

## Instructions for Denial/Counterclaim (Small Claims Court)

A Denial is a written response to the Plaintiff's Statement of Small Claims. If the Defendant chooses to file a Denial, they must file it with the Clerk of Court who will send a copy to the Plaintiff. **If a Denial is not filed, the court may grant the Plaintiff everything requested in the Plaintiff's Statement of Small Claims and enter a Default Judgment against the Defendant.**

- Complete the top portion of the Answer (the "caption");
- Answer or complete paragraphs 1-4: **You must respond to each allegation in the Plaintiff's Statement of Small Claims. (You can Admit, Deny, Partially Admit or Deny, or State "I do not have enough information to respond to the allegation of \_\_\_\_\_.");**
- You must date and sign the Denial/Counterclaim and provide your address and telephone number;
- If you are filing a Counterclaim, complete the **Verification** portion. You do **not** need to do this if you are just filing a denial. **Do not fill out the verification until you are in the presence of a notary public or clerk of court. Make sure to bring identification to show them. A notary public can usually be found at the bank and sometimes in the courthouse. The Clerk of Court can also complete this section. The Clerk of Court will reject this form if you made a Counterclaim but did not complete the verification;**
- Make a photocopy of the Denial/Counterclaim; one for your file and another to be served on the Plaintiff. The original must be filed with the Clerk of Court. Please note a filing fee will be assessed by the Clerk of Court office for the service of the Counterclaim.

Complete a Case Filing Statement and file it along with the Denial/Counterclaim at the Clerk of Court office. The Case Filing Statement can be found at <https://ujslawhelp.sd.gov/smallclaims.aspx>.

**WARNING: By signing your name, you are telling the court that you are telling the truth and that you have a good faith reason for your requests. If you are not telling the truth, if you are misleading the court, or if you are serving or filing this document for an improper purpose, the court can find you in contempt or you can be prosecuted for not telling the truth.**

STATE OF SOUTH DAKOTA

IN MAGISTRATE COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL CIRCUIT

_____ Plaintiff vs _____ Defendant	FILE NO: _____  <b>DENIAL/COUNTERCLAIM</b>
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Defendant has received Plaintiff's Statement of Small Claims and provides the following response (use additional sheet of paper if necessary):

1. I **AGREE** with the following statements in the Plaintiff's Statement of Small Claims:

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

2. I **DISAGREE** with the following statements in the Plaintiff's Statement of Small Claims:

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

3. I either **PARTIALLY AGREE** or **DISAGREE** (circle one) with the following statements in the Plaintiff's Statement of Small Claims:

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

4. I **DO NOT HAVE ENOUGH INFORMATION** to either agree or disagree with the following statements in the Plaintiff's Statement of Small Claims:

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

*You must explain your answers to the previous statements using the space below or an additional sheet of paper, if necessary. If you do not wish to explain your answers further, leave these spaces blank and proceed to the Counterclaim section:*

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

**DEFENDANT’S COUNTERCLAIM**

*If you wish to sue the Plaintiff for something related to the original Small Claims filed herein, describe the basis for your claim in the following space (use additional sheet of paper if necessary). **Please note you will be responsible for paying a postage fee to the Clerk of Court office for the service of the counterclaim via certified mail.** If you do not wish to file a Counterclaim, please leave this section blank and sign the document in front of a notary or the Clerk of Court:*

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*The amount of my Counterclaim against the Plaintiff is calculated as follows. Please note, it may be less than \$12,000 to be in small claims court pursuant to SDCL 16-12C-13.*

Principal: \$ \_\_\_\_\_  
Interest: \$ \_\_\_\_\_  
Fees: \$ \_\_\_\_\_  
**Defendant’s Total** \$ \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Defendant’s Signature

\_\_\_\_\_  
Print/Type Defendant’s Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
Phone No.

\_\_\_\_\_  
Email Address

STATE OF SOUTH DAKOTA

IN MAGISTRATE COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL CIRCUIT

**VERIFICATION (REQUIRED FOR COUNTERCLAIM ONLY)**

Defendant, being first duly sworn, deposes and states that he or she verifies the facts expressed within the Denial/Counterclaim are true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Defendant's Signature

Sworn/affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public/Clerk of court

\_\_\_\_\_  
Notary Public/Clerk of Court  
If Notary, my commission expires:

\_\_\_\_\_  
(SEAL)