the case number at the top of the form on the lines provided. The identities of the parties remain the same: the plaintiff in the complaint is still the plaintiff in the counterclaim. You are still the defendant. Under the title of "Counterclaim," explain the facts that support your counterclaim. If more space is needed, you may add an additional page. You must include the amount of money you are requesting and you must sign and date your counterclaim form.

How do I file my counterclaim?

You may mail or hand-deliver your counterclaim and court cost. The cost of filing a counterclaim is \$20.00 plus the cost of serving the plaintiff. You do not need to pay a service cost if you mail a copy of the counterclaim to the plaintiff yourself (you must complete the certificate of service at the bottom of the counterclaim form). If you want the court to serve a copy of the counter claim the cost is \$3.00 for ordinary mail, \$6.00 for certified mail, and \$25.00 for personal (or residence) service by a court bailiff.

Plaintiff,
v. Case No. _____ CVI _____

Defendant.

Plaintiff owes defendant the sum of \$_____ on the following grounds:

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Defendant

Defendant

_____	Plaintiff	Case No. _____	CV _____
VS.		Signature _____	
_____	Defendant	Attorney Code _____	
_____		Attorney for _____	
_____	Date		

_____ Writ of Restitution - \$35.00 (Includes Service) (Red Tag)	_____ DOCKET TRANSCRIPT - \$20.00
_____ Set Out - \$45.00 (Includes Service)	_____ Out of County Sheriff - \$41.00 County Name _____
_____ Replevin - \$35.00 (Includes Service) (You must complete bailiff instructions)	_____ Post Judgment Motion - \$20.00
_____ Execution - \$35.00 (Includes Service) (You must complete bailiff instructions)	_____ Objection to Magistrates Report - \$20.00
_____ Execution/Vehicle - \$835.00 (Includes Service) (You must complete bailiff instructions)	_____ Amended Complaint - \$20.00 (plus service fees)
_____ Exemplified Copy/Certificate of Copy - \$20.00	_____ Third Party Complaint - \$20.00 (plus service fees)
_____ Certificate of Judgment - \$10.00	_____ Counterclaim/Crossclaim - \$20.00 (plus service fees)
_____ Revivor - \$20.00 (plus service fees)	_____ Order to Show Cause - \$50.00
_____ Certificate of Judgment to BMV - \$10.00 Date of Loss _____ Date of Birth _____ Social Security # _____ Driver's License # _____ License Plate # _____	_____ Ordinary Mail Service - \$3.00
_____ Assignment of Judgment - \$20.00	_____ Certified Mail Service - \$10.00
_____ Appeal - \$50.00	_____ Bailiff Service - \$25.00
_____ Transfer from Small Claims - \$35.00	_____ Personal/Residence Process Server \$25.00
_____ Certified Copies - \$1.00 per copy	_____ FedEx - \$15.00
_____ OTHER _____	_____ Jury Demand Fee - \$10.00
	_____ Jury Demand Deposit - \$500.00
	_____ New Address _____
	_____ Street _____
	_____ City _____ State _____ Zip code _____