

### **Rule 13. Counterclaim and Crossclaim**

#### **(a) COMPULSORY COUNTERCLAIM.**

(1) *In General.* A pleading must state as a counterclaim any claim that—at the time of its service—the pleader has against an opposing party if the claim:

(A) arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and

(B) does not require adding another party over whom the court cannot acquire jurisdiction.

(2) *Exceptions.* The pleader need not state the claim if:

(A) when the action was commenced, the claim was the subject of another pending action;

(B) the opposing party sued on its claim by attachment or other process that did not establish personal jurisdiction over the pleader on that claim, and the pleader does not assert any counterclaim under this rule; or

(C) it is not within the jurisdiction of the court.

(b) **PERMISSIVE COUNTERCLAIMS.** A pleading may state as a counterclaim against an opposing party any claim that is not compulsory if such counterclaim is within the jurisdiction of the court.

(c) **RELIEF SOUGHT IN A COUNTERCLAIM.** A counterclaim need not diminish or defeat the recovery sought by the opposing party. It may request relief that exceeds in amount or differs in kind from the relief sought by the opposing party.

(d) **COUNTERCLAIM AGAINST THE UNITED STATES OR THE DISTRICT OF COLUMBIA.** These rules do not expand the right to assert a counterclaim—or to claim a credit—against the United States or the District of Columbia or an officer or agency of either.

(e) **COUNTERCLAIM MATURING OR ACQUIRED AFTER PLEADING.** The court may permit a party to file a supplemental pleading asserting a counterclaim that matured or was acquired by the party after serving an earlier pleading.

(f) [Deleted].

(g) **CROSSCLAIM AGAINST A COPARTY.** A pleading may state as a crossclaim any claim by one party against a coparty if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject matter of the original action. The crossclaim may include a claim that the coparty is or may be liable to the crossclaimant for all or part of a claim asserted in the action against the crossclaimant.

(h) **JOINING ADDITIONAL PARTIES.**

Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.

(i) **SEPARATE TRIALS; SEPARATE JUDGMENTS.** If the court orders separate trials under Rule 42(b), it may enter judgment on a counterclaim or crossclaim under Rule 54(b) when it has jurisdiction to do so, even if the opposing party's claims have been dismissed or otherwise resolved.

#### **COMMENT TO 2017 AMENDMENTS**

This rule is substantially similar to *Federal Rule of Civil Procedure 13*, as amended in

2007 and 2009, but maintains two local distinctions—1) a reference to the District of Columbia in section (d), which makes clear that these rules do not expand the right to assert a counterclaim—or to claim a credit—against the District of Columbia or a District of Columbia officer or agency and 2) an exception in subsection (a)(2) and section (b) for counterclaims that are not within the court's jurisdiction.

#### COMMENT

Identical to *Federal Rule of Civil Procedure 13*, (1) reference to the District of Columbia has been added to section (d) which provides that these Rules do not enlarge existing legal limitations with respect to suits against the government or its agents and (2) an exemption has been added to sections (a) and (b) for counterclaims which are with-out the jurisdiction of the Court.