Rule 9 FORM No SCC 2

**REPUBLIC OF KENYA**

**IN THE SMALL CLAIMS COURT AT NAIROBI**

**CLAIM NO. ………………… OF 20..……**

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

**-VERSUS-**

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

**RESPONSE TO STATEMENT OF CLAIM**

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: [……………………………………………………](mailto:erlangat@gmail.com)

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

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

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

1. **Response to Statement of Claim**

In response to the Statement of Claim dated ……… day of ……………20……, the Respondent states as follows: *(tick as appropriate)*

* The Respondent does not owe the Claimant any money
* The Respondent owes the Claimant only a portion of the amount claimed in the Statement of Claim amounting to Kshs. ……………………
* The Respondent admits the whole of the Claimant’s Claim
* The Respondent has paid to the Claimant all the sum claimed in the Statement of Claim.
* It is the Claimant who owes the Respondent a sum of Kshs. ……………………. on account of:

1. ………………………….
2. …………………………..
3. ………………………….

* If response is in denial of the whole or part of the Claim. Give reasons why the Claim is denied:

1. ……………………
2. ……………………
3. …………………….
4. **In addition to the Respondent’s response in paragraph three above, the Respondent states that this Claim**

* Is filed in the right Court
* Is filed in the wrong Court and should be transferred to the Small Claims Court at …………………………

1. **Counter Claim**

Without prejudice to the Respondent’s response in paragraph three and four, the Respondent Counterclaims against the Claimant for the sum of Kshs. ………………………. on account of:

1. …………………………
2. ………………………….
3. ………………………….
4. **Set-Off**

While admitting the Claimant’s Claim in the sum of Kshs. …………….., the Respondent states that they are entitled to a Set-Off in the sum of Kshs. …………………. on account of:

1. ………………………
2. ……………………..
3. ……………………..
4. **Claims against Third Party**

The Respondent denies the Claimants Claim and states that the person named below (“the Third Party”) is liable to the Claimant on the grounds set out in the attached Third Party Notice

Name: ……………………………………………………………………

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

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

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

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

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

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

1. **Remedy/Relief sought;**

The Respondent requests the Court to

* Dismiss the Claimants claim with costs to the Respondents
* Enter Judgment in favour of the Claimant against the Respondents in the sum of Kshs. …………………………..
* Enter Judgment in favour of the Respondent against the Claimant on the Counterclaim/Set off in the sum of Kshs. ……………………
* Enter Judgment in favour of the Claimant against the Third-party in the sum of Kshs. …………………..

**Declaration**

I declare that the information given above is true.

Name of Respondent: **……………………………………..**

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

Dated this day of 20……..

**Acknowledge of Service**

I acknowledge service of this Statement of Claim delivered to me, with evidential documents attached, on……………………………………………………

Name of Claimant: **…………………………………**

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

**For Official Use Only**

This Response to the Statement Claim was filed on the day of 20……

Signed: ……………………………………….

(Registrar)

**EXPLANATORY NOTE:**

**What is a Response to Statement of Claim?**

This is a form of pleading to be used by the Claimant in the Small Claims Court when responding to a Statement of Claim filed by the Claimant.

**Legal Basis**

The legal basis for filing of a Response to a Statement of Claim is provided for under Section 25 (2) as read together with Rule 9 (2) of the Small Claims Courts Rules. Section 25 (2) of the Small Claims Court provides that the respondent shall lodge with the Court a written response to the claim, including any counter-claim or set-off, in the prescribed form, in the case of a respondent who carries on business or ordinarily resides within the local limits of the jurisdiction of the Court, within fourteen days of service the Statement of Claim; in the case of a respondent who carries on business or ordinarily resides outside the local limits of the jurisdiction of the Court, within thirty days of service of the Statement of Claim. Rule 9 (1) of the Small Claims Courts Rules provides that a respondent who is served with a Statement of Claim may: settle the amount claimed in full by making payment directly to the claimant or by depositing the amount claimed in court, whereupon the claimant shall withdraw the claim; admit the whole or part of the amount claimed with a proposal on the mode of payment on such terms as the parties may agree or, failing agreement on the proposal, as the Court may direct; deny the whole or part of the claim, giving reasons for the denial; claim a set-off or make a counterclaim against the claimant in accordance with rule 13; apply to join a third party, who the respondent has reason to believe is answerable to the claimant's claim; or request the Court, in writing, to transfer the proceedings to an alternative court station.

Further Rule 9 (2) of the Small Claims Courts Rules provides a respondent who has taken any of the actions specified in sub-rule 1 (b) to (e) shall file his or her response in **Form SCC 2** in the court where the Statement of Claim was filed.

**Legal Grounds/Threshold**

The grounds to be raised in a Response to Statement of Claim 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 Statement of Claim will be based on the facts and grounds upon which the Respondent denies the Statement of Claim.

**Remedies/Relief Sought**

Form SCC 2 indicates the remedies/reliefs that can be sought by a Respondent under a Response to Statement of Claim, which Form provides that the Claimant can seek the following:

1. Dismiss the Claimants claim with costs to the Respondents
2. Enter Judgment in favour of the Claimant against the Respondents in the sum of Kshs. …………………………..
3. Enter Judgment in favour of the Respondent against the Claimant on the Counterclaim/Set off in the sum of Kshs. ……………………
4. Enter Judgment in favour of the Claimant against the Third-party in the sum of Kshs. …………………..

**The Processes/Procedure involved**

As a preliminary point , it is important to take note of the timelines for filing of the Response to Statement of Claim is as provided under Rule 9 (2) of the Small Claims Courts Rules which provides that a Respondent shall file his or her response to Statement of Claim in **Form SCC 2** and within the following period: in the case of a respondent who carries on business or ordinarily resides within the local limits of the jurisdiction of the Court, within fourteen days of service the Statement of Claim; or in the case of a respondent who carries on business or ordinarily resides outside the local limits of the jurisdiction of the Court, within thirty days of service of the Statement of Claim; or within such time as the Court may direct.

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