

Other Issues in CCB Proceedings

AMENDING FILINGS, WITHDRAWING A CLAIM, ADDING PARTIES, AND COMBINING PROCEEDINGS

This chapter covers issues that may not come up in every CCB proceeding. Specifically, this chapter addresses how you can ask to **amend** or make changes to your claim, counterclaim, or response; how to withdraw a claim; how new participants can join a proceeding; and how proceedings can be combined and why you may want to take these actions.



Chapter at a Glance

- **Amending a Claim, Counterclaim, or Response**
- **Withdrawing a Claim**
- **Adding a New Party**
- **Combining Proceedings**

Why You Need This Information

This chapter covers four actions in CCB proceedings: (1) a party needs to amend their claim, counterclaim, or response; (2) a party wants to withdraw their claim; (3) a key party is missing from the proceeding or a third party wants to join the proceeding; and (4) a party wants to combine multiple proceedings into one. This chapter will explain how you can take these actions and how the CCB may order these actions.

Amending a Claim, Counterclaim, or Response

During compliance review, the CCB will tell you if you need to amend your claim or counterclaim to make it compliant with CCB rules and procedures. You may realize, however, that you want to amend your claim, counterclaim, or response after you file it because you made a mistake or discovered new information.

How Do You Amend a Claim, Counterclaim, or Response?

How you amend your claim, counterclaim, or response will depend on where you are in a CCB proceeding.

CHANGING A CLAIM DURING COMPLIANCE REVIEW

Once you file your claim, your ability to amend it on eCCB will be locked. If you want to amend your claim after you file it because you made a mistake or discover new information, you will need to request permission from the CCB.

To amend your claim while it is in compliance review, you can request leave (or permission) through a fillable form on eCCB. Your request must be limited to 10,000 characters, and you must state *exactly* how you would amend your claim, counterclaim, or response. Once the CCB grants your leave to amend, the “Amend Claim” button on eCCB will unlock, and you’ll be able to edit your claim.

If the CCB gives you permission to make the changes, you can *only* make the changes you identified in your request. You cannot make any other changes. Your changes will then go through compliance review. You can learn more about compliance review in the [Compliance Review](#) chapter.

CHANGING A COMPLIANT CLAIM BEFORE SERVICE

If the CCB has notified you that your claim is compliant, you can serve the claim according to the instructions that you’ll receive. If you have something you want to change in your claim, you have *one* opportunity to amend it before service, but you must follow the CCB rules regarding amending your claim.

To amend a claim in eCCB: After your claim is found compliant, the ability to amend it one time will be unlocked. When you click the “Amend Claim” button on eCCB, you’ll be able to edit your claim.

Note that if you do choose to make changes to your claim, *your claim will have to go through compliance review again*. You can learn more about compliance review in the [Compliance Review](#) chapter.

This amendment is different from amendments made if the CCB has notified you that your claim is not compliant. If a claim is found noncompliant and you are given an opportunity to correct your claim, you can make changes to any part of your claim.

CHANGING A CLAIM DURING THE OPT-OUT PERIOD

You cannot make changes to your claim during the opt-out period. If you want to change your claim, you’ll need to wait for the active phase. See the [All Other Changes](#) section below for more information.

CHANGING A COUNTERCLAIM BEFORE A RESPONSE IS FILED

Like a claim, a counterclaim must go through compliance review. Your counterclaim will be considered served as soon as the CCB finds it compliant. If you would like to make changes to your counterclaim, you may do so *once* freely before the claimant files a response to your counterclaim.

To amend a counterclaim in eCCB: Before your counterclaim is found compliant or noncompliant, changes on eCCB will be locked. After the counterclaim is found compliant, the ability to amend it will be unlocked. When you click the “Amend a Counterclaim” button on eCCB, you’ll be able to then edit your claim. Note that if you do make changes to your claim, *your claim will have to go through compliance review again*.

If a respondent makes changes to their counterclaim, the claimant’s time to respond will be paused while the amended counterclaim goes through compliance review. If the counterclaim clears compliance

review, the response to the counterclaim will be due within thirty days of the CCB's finding that the counterclaim is compliant.

ALL OTHER CHANGES

You'll need the CCB's permission to make changes to a claim, counterclaim, or response at any other point in the proceeding.

This is called asking for "leave" to amend. You can request leave to make changes to a claim, counterclaim, or response through a fillable form on eCCB. Your request must be limited to 10,000 characters, and you must state *exactly* how you would amend your claim, counterclaim, or response. In evaluating your request, the CCB will consider factors such as whether allowing the change would be unfair to any other party or would overly delay the proceeding and whether you should've known about your proposed changes before service. The CCB will give you permission for the changes only if it would be fair to do so in light of those factors.

If the CCB gives you permission to make the changes, you can *only* make the changes that you identified in your request. You can't make any other changes. If you make a change to a claim or counterclaim, your changes will then go through compliance review.

If another party requests to change their claim, counterclaim, or response, and you disagree with the request, you can submit a response to the request within fourteen days. Your response must be limited to 10,000 characters. If the other party's request is granted, and the request relates to a claim or counterclaim, the deadline for your response will be the time you had remaining for the response to the original claim or counterclaim or thirty days from the date you're notified the amended claim or counterclaim is compliant, whichever is later.

