



REPUBLIC OF SOUTH AFRICA

**NO.7— WRITTEN STATEMENT OF DEFENCE AND COUNTERCLAIM**

In the Small Claims Court for the area of.....

Case No..... Unique Reference No.: .....

**WRITTEN STATEMENT OF DEFENCE AND COUNTERCLAIM**

*(To be completed by the defendant)*

**A. PARTICULARS OF THE DEFENDANT:**

Surname or Name of entity: .....

First Names: .....

Residential address: .....

Business address: .....

Postal Address: .....

Telephone No: .....

Cellular No: .....

E-mail address: .....

**B. PARTICULARS OF THE PLAINTIFF:**

Surname .....

First Names: .....

**WRITTEN STATEMENT OF DEFENCE**

**1. How much of the claim do you dispute?**

*(tick whichever applies)*

I dispute the full amount (money) claimed OR the claim (other than money) as shown on the particulars of claim

**OR**  I admit the amount of R .....

And I paid the amount admitted on ..... (date).

**2. Do you deny or dispute this claim because you have already paid it or complied with it?**

*(tick below whichever applies)*

No *(then go to **paragraph 3.2 and 3.3**)*

Yes *(then complete **paragraph 3.1**)*

3.1 I paid R ..... to the plaintiff on ..... (date).

Provide details of where and how you paid the amount or complied with the claim, in below. If you have proof of your payment or compliance with the claim then attach this proof.

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3.2 What is your response to the plaintiff's claim?

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3.3 Why do you say that you are not liable? State the nature of your defence and the particulars of the grounds on which your defence is based, in the box below?

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**COUNTERCLAIM**

(if you are not making a counterclaim then cross out this heading)

4. **If you wish to make a claim against the Plaintiff (counterclaim),** then complete the following:

4.1 If your claim is for a specific sum of money, how much are you claiming?

R .....

4.2 My claim is for *(specify nature of claim and what you want from the court)*

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**Note: you may use additional paper if necessary. Please insert your name, surname and the case number on the top right of each page, if additional paper is used.**

5. The defendant hereby abandons in terms of section 18 of the Small Claims Courts Act, 1984 (Act No. 61 of 1984) ("Act"), the sum of R ..... *(delete if not applicable)* being part of the claim. *(Note: "abandon" means to give up a portion of a claim or counterclaim to bring the claim within the jurisdiction of the Small Claims Court)*

6. The defendant hereby sets off in terms of section 19 of the Act, the sum of R..... *(delete if not applicable)* being the amount to be deducted from the admitted debt as stated in the summons. *(Note: "set-off" means the deduction from a claim or counterclaim of an amount admitted by a party, due by that party to the other party concerned).*

7. I consent to the service of all further documents by electronic mail to the e-mail address referred to in paragraph A.

Date: .....

Signature, mark or fingerprint of defendant: .....

**NOTE:**

- (a) If you do **NOT HAVE A COUNTERCLAIM** then lodge this document with the clerk of the court.
- (b) If you **HAVE A COUNTERCLAIM** then you must also serve a copy of this document on the plaintiff, and lodge the original document with the clerk of the court.

The counterclaim may be served by you or the sheriff. If you serve the counterclaim, it must be done as follows:

1. You must make as many copies of the written statement of defence that includes your counterclaim, as there are plaintiffs to be served.
2. Hand over a copy of the written statement of defence and counterclaim to the plaintiff.
3. Where requested, show the original or certified copy of the written statement of defence and counterclaim to the plaintiff.
4. After service on the plaintiff, lodge the original written statement of defence and counterclaim and proof of service with the clerk of the court as soon as possible.
5. Proof of service of the written statement of defence and counterclaim on the plaintiff must substantially correspond with Form 6 in Annexure 1.
6. Where the defendant keeps his or her residence or place of business closed and thus prevents you from serving the written statement of defence and counterclaim, you may call upon the sheriff to serve the summons, subject to compliance with rule 13(1)(a) and (b)".