

INSTRUCTIONS FOR FILING AN ANSWER AND/OR COUNTERCLAIM IN COUNTY COURT

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- ◆ A Defendant can file with the Court an Answer (CRCCP Form 3) in writing stating his/her defense(s), and if applicable, also make a counterclaim that states any allegation(s)/claim(s) against the Plaintiff.
- ◆ The purpose of the answer and/or counterclaim is for the Defendant to respond to the allegations in the complaint and to state any claims against the Plaintiff that the Defendant might have.
- ◆ The answer and/or counterclaim can be filed at or before the time specified for the Court appearance on the Summons.
- ◆ County court jurisdiction is \$15,000.00 or less. District court jurisdiction is any amount over \$15,000.00.
- ◆ A Defendant may also request a trial by jury if the jury demand fee is paid, along with the answer or counterclaim fee.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:
http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- ☒ Plaintiff: The person, persons, company or other entity filing a Complaint against another person, persons, company or other entity.
- ☒ Defendant: The person, persons, company or other entity that the case is filed against.
- ☒ Complaint: Document officially commencing the lawsuit against a person or persons stating the amount claimed and the reason for the claim.
- ☒ Summons: Document telling the Defendant when and where to appear in Court and the other requirements the Defendant must perform.
- ☒ Answer: Document filed by the Defendant to respond with a legal defense to the allegations in the complaint and to state any claims against the Plaintiff that the Defendant might have.
- ☒ Counterclaim: A complaint filed by the Defendant against the Plaintiff in the Defendant's Answer.
- ☒ Cross Claim: A claim by one Defendant against another Defendant.
- ☒ Injunctive Relief: A court order (injunction) directing a person to refrain from doing something or ordering the person to do something.
- ☒ Service of Process: The official means by which a Defendant is notified that a lawsuit has been filed against him/her and provided a copy of the complaint and a description of the Defendant's rights and obligations as a party to the case.
- ☒ Default: If the Defendant does not appear at the time of the hearing or file an answer, the Court may enter "default" or "failure to appear/answer" which entitles the Plaintiff to or in the complaint.
- ☒ Return Date: The date that the Defendant must file his/her answer by and/or appear in Court, which is listed on the Summons.
- ☒ May: In legal terms, "may" is defined as "optional" or "can."
- ☒ Shall: In legal terms, "shall" is defined as "required."

If you do not understand this information, please contact an attorney.

FEES

An answer fee of \$92.00 or answer and counterclaim fee of \$96.00 is required. If your counterclaim seeks an amount of more than \$15,000.00, you are required to file your counterclaim in the District Court and pay the appropriate filing fee.

If you are unable to pay the filing fee, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide whether you need to pay the filing fee. All fees paid are non-refundable.

<input type="checkbox"/> Jury Demand Fee	\$ 98.00
<input type="checkbox"/> Copies of Documents (Documents on File)	\$.75 per page or \$1.50 if double-sided
<input type="checkbox"/> Copies of Documents (Documents not on File)	\$.25 per page or \$.50 if double-sided
<input type="checkbox"/> Service Fees	Varies (Payable to Process Server)
<input type="checkbox"/> Certification Fee	\$ 20.00
<input type="checkbox"/> Writ of Garnishment	\$ 45.00
<input type="checkbox"/> Transcript of Judgment	\$ 25.00
<input type="checkbox"/> Execution	\$ 45.00
<input type="checkbox"/> Satisfaction of Judgment	\$ 20.00

FORMS

To access the response online go to www.courts.state.co.us and click on the “Forms” tab. The form is available in PDF or WORD by selecting “County Civil – Filing an Answer and/or Counterclaim”. You may complete the form online and print it or you may print it and type or print legibly in black ink.

- | | |
|---------------------------------------|--|
| <input type="checkbox"/> CRCCP Form 3 | Answer under Simplified Civil Procedure (including counterclaim(s) and/or cross claims(s)) |
| <input type="checkbox"/> JDF 78 | Motion to Set Aside Default Judgment |
| <input type="checkbox"/> JDF 109 | Affidavit to Support Claim for a Breach of the Warrant of Habitability |

STEPS TO FILING YOUR ANSWER AND/OR COUNTERCLAIM

Step 1: Complete Answer/Counterclaim Form - CRCCP 3.

- Complete all sections of the form that apply to your case.
- The answer should identify a legal defense, for example identify why you do not owe the money identified in the Complaint or what you believe you owe.
- If you are claiming that the landlord’s failure to repair the residential premises is a defense to the landlord’s allegation of nonpayment of rent, complete the Affidavit to Support Claim for a Breach of the Warrant of Habitability (JDF 109). The purpose of this form is to support the amount you will need to pay into the registry of the Court.
- Keep a copy of each form for your own records and make copies to provide to the Plaintiff and/or attorney.

Step 2: You are ready to file your Answer and/or Counterclaim with the Court.