Withdrawing a Claim

At some point in a proceeding, you may wish to withdraw your claim. You may no longer wish to pursue your claim because you have resolved or settled the claim outside of the CCB, new information has been revealed in discovery that changes the nature of your claim, or you have other reasons for not going forward.

How Do You Withdraw a Claim?

If you want to withdraw your claim or counterclaim for any reason, you may do so by filing a request through a fillable form on eCCB. Your request must be limited to 4,000 characters and should be a brief statement that you want your claim dismissed.

The timing of your request to withdraw a claim or counterclaim affects how it will be dismissed.

- If you requested to withdraw *before* the response was filed, the CCB will dismiss your claim or counterclaim **without prejudice**, unless all participants agree and submit a written statement that it should be dismissed with prejudice.
- If you requested to withdraw *after* the response was filed, the CCB will issue a final determination dismissing your claim or counterclaim **with prejudice**, unless either all participants agree that it should be dismissed without prejudice or the CCB has reason to decide it would be fairer to dismiss without prejudice.

Note that if one claim or counterclaim is withdrawn, it won't have an effect on any of the remaining claims or counterclaims.

EXAMPLE: If the claimant files an infringement claim and a misrepresentation claim, and the claimant withdraws only their misrepresentation claim, the proceeding will continue with the claimant's infringement claim.

Adding a New Party

The CCB can only move a proceeding forward when all necessary parties are included in the proceeding. A **necessary party** is a person or entity that must be included as a party in a proceeding. A person or entity is a necessary party if

- The relief the claimant or counterclaimant is seeking would have to come from a person or entity other than the respondent or **counterclaim respondent**.
- Without the person or entity as a party, the CCB cannot issue a ruling that fully resolves the claim between the current parties in the proceeding.
- Someone other than the respondent has such a strong interest in the subject of the proceeding that a determination by the CCB could make it harder to protect that third party's interest.
- The claimant or the respondent has obligations to some other person or entity that might duplicate or be inconsistent with a CCB determination.

How Is a New Party Added?

If a necessary party isn't part of the proceeding or has opted out of the proceeding, then the proceeding may be unsuitable for the CCB to handle. You can learn more about unsuitability and how to let the CCB know if a necessary party isn't part of the proceeding in the [Unsuitability](#) chapter.

The CCB cannot force anyone to join a proceeding, even if they are a necessary party. However, a person or entity who thinks they are a necessary party can request to join a CCB proceeding at any point. To do so, the person or entity must request to join the proceeding through a fillable form on eCCB. Their request must be limited to 10,000 characters.

If someone files a request to join the proceeding on the grounds that they are a necessary party and you disagree with the request, you can file a response through a fillable form on eCCB. Your response must be filed within fourteen days of the request and be limited to 10,000 characters.

After reviewing a request from an outside party to join the proceeding and any responses to that request, the CCB may hold a conference with the participants in the proceeding and the outside party to address the request.

The CCB's decision regarding the request will depend on whether the outside party is truly a necessary party and whether the participants in the proceeding support or oppose the request.

If the CCB decides the outside party *is not* a necessary party,

- the request will be **denied**, and the proceeding will resume if any party opposes the request, *but*
- the request will be **granted**, and the outside party will be allowed to join the proceeding if *all* parties agree with the request.

If the CCB decides the outside party *is* a necessary party,

- the request will be **granted**, and the outside party will be allowed to join the proceeding if *none* of the participants oppose the request, *but*
- the proceeding will be **dismissed without prejudice** if any party opposes the request.

Combining Proceedings

If you have filed multiple claims against the same participant that arise from similar facts and circumstances, you may wish to **consolidate** them for certain parts or stages such as discovery and conferences. By consolidating the proceedings, you'll be able to streamline certain procedures and save time and resources. The CCB itself may consolidate several proceedings to save time and resources as well. It is important to note that the determinations and awards of damages (if any) will stay separate and will still be subject to their own damage limits.

How Do You Consolidate Proceedings?

The CCB can consolidate proceedings on its own or after a request from a party. Either way, all affected parties will be given notice and an opportunity to respond to the proposed consolidation of proceedings.

You can request the CCB consolidate proceedings through a fillable form on eCCB. Your request must be limited to 10,000 characters, should ask for a conference with the CCB and all affected participants, and should include the following information:

- the reasons for your request, and
- the docket numbers of each affected proceeding.

If another party has requested that proceedings be consolidated and you disagree with the request, you can submit a response through a fillable form on eCCB. Your response must be limited to 10,000 characters and be submitted within fourteen days of the request to combine.

In deciding whether to combine proceedings, the CCB will consider the need for and benefits of consolidating the proceedings, when the request was made in relation to how far the proceedings have progressed, and whether any delay in requesting that the proceedings be combined would result in unfairness to any participant.

Don't see your situation in this chapter? Get in touch! Email asktheboard@ccb.gov.

Glossary

- **Amend:** To make changes to something previously filed at the CCB.
- **Consolidate:** To combine proceedings for efficiency and to streamline certain procedures.
- **Counterclaim respondent:** The party that must respond to a counterclaim.
- **Necessary party:** A person or entity that absolutely needs to be included as a party in the proceeding because their interests will be directly affected by the outcome of the proceeding, or whose absence might create a substantial risk that an existing party would incur multiple or inconsistent obligations.
- **With prejudice:** The claim cannot be filed again.
- **Without prejudice:** The claim can be filed again in the future.