**FORM 10A
COUNTERCLAIM**

Court File No. S\_\_\_ SC \_\_\_\_\_\_\_\_\_\_
*(The number assigned by the court)*

SUPREME COURT OF PRINCE EDWARD ISLAND
(SMALL CLAIMS SECTION)

BETWEEN:

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

PLAINTIFF(S)

(DEFENDANT(S) TO COUNTERCLAIM)

AND:

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

DEFENDANT(S)

(PLAINTIFF(S) BY COUNTERCLAIM)

**COUNTERCLAIM**

TO THE PLAINTIFF(S):

A COUNTERCLAIM HAS BEEN COMMENCED AGAINST YOU BY THE DEFENDANT(S).

The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS COUNTERCLAIM, you or a lawyer acting for you must prepare a statement of defence (Form 9A), and file it with the clerk of the small claims section of the Supreme Court of Prince Edward Island WITHIN TWENTY DAYS after this counterclaim is served on you, if you are in Prince Edward Island, or WITHIN FORTY DAYS, if you are served outside Prince Edward Island.

IF YOU DO NOT FILE A STATEMENT OF DEFENCE WITHIN THE REQUIRED TIME, JUDGMENT MAY BE ENTERED AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

**COUNTERCLAIM**

AMOUNT OF THE COUNTERCLAIM (including interest accrued to date, if any)

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REASON FOR COUNTERCLAIM AND DETAILS

Explain what happened, including where and when, and the amount of money involved.

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| 🞏 ADDITIONAL PAGES ARE ATTACHED BECAUSE MORE ROOM IS NEEDED. |

DOCUMENTS

*(If* *the defendant (plaintiff by counterclaim) is relying on any documents to support the counterclaim, the defendant must attach a copy of the documents to the claim. If any documents are lost or unavailable, the defendant must explain why in the following space.)*

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I CLAIM PRE-JUDGMENT INTEREST: (CHECK **ONLY ONE** OF THE FOLLOWING)

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| 🞏 Pursuant to a contract at the contract rate of \_\_\_\_ percent (please attach proof of this rate); or |
| 🞏 Pursuant to the *Judicature Act* |

I ALSO CLAIM POST-JUDGMENT INTEREST, AND COURT COSTS.

|  |  |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature of defendant(s) (plaintiff(s) by counterclaim) or the defendant(s) lawyer/agent |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(Signature of court clerk) |

**INSTRUCTIONS FOR MAKING A COUNTERCLAIM**

**RULE 10**

**DO NOT FILE THIS PAGE – DETACH BEFORE FILING**

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| As a defendant, you can also make a claim of your own against the plaintiff. This is called a Counterclaim. For example, the plaintiff may owe you money. To make your claim against the plaintiff take the following steps:  |
| **Step 1:** Completethe Counterclaimform (Form 10A). Either complete the fillable pdf form or word document and print it, or print a blank form and complete it with clear, legible handwriting. You are now the "plaintiff by counterclaim." Be sure to get the original plaintiff’s name correct. Explain what happened in detail. Include dates and places. State how much money you want or what goods you want returned. Attach copies of any documents that help your case. Examples are contracts, repair bills and photographs of damaged goods. If you want interest on money you are claiming, ask for it on the claim form. You and the plaintiff may have a contract that sets an annual interest rate. If so, use that rate.  |
| **Step 2:** File the Counterclaim form and related documents by delivering them or mailing them to the court office where the plaintiff’s claim was filed. You must file your claim no later than 20 days after you file your Statement of Defence, unless you have leave of the court. There is a fee and the court clerk will advise you of the amount. The clerk will return a stamped copy of the Counterclaim form and documents to you.  |
| **Step 3:** Serve the Counterclaim**.** You must deliver a copy of the filed Counterclaim and your documents to each of the persons you are claiming against. This is “serving” your claim. There are rules about how this must be done. See Rule 8. The plaintiff will have 20 days to file a Statement of Defence to your claim after receiving it.  |
| **PLEASE REMEMBER TO DETACH THIS SHEET BEFORE FILING YOUR CLAIM** |