RULE 13
COUNTERCLAIM AND CROSS CLAIM

(a) Compulsory Counterclaims. A pleading shall state as a counterclaim any claim which at the time of serving the pleading the pleader has against any opposing party, if it arises out of the transaction or occurrence that is the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. But the pleader need not state the claim if (1) at the time the action was commenced the claim was the subject of another pending action, or (2) the opposing party brought suit upon his claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the pleader is not stating any counterclaim under this rule.

(b) Permissive Counterclaims. A pleading may state as a counterclaim any claim against an opposing party not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim.

(c) Counterclaim Exceeding Opposing Claim. A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

(d) Counterclaim Against the State. These rules shall not be construed to enlarge beyond the limits now fixed by law the right to assert counterclaims, or to claim credits against the State or an officer or agency thereof.

(e) Counterclaim Maturing or Acquired After Pleading. A claim which either matured or was acquired by the pleader after serving his pleading may, with the permission of the court, be presented as a counterclaim by supplemental pleading.

(f) Omitted Counterclaim. When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, he may by leave of court set up the counterclaim by amendment.

(g) Cross Claim Against Coparty. A pleading may state as a cross claim any claim by one party against a coparty arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such cross claim may include a claim that the party against whom it is asserted is or may be liable to the cross claimant for all or part of a claim asserted in the action against the cross claimant.

(h) Joinder of Additional Parties. Persons other than those made parties to the original action may be made parties to a counterclaim or cross claim in accordance with the provisions of rules 19 and 20.

(i) Separate Trials; Separate Judgment. If the court orders separate trials as provided in rule 42(b), judgment on a counterclaim or cross claim may be rendered in accordance with the terms of rule 54(b), even if the claims of the opposing party have been dismissed or otherwise disposed of.

(j) Setoff Against Assignee. The defendant in a civil action upon a contract express or implied, other than upon a negotiable promissory note or bill of exchange, negotiated in good faith and without notice before due, which has been assigned to the plaintiff, may set off a demand of a like nature existing against the person to whom he was originally liable, or any assignee prior to the plaintiff, of such contract, provided such demand existed at the time of the assignment thereof, and belonging to the defendant in good faith, before notice of such assignment, and was such a demand as might have been set off against such person to whom he was originally liable, or such assignee while the contract belonged to him.

(k) Setoff Against Beneficiary of Trust Estate. If the plaintiff be a

trustee to any other, or if the action be in a name of a plaintiff which has no real interest in the contract upon which the action is founded, so much a demand existing against those whom the plaintiff represents or for whose benefit the action is brought may be set off as will satisfy the plaintiffs debt, if the same might have been set off in an action brought against those beneficially interested.

(l) Setoff Must Be Pleaded. To entitle a defendant to a setoff under this rule, he must set forth the same in his answer.