

Amendments to Rule 13

Rule 13 is amended as follows:

Rule 13. Counterclaim and ~~[Cross-Claim]~~Crossclaim

(a) Counterclaims. A pleading ~~[shall]~~**must** state as a counterclaim any claim ~~[which]~~**that** – at the time of ~~[serving the pleading]~~**its service** – the pleader has against ~~[any]~~**an** opposing party~~;~~ if ~~[(1)]~~ the claim: **(1)** involves the imported merchandise that is the subject matter of the civil action, or **(2)** ~~[the claim]~~ is to recover ~~[up]~~ on a bond or customs duties relating to such merchandise.

(b) Relief Sought in a Counterclaim ~~[Exceeding Opposing Claim]~~. A counterclaim ~~[may or may]~~**need** not diminish or defeat the recovery sought by the opposing party. It may ~~[claim]~~**request** relief ~~[exceeding]~~**that exceeds** in amount or ~~[different]~~**differs** in kind from ~~[the]~~**the relief** ~~[at]~~ sought ~~[in the pleading of]~~**by** the opposing party.

(c) Counterclaim Against the United States. These rules ~~[shall]~~**do** not ~~[be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims or to claim credits]~~**expand the right to assert a counterclaim – or to claim a credit** – against ~~[the]~~**the United States or a** United States ~~[or an]~~ officer or ~~[an]~~ agency ~~[thereof]~~.

(d) Counterclaim Maturing or Acquired After Pleading. ~~[A claim which either]~~**The court may permit a party to file a supplemental pleading asserting a counterclaim that** matured or was acquired by the ~~[leader]~~**party** after serving ~~[his]~~**an earlier** pleading ~~[may, with the permission of the court, be presented as a counterclaim by supplemental pleading]~~.

(e) Omitted Counterclaim. ~~[When a pleader fails to set up]~~**The court may permit a party to amend a pleading to add** a counterclaim **if it was omitted** through oversight,

inadvertence, or excusable neglect, or when justice requires[, the pleader may by leave of court set up the counterclaim by amendment].

(f) ~~[Cross-Claim]~~ **Crossclaim** Against ~~[Co-Party]~~ **A Coparty**. A pleading may state as a ~~[cross-claim]~~ **crossclaim** any claim by one party against a ~~[co-party]~~ **coparty**, if (1) the claim involves the imported merchandise that is the subject matter of the civil action, or (2) the claim is to recover ~~[up]~~ on a bond or customs duties relating to such merchandise. ~~[Such cross-claim]~~ **The crossclaim** may include a claim that the ~~[party against whom it is asserted]~~ **coparty** is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

(g) ~~[Joinder of]~~ **Joining** Additional Parties. ~~[Persons other than those made parties to the original action may be made parties]~~ **Rules 19 and 20 govern the addition of a person as a party** to a counterclaim or ~~[cross-claim]~~ **crossclaim** ~~[in accordance with the provisions of Rules 19 and 20]~~.

(h) ~~Separate Trials--~~ **Separate Judgments**. If the court orders separate trials ~~[as provided in]~~ **under** Rule 42(b), **it may enter** judgment on a counterclaim or ~~[cross-claim]~~ **crossclaim under** ~~[may be rendered in accordance with the terms of]~~ Rule 54(b) when ~~[the court]~~ **it** has jurisdiction so to do, even if the ~~[claims of the]~~ opposing ~~[party]~~ **party's claims** have been dismissed or otherwise ~~[disposed of]~~ **resolved**.

(i) Demand for a Complaint.

(1) ~~[Notwithstanding the pendency of the]~~ **Regardless of whether a** civil action **is pending** on a Reserve or Suspension Calendar, in a civil action ~~[described in]~~ **under** 28 U.S.C. § 1581(a) or (b), for good cause shown, a defendant who wishes to proceed expeditiously in the action may file a motion demanding that the plaintiff file a complaint.

(2) The motion [~~shall~~ **should**] include, among other information, (A) [~~a statement of the~~ **the movant's**] reasons for wanting to proceed at this time, (B) **if the movant seeks a time different from that provided in this rule**, a proposed timetable [~~for requiring~~ **within which**] the plaintiff [~~to~~ **should**] file a complaint [~~if different from the time provided for in this rule~~] and the reasons for a different time, and, in a suspended action, other scheduling information that the [~~defendant~~ **movant**] believes necessary to enable the court to [~~formulate~~ **issue**] an order removing a suspended action from a Suspension Calendar, and (C) a description of any counterclaim known to the [~~defendant~~ **movant**] at the time [~~the~~ **of its**] motion [~~is filed~~] that the [~~defendant~~ **movant**] intends to assert in its answer.

(3) If [~~an order granting~~ **the court grants**] a motion for a demand for a complaint [~~is entered~~], plaintiff [~~shall~~ **must**] file its complaint within 30 days after the date of service of the order if plaintiff wishes to continue the action.

(4) If **the court enters** an order granting a motion for a demand for a complaint [~~is entered~~] and plaintiff does not voluntarily dismiss the action or fails to file a complaint, the clerk [~~shall~~ **will**] enter an order of dismissal without further direction from the court.

(As amended July 28, 1988, eff. Nov. 1, 1988; Oct. 5, 1994, eff. Jan. 1, 1995; **Nov. 25, 2008, eff. Jan. 1, 2009**).