

CPLR 4101: Equitable Defenses and Counterclaims Tried by the Court

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ARTICLE 41 — TRIAL BY A JURY

CPLR 4101: Equitable defenses and counterclaims tried by the court.

Under Section 424 of the CPA equitable counterclaims in legal actions were tried by the court, while equitable defenses to legal actions were tried by the jury in the same manner as legal defenses.¹⁴⁰ While various definitions¹⁴¹ served to distinguish an equitable counterclaim from an equitable defense, the difficulty in applying them resulted in uncertainty and confusion. CPLR 4101 eliminates this distinction by providing that both equitable defenses and counterclaims are to be tried by the court.

This rule has received its first formal recognition in *Menado Corp. v. Indemnity Insurance Co. of North America*.¹⁴² Plaintiff sued on his insurance policy seeking money only, and when defendant counterclaimed for reformation of the policy, plaintiff demanded a jury trial on both his action and the equitable counterclaim. The court held that under CPLR 4101 neither party is entitled to a trial by jury of an equitable defense or an equitable counterclaim. The fact that defendant also made a general demand for a jury trial was immaterial as the court found that the mandatory statute precluded a jury trial regardless of the nature of the demand and the party making the demand.

The court ordered the counterclaim to be tried first without a jury, since a decision for the defendant on that issue could dispose of the whole case without requiring any further judicial energy. However, if the decision on the counterclaim did not resolve the case, then the plaintiff's cause of action was to be tried before the same judge with a jury.

¹⁴⁰ 4 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶ 4101.38 (1965).

¹⁴¹ The Court of Appeals said that the distinction between an equitable defense and equitable counterclaim "lies in whether the facts stated in the so-called counterclaim show a need for affirmative relief for the complete protection of the defendants or if proven would merely defeat the plaintiff's cause of action." *United States Fidelity & Guar. Co. v. Goetz*, 285 N.Y. 74, 78, 32 N.E.2d 798, 800 (1941).

¹⁴² 53 Misc. 2d 533, 279 N.Y.S.2d 84 (N.Y.C. Civ. Ct. 1967).