The answer and/or counterclaim can be filed at or before the time specified for the Court appearance on the Summons.

- Provide the Court with the answer form.
- Pay the appropriate answer and/or answer and counterclaim filing fee.
- If applicable, provide the Court with the Affidavit to Support claim for a Breach of the Warranty of Habitability (JDF 109) form. The amount identified on the affidavit is what you are required to deposit into the registry of the Court. This amount should be the rent due less any expenses you have incurred based upon the landlord's failure to repair the residential premises. Following the court hearing, the money deposited will be paid to one of the parties as ordered by the Court.
- If you are requesting a jury trial, the jury demand fee must be paid at this time.
- All filing fees paid are non-refundable.

COURT DATE

- It is important that you are on time or early for your Court Hearing and that you have all of your information/supporting documents with you.
- If you filed the Affidavit (JDF 109) identifying that habitation is an issue, you are required to provide the court with receipts to support the repair work that was completed. Make extra copies of the receipts for the Court and the Plaintiff and/or attorney.
- Please turn off your cell phone and respect all parties in the courtroom.
- You may be asked to speak to the other party before the Court Hearing to determine if the case can be settled to avoid going to trial.

POSSIBLE OUTCOMES FROM YOUR COURT HEARING

If the Plaintiff and Defendant appear, then one of the following situations may occur:

1. The Plaintiff and the Defendant can agree to talk and agree to certain acceptable conditions that could include the payment of the claim, a payment plan, etc. **This is called a Stipulation.** The Stipulation form (JDF 75) may be purchased from the clerk's office or you may bring one with you to Court.
 - The Stipulation (JDF 75) must be signed in the presence of a court clerk or notary public.
 - If a stipulation is reached, an Order re: Stipulation (JDF 106) must be filed with the Court with the Stipulation. Complete the caption only on the form. The Court will complete the remaining sections on the form and give you a signed copy.
2. The Defendant can file an answer contesting the claim of the Plaintiff any time after being served, once the court has accepted/processed the new case, up to and including the first court date/return date. The purpose of the answer is for the Defendant to respond to the allegations in the complaint and a counterclaim would need to state any claims against the Plaintiff that the Defendant might have. All filing fees paid are non-refundable and must be paid when filing the answer or counterclaim.
3. The Plaintiff can continue, meaning postpone, the return date if the Plaintiff feels that further discussion with the Defendant is necessary or if the Defendant is given another opportunity to fulfill a pre-arranged agreement.

4. A Court or Jury Trial can be requested. Certain restrictions apply for eviction cases if a Jury Trial is requested. Please check with the clerk.
5. If the Court accepts the Defendant's Answer and/or Counterclaim as a legal defense, a mediation date or trial date will be set. Check with the Court when filing your case to determine what their procedures are.
6. If you filed the Affidavit (JDF 109) and deposited funds in the court registry, the Court will issue an order to release the funds as appropriate.

If the Plaintiff appears and the Defendant does not Appear, and an answer or counterclaim was not filed then:

1. Complete the Motion for Entry of Judgment (JDF 104).
2. Complete the caption only on the Order for Entry of Judgment with Issuance of Interrogatories (JDF 107). The Court will complete the remaining sections on the form and give you a signed copy.
3. The Court may award monetary judgment to the Plaintiff(s).
4. On eviction cases, a judgment for possession of the rental property may occur, with an order for a Writ of Restitution to issue after 48 hours from date of judgment. Execution on the Writ of Restitution is between the Plaintiff & the Sheriff.

If the Defendant appears and the Plaintiff does not appear.

1. If a counterclaim was filed and provided to the Plaintiff, the Court may award judgment to the Defendant.
2. If no counterclaim has been filed, the Court may dismiss the case.

MOTION TO SET ASIDE DEFAULT JUDGMENT

A Motion to Set Aside a Default Judgment can be filed only if the Defendant has a valid legal defense for a non-appearance on the court/return date **AND** a valid legal defense to the claim identified in the Complaint by the Plaintiff.

- Complete a Motion to Set Aside Default Judgment (JDF 78) and the Answer (CRCCP 3) form.
- Pay the filing fee upon filing the documents.
- After the Court reviews the Motion (JDF 78) and Answer (CRCCP 3), a hearing may be established by the Court.

JUDGMENT INFORMATION

The Court cannot collect your judgment for you, but can give you information regarding the necessary forms.

- If you obtained personal service on the Plaintiff or Defendant, the Motion for Entry of Judgment (JDF 104) may include the principal amount you are requesting plus costs. The Motion also asks for court costs and the process fee for service of the Summons.

Additional collection information entitled "Instructions for Collecting a Judgment and Completing a Writ of Garnishment" (JDF 82) is available on the state judicial website, www.courts.state.co.us. Select the "Forms" tab, then select County Civil or District Civil and then select Garnishments.