



# MARICOPA COUNTY JUSTICE COURTS

If you want to file a...

# EVICTIION ACTION COUNTERCLAIM

(A claim resulting from the landlord's breach of the rental agreement  
or the Arizona Residential Landlord and Tenant Act)



# MARICOPA COUNTY JUSTICE COURTS

## **COUNTERCLAIM**

A counterclaim may be considered in an Eviction Action ONLY IF the counterclaim is the result of the landlord's breach of the rental agreement or the Arizona Residential Landlord and Tenant Act. The allegations of the counterclaim will be considered and decided at the time of trial.

If the counterclaim is a valid claim and the amount of your counterclaim exceeds \$10,000.00 the case will immediately be transferred to the Superior Court and appropriate filing fees will be assessed by the Superior Court before processing can commence.

### **FORMS Needed:**

Counterclaim (Eviction Action) form

A copy of the notice given to the landlord of the alleged breach.

### **INSTRUCTIONS:**

1. Read the Residential Eviction Information Sheet. You should have already been served with a copy of the Residential Eviction Information Sheet. It is included in this packet for your reference.
2. Complete the Counterclaim form.
3. Make two copies of the Counterclaim.
4. File the completed form(s) with the court clerk and pay the required court filing fee, if applicable.
5. Mail or deliver a copy of the Counterclaim to the plaintiff (landlord).

**IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS A NOTICE OF CHANGE OF ADDRESS** form must be filed with the court when a party changes their address.

Visit us at <http://justicecourts.maricopa.gov/> for additional filing information and online forms.

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

Attorney for Plaintiff(s) Name / Address / Email / Phone Bar Number



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

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

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

Plaintiff(s) Name / Address / Email / Phone

Defendant(s) Name / Address / Email / Phone

## COUNTERCLAIM

Defendant, having filed an answer to plaintiff's complaint, now counterclaims as follows:

Identify the breach of the Residential Landlord and Tenant Act or the breach of the rental contract that has resulted in the alleged damages that is the basis of this counterclaim:

I gave the plaintiff written notice of the alleged breach. Attached is a copy of the notice that I gave. It was given to the plaintiff (or to their representative) on \_\_\_\_\_, in the following manner (e.g. mailed, hand delivered, etc.):

I am asking for judgment against the counter-defendant(s) herein named in the sum of \$\_\_\_\_\_. I am also asking for costs of court incurred herein and interest at the legal rate of \_\_\_\_\_% per annum from the date of judgment. I am entitled to this relief because:

I state under penalty of perjury that the foregoing is true and correct.

Date: \_\_\_\_\_  
Counterclaimant

Please inform court staff if interpreter services are required.

Yes, I need interpreter services. Language: \_\_\_\_\_

I CERTIFY that I have / will mail a copy of this document on the same day to:

Plaintiff at the above address

Plaintiff's attorney

Date: \_\_\_\_\_ By \_\_\_\_\_  
Defendant



## Maricopa County Justice Courts RESIDENTIAL EVICTION INFORMATION SHEET

**Notice:** A landlord must provide a tenant with written notice saying why the eviction process has started. The tenant should have received this notice before this lawsuit was filed.

**Service:** The tenant must be served with: the Complaint, Summons, this Residential Eviction Information Sheet, and a copy of relevant portion of lease and/or ledger (if applicable).

**Rent cases:** If this lawsuit has been filed for not paying rent, the tenant can stop it and continue living in the residence by paying all rent now due, late fees, attorney's fees and court costs. After a judgment has been granted, reinstatement of the lease is solely in the landlord's discretion. Inability to pay rent is not a legal defense and the judge cannot give more time to pay, even if the tenant is having financial problems.

**Before Court:** Eviction cases move through the court system very quickly. If the tenant disagrees with the landlord's allegations, the tenant is encouraged to file a written answer. The answer form available from the court allows the tenant to admit or deny the allegations and explain his or her position. If a tenant believes that the landlord owes him or her money, the tenant may under some circumstances file a counterclaim. The summons states that a trial will occur on the date listed, but due to the high volume of cases, a trial may not occur then. If the tenant fails to appear, and the landlord or his attorney is present, a judgment will probably be entered against the tenant. Tenants can represent themselves or arrange for lawyers to represent them. The court will not provide a lawyer.

A landlord, tenant, attorney, or witness will be permitted to participate at the initial hearing by telephone or video conference and should contact the court at least two hours before the hearing to obtain information about how to connect to the hearing.

**At Court:** At the time listed on the summons, the judge will start calling cases. If both parties are present, the judge will ask the tenant whether the complaint is true. If the tenant says no, he or she will need to briefly tell the judge why. If the reason appears to be a legal defense, the judge will need to hear testimony from both sides and make a decision after a trial. After talking to the landlord or its attorney, a tenant may wish to agree to what the landlord is requesting by signing a "stipulation." A stipulation is an agreement under which the parties resolve the dispute on the basis of what the agreement says. Only matters contained in the written agreement can be enforced. These agreements should be clear and understandable by both parties. Most stipulations include judgments against tenants. See below.

**Continuances:** Either party may ask that the court date be delayed. The court will agree only if there is a very good reason. A delay will be no more than three business days. There is no assurance a delay will be granted and parties should come to court prepared for trial and bring necessary witnesses and documents.

**After a Judgment:** If a landlord receives a judgment, it may apply for a writ of restitution to remove the residents. Writs of Restitution are served by constables, who will direct the residents to leave. A tenant may avoid the difficulties associated with a writ of restitution by vacating the property and returning the keys to the landlord. This ends his or her possession of the residence. If the tenant wants to continue to live in the residence after a judgment has been entered, the tenant will need to obtain the landlord's approval and sign a new lease. A tenant will have five (5) days to vacate the premises unless evicted for criminal activity, in which case the tenant has only twelve (12) to twenty four (24) hours to vacate. A judgment will probably appear on a tenant's credit report for several years. Parties wishing to appeal from a judgment have five days to do so after the judgment is entered and can obtain forms and information from the court filing counter. If a tenant wants to remain in the rental home during the appeal, the tenant must also pay a "supersedeas bond" to suspend the judgment while the case is being reviewed. If the tenant prevails the court will dismiss the case.

**Sources of Additional Information:** You can get copies of the Arizona Residential Landlord Tenant Act, the Arizona Mobile Home Parks Residential Landlord and Tenant Act and the Long Term Recreational Vehicle Rental Space Act from a library or from the Secretary of State's office or web page: [www.azsos.gov](http://www.azsos.gov), <https://www.azcourts.gov/eviction>, or <https://www.azcourthelp.org/>. In Maricopa County if you wish to consult an attorney, you may want to contact the Arizona State Bar Attorney Referrals Line at (602) 257-4434 or Community Legal Services at (602) 258-3434. Contact the court in other counties for similar referrals. You can obtain a summary of the obligations of landlords and tenants on the web page for justice courts in Maricopa County: <http://justicecourts.maricopa.gov/>.