

## CAO Cv INSTRUCTION 3-5 REPLY TO COUNTERCLAIM

### **Talk to an attorney, if possible.**

WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. We always recommend you talk to a lawyer about your problem before filing your paperwork. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for a lesser cost. Contact the Idaho State Bar Lawyer Referral Service (208-334-4500) for the name of an attorney in your area who will provide an initial half-hour consultation for \$35. Contact the Court Assistance Office for information about resources for low-income people, or visit the Idaho Supreme Court's Self-Help Center at <http://www.courtselfhelp.idaho.gov/>.

You will be signing a sworn statement that you have read the complaint, know what it says, and believe it's true. To guarantee the truthfulness of that statement, be sure to read the entire completed form.

### **Instructions.**

Fill in the forms by typing or by printing neatly and legibly in black ink. If you are working on a computer, you may delete the optional sections you don't need and renumber the remaining sections, or type in "none" if a section doesn't apply. The documents have a boldface "or" at the start of optional sections. If the section does not contain a boldface "or" it is necessary and you should type in the appropriate information (which might be the word "none"). Always keep a copy of the completed form for your records.

**At the top left-hand corner of page 1**, fill in your legal name, current mailing address and telephone number.

**The Court Heading.** Fill in the county and judicial district in the heading in capital letters (for example, "IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT IN AND FOR THE COUNTY OF BANNOCK") as they appear on the Complaint.

**The Caption.** Fill in your full legal name in the caption above "Plaintiff", and fill in your spouse's full legal name above "Defendant", exactly as they appear on the Complaint.

**The Case No.** Write in the case number shown on the Complaint.

The **Court Heading**, **Caption** and **Case Number** will be the same on all documents you prepare for this case.

Review the Counterclaim carefully. You must admit or deny each paragraph in the Counterclaim individually. If you can only admit some of the facts in any paragraph, you must state specifically which facts you admit and which facts you deny.

**Paragraph 1:** Decide the numbered Counterclaim paragraphs you completely agree with. Fill in those paragraph numbers, letters, or Roman numerals (as used in the Counterclaim). If you can only admit some of the facts in any numbered paragraph, you must use paragraphs 2 and 3.

**Paragraphs 2 & 3:** If you disagree with only a portion of a paragraph in the Counterclaim, state the paragraph number, letter or Roman numeral (as used in the Counterclaim) plus specifically what you admit.

**Paragraph 4:** Decide the paragraphs of the complaint you don't have enough information to answer. Fill in those paragraph numbers, letters, or roman numerals (as used in the Counterclaim). If the information is something you can easily find out, you should try to find out before you deny it.

**Paragraph 5** is a general denial of any statements made in the Counterclaim that you did not specifically admit.

**Paragraph 6** gives you the option of asking that the Counterclaim be dismissed. Check the box if that is what you want.

There is a prayer portion of the Counterclaim that you do not have to specifically reply to. It usually starts with "Wherefore Defendant prays for judgment as follows." You do not have to reply to any of the numbered paragraphs in the prayer of the Counterclaim.

**Signature:** Sign and date certifying that the information in the document is true and accurate, subject to the penalty perjury if it is not.

#### **Certificate of Service**

You are required to deliver a copy of any document you file in this case to the other party (or her/his attorney if s/he is represented by an attorney). Because the other party has already "appeared" in the case by filing the Counterclaim, you can serve him/her your response by mailing, hand-delivery or fax.

- Fill in the name and address for the other party (or his/her attorney) exactly as it appears in the upper left corner of page one of the Counterclaim. If you are going to serve the Reply to Counterclaim by fax or personal delivery, write in the address you will use.
- Check the box to indicate how you are getting a copy to the other party (or his/her attorney).
- Fill in the date and sign the Certificate of Service.

**NOTE:** A copy of every document you file with the court in this case must be sent to the other party, either directly or through the attorney if s/he has an attorney.

Make your copies.

**File your Reply to Counterclaim.** Take the original (the one you signed) and your copy to the court clerk. The original will be kept in the court's file and you can ask that the clerk "conform" or stamp your copy.