

CROSS-COMPLAINT FOR INDEMNITY AND CONTRIBUTION

Sample Only
Use At Your Own Risk



INSTRUCTIONS: The following is a “cause of action” to be inserted after the heading of the complaint and common allegations. Include as many other causes of action as you have claims such as fraud, accounting, etc. Your “prayer” (request for relief) comes after your causes of action and must describe the relief you are seeking for each cause of action.

PRELIMINARY ALLEGATIONS

<>. Cross- Defendant __, __ is __, and at all times herein mentioned was __, a resident __ of the City of __, County of __, State of California.

<>. Cross-Defendant __, __, is __, and at all times herein mentioned, was __ a Corporation organized and existing under the laws of the State of California with principle offices located at __, in the City of __, County of __.

<>. The true names and capacities, whether individual, corporate, associate or otherwise, of the cross-defendants named herein as DOES 1 through 50, inclusive, are unknown to cross-complainant who therefore sues said cross-defendants by such fictitious names. Cross-Complainant __ will seek leave to amend his __ cross-complaint to show their true names and capacities when the same have been ascertained.

<>. Cross-Complainant __ is __ informed and believes and on such information and belief alleges __ that at all times herein pertinent, the individual cross-defendant __ named herein are __ or were __ residents of __ county in the State of California.

<>. Cross-Complainant __ is __ informed and believes __ and on such information and belief alleges that at all times herein mentioned, cross-defendants, and

each of them, were the agents, servants, representatives and employees of the other cross-defendants, and each of them, and in doing the things herein alleged, were acting within the course and scope of such agency and employment.

<>. Cross-Complainant ___ is ___ informed and believes ___ and thereon alleges ___ that each of the cross-defendants designated herein as a DOE is responsible in some manner for the happenings and events hereinafter alleged and negligently or otherwise caused the losses and/or damages as herein alleged.

FIRST CAUSE OF ACTION

(Implied Indemnity Against _____)

< >. Cross-complainant ___ refers ___ to Paragraph ___ through ___ of his ___ First Cause of Action and incorporates ___ the same herein by reference as though fully set forth at length at this point

<>. A Complaint entitled _____ was filed on or about ____, 19___, alleging damages arising as a result of an alleged incident. Said complaint, for purposes of its allegations only, is incorporated by reference herein as though fully set forth at length.

<>. Cross-complainant ___ is ___ incurring and has ___ incurred attorney's fees, court costs, investigative costs and other costs in connection with defending said complaint, the exact amount of which is unknown at this time. when the same has been ascertained, cross-complainant ___ will seek leave of court to amend this cross-complaint to set forth the true nature and amount of said costs and expenses.

<>. If cross-complainant ___ is ___ held liable and responsible to plaintiff for damages as alleged in ___ Complaint, it will be solely due to the conduct of cross-defendants, and each of them, as herein alleged. Therefore, cross-complainant ___ is ___ entitled to be indemnified by said cross-defendants, and each of them should such liability arise.

<>. If cross-complainant ___ is ___ held liable or responsible to the plaintiffs ___ for damages, said liability will be vicarious only and said liability will be the direct and proximate result of the active and affirmative conduct on the part of cross-defendants, and each of them.

<>. Cross-complainant ___ is ___ entitled to complete indemnification by said cross-defendants, and each of them for any sum or sums for which he may be adjudicated liable to plaintiffs, with costs of defense, costs of suit, and reasonable attorney's fees incurred therefrom.

SECOND CAUSE OF ACTION

(Comparative Indemnity Against _____)

<>. Cross-complainant ___ refers ___ to Paragraph ___ through ___ of his ___ First Cause of Action and incorporates ___ the same herein by reference as though fully set forth at length at this point

<>. Cross-complainant ___ contends ___ that he ___ is in no way legally responsible for the events giving rise to the plaintiff's causes of action, or legally responsible in any other manner for the damages allegedly sustained by the plaintiff. However, if as a result of the matters alleged in plaintiff's complaint, this ___ cross-complainant ___ is ___ held liable for all or any part of the claim or damages asserted against him ___ by the plaintiff ___, cross-defendants, and each of them, to the extent that their fault was a proximate cause of plaintiff's ___ damages and/or losses, are responsible for said damages and/or losses in proportion to each cross-defendants' comparative negligence and this cross-complainant is entitled to a determination of several liability.

<>. By reason of the foregoing, cross-complainant ___ is ___ entitled to indemnity from cross-defendants, and each of them, for all costs, fees, expenses, settlements and

judgments paid by and incurred by cross-complainant in connection with this litigation.

THIRD CAUSE OF ACTION

(Declaratory Relief Against _____)

<>. Cross-Complainant__ refers__ to Paragraphs ___ through ___ of his ___ First Cause of Action and by this reference incorporates the same herein as though set forth in full.

<>. An actual controversy has arisen between cross-complainant__ and cross-defendants, and each of them, with respect to the rights, obligations and duties of the parties: (a) cross-complainant__ contends__ that he__ is__ without fault, responsibility or blame for any of the damages which the plaintiff__ may have suffered. If there is any _____, these acts were committed by the cross-defendants and not the cross-complainant. Cross-Complainant contends that he__ is entitled to indemnity from cross-defendants, and each of them. (b) Cross-complainant__ is__ informed and believes__ and thereon alleges__ that the cross-defendants, and each of them contend to the contrary.

FOURTH CAUSE OF ACTION

(Equitable Indemnity Against _____)

<>. Cross-complainant refers__ to Paragraphs ___ through ___ of the First Cause of Action and by this reference incorporates the same herein as though set forth at length.

<>. Cross-complainant alleges__ that he__ is in no way legally responsible for the events giving rise to Plaintiff's__ action no legally responsible in any manner for the damages allegedly sustained by said plaintiffs___. If, contrary to the foregoing allegations, cross-complainant__ herein is held to be liable for all or any part of the

claim for damages asserted against cross-complainant ___ by the plaintiffs, then cross-complainant is informed and believes, and based upon such information and belief, alleges that cross-defendants, and each of them, _____ [---i.e. were negligent, misrepresented certain facts, breached fiduciary duties, and breached contracts and/or agreements.-----]. Cross-complainant ___ is ___ informed and believes at this time that the above acts of the cross-defendants, and each of them, were the proximate cause of the damages and/or losses to Plaintiff ___.

<>. By reason of the foregoing, cross-defendants, and each of them, are responsible and liable for any such damages in direct proportion to the extent of their _____ [---allege acts done---] in bringing about said damages. If cross-complainant ___ is ___ found to be responsible for any of the damages of the plaintiffs, then cross-complainant ___ is ___ entitled to judgment over and against cross-defendants, and each of them in an amount proportionate to the amount of cross-complainant's ___ financial responsibility for such damages that exceed his ___ portion of responsibility, if any.

FIFTH CAUSE OF ACTION

(Contribution Against _____)

<>. Cross-complainant ___ refers ___ to Paragraphs ___ through ___ of his ___ First Cause of Action and by this reference incorporates ___