

Rule 13. Counterclaim and Crossclaim

(a) Counterclaims. 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: (1) involves the imported merchandise that is the subject matter of the civil action, or (2) is to recover on a bond or customs duties relating to such merchandise.

(b) 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.

(c) Counterclaim Against the United States. These rules do not expand the right to assert a counterclaim – or to claim a credit – against the United States or a United States officer or agency.

(d) 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.

(e) Omitted Counterclaim. 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.

(f) Crossclaim Against A Coparty. A pleading may state as a crossclaim any claim by one party against a 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 on a bond or customs duties relating to such merchandise. The crossclaim may include a claim that the 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) Joining Additional Parties. Rules 19 and 20 govern the addition of a person as a party to a counterclaim or crossclaim.

(h) 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 so to do, even if the opposing party's claims have been dismissed or otherwise resolved.

(i) Demand for a Complaint.

(1) Regardless of whether a civil action is pending on a Reserve or Suspension Calendar, in a civil action 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 should include, among other information, (A) 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 within which the plaintiff should file a complaint and the reasons for a different time, and, in a suspended action, other scheduling information that the movant believes necessary to enable the court to issue an order removing a suspended action from a Suspension Calendar, and (C) a description of any counterclaim known to the movant at the time of its motion that the movant intends to assert in its answer.

(3) If the court grants a motion for a demand for a complaint, plaintiff 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 and plaintiff does not voluntarily dismiss the action or fails to file a complaint, the clerk 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).