

Sample 13: Defence and counterclaim

MAGISTRATES COURT OF QUEENSLAND

REGISTRY: Toowoomba
NUMBER: M123456 of 2018

Plaintiff: *Jane Wright*

AND

Defendant: *George Getz*

Filed in the *Toowoomba* registry on *12/12/2018*

DEFENCE AND COUNTERCLAIM

The defendant relies on the following facts in defence of the claim:

1. The defendant admits the allegations in paragraphs 1 (a) and (b) and 2 of the statement of claim.
2. The defendant does not admit the allegations in paragraphs 3 and 4 of the statement of claim. The defendant has made reasonable inquiries and is uncertain whether the allegations made against them are true. The defendant is unable to admit fault because *the plaintiff's negligence also contributed to the circumstances leading to the claim. The defendant believes they cannot admit to the allegations because the plaintiff failed to keep a proper lookout, failed to see the defendant had already entered the intersection, drove at excessive speed and could not control her car to avoid the collision.*

COUNTERCLAIM

This counterclaim is made by the first defendant against:

1. *Jane Wright (the plaintiff)*

This counterclaim is made in reliance on the following facts:

1. *The plaintiff's negligence contributed to the collision referred to in paragraph 2 of the plaintiff's Statement of claim.*

DEFENCE AND COUNTERCLAIM
Filed on behalf of the defendant
Form 18 – Rule 179

Uniform Civil Procedure Rules 1999

George Getz
9 Norman Road
Redwood Gld 4350
Telephone: 07 3238 339
Facsimile:

Defence and counterclaim cont'd

2. The plaintiff:

- (i) cut across the path of an oncoming vehicle where it was unsafe to do so
- (ii) failed to take evasive action in the circumstances
- (iii) failed to give way
- (iv) failed to keep a proper lookout.

The Defendant claims the following relief:

Repair to vehicle: \$3,179.25

Signed: *G Getz*

Description: Defendant

Dated: 11/12/2018

NOTICE AS TO REPLY AND ANSWER

To the plaintiff: You have 14 days to file and serve an answer to this counterclaim. If you do not do so, Rule 166 provides allegations of fact in the counterclaim are taken to be admitted by you unless denied or stated to be not admitted by you in a pleading.

Address of Registry: Hume Street, Toowoomba, Qld, 4350.

PARTICULARS OF THE DEFENDANT:

Name: *George Getz*

Defendant's address for service: *9 Norman Road, Redwood Qld 4350.*

Defendant's telephone number or contact number: *07 3238 300*

Defendant's fax number (if any):

Defendant's e-mail address (if any):

This claim is to be served on: *Jane Wright, 200 Tenth Avenue, Redwood Qld 4350.*