Rule 13 FORM No SCC 3

**REPUBLIC OF KENYA**

**IN THE SMALL CLAIMS COURT AT NAIROBI**

**CLAIM NO. ………………… OF 20..……**

**ABC ……………………………………................................................ CLAIMANT**

**-VERSUS-**

**DEF ................................................................................... RESPONDENT**

**RESPONSE TO COUNTERCLAIM/SET OFF**

1. **Claimant’s Personal Details**

Name: ……………………………………………………………………

Postal Address: …………………………………………..………………

Physical Address: ……………………………………….……………

Telephone Contact: …………………………………………..………

Email Address: ………………………………………………………………………..…

Nature of the Claimant’s Business: …………………………………

Location/Sub/Village: ……………………………………….……………

□ Claiming in Person □ Claiming as a Representative (*Please tick where appropriate)*

1. **Respondent’s Personal Details:**

Name: ……………………………………………………………..

Postal Address: P. O. Box …………………………………..

Physical Address: ……………………………………………….

Telephone Contact: …………………………………………….

Email Address: ……………………………………………………

Nature of Business: …………………..………………………..

Location/Sub/Village: ………………………………………..

Legal Status of the Respondent: …………………………..

1. **Response to Counterclaim/Setoff**

In response to the Counterclaim dated ……… day of ……………20……, the Claimant states as follows: *(tick as appropriate)*

* The Claimant does not owe the Respondent any money as claimed in the Counterclaim.
* The Claimant owes the Respondent only a portion of the amount Counterclaimed amounting to Kshs. ……………………
* The Claimant admits the whole of the Respondent’s Counterclaim and proposes to pay the amount admitted as follows:
1. ……………………..
2. …………………….
* The Claimant has paid to the Respondent the whole of the amount claimed in the Counterclaim amouting to Kshs. ……………………….. on the …….. day of ……………. 20……. *(attach copies of documents in evidence of payment)*
* If the Claimant denies the whole or part of the Counterclaim. Give reasons for the denial
1. ………………………….
2. …………………………..
3. ………………………….
4. **In addition to the Claimant’s response in paragraph three above, the Claimant states that the ground on which the Respondent’s Counterclaim is based fall outside the jurisdiction of this Court** *(briefly explain)*
5. ………………….
6. …………………..
7. ……………………
8. **Remedy/Relief sought;**

The Claimant requests the Court to

* Dismiss the Respondent’s Counterclaim/Setoff with costs to the Claimant.
* Enter Judgment in favour of the Claimant against the Respondent in the sum of Kshs. …………………………..

**Declaration**

I declare that the information given above is true.

Name of Claimant: **……………………………………..**

Signature of Claimant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated this day of 20……..

**Acknowledge of Service**

I acknowledge service of this Response to Counterclaim delivered to me, with evidential documents attached, on……………………………………………………

Name of Respondent: **…………………………………**

Signature of Respondent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**For Official Use Only**

This Response to Counterclaim was filed on the day of 20……

Signed: ……………………………………….

 (Registrar)

**EXPLANATORY NOTE:**

**What is a Response to Counterclaim/Setoff**

This is a pleading to be used by the Claimant in the Small Claims Court when responding to a Response to Claim and Counterclaim filed by the Respondent.

**Legal Basis**

The legal basis for filing of a Response to Counterclaim is provided for under Rule 15 (1) (b) and (c) of the Small Claims Courts Rules which provides that a Claimant who is served with a Response to Claim and Counterclaim may take one or more of the following actions: admit the whole or part of the amount counterclaimed with or without making a proposal on the mode of payment on such terms as the parties may agree or, failing agreement, as the Court may direct; or deny the whole or part of the counterclaim, giving reasons for the denial. In that regard a Claimant who has taken any of the aforesaid actions shall file their response in Form SCC 3.

**Legal Grounds/Threshold**

The grounds to be raised in a Response to Counterclaim are not clear cut or specifically set out in law and the same will depend on the particular circumstance of the case. In that regard, ordinarily the grounds to be raised in a Response to Counterclaim will be based on the facts and grounds upon which the Claimant denies the Counterclaim.

**Remedies/Relief Sought**

Form SCC 3 indicates the remedies/reliefs that can be sought by a Claimant under a Response to Counterclaim, which Form provides that the Claimant can seek the following:

1. A dismissal of the Respondent’s Counterclaim/Setoff with costs to the Claimant;
2. Judgment in favour of the Claimant against the Respondent for the specified sum.

**The Processes/Procedure involved**

As a preliminary it is important to take note of the timelines for filing of the Response to Counterclaim as provided under Rule 15 (2) of the Small Claims Courts Rules which provides that a Claimant who has taken any of the actions specified in Rule 15 (1) (b) and (c) as explained above, shall file their response in Form SCC 3 within fourteen days of service upon him or her of the response and counterclaim; or within such time as the Court may direct.

The procedure in filing of a Response to Counterclaim is by uploading a scanned copy of the Response to Counterclaim onto the Judiciary E-filing Platform and thereafter making the relevant payment of Court filing fees, after which the Response to Counterclaim will be deemed duly filed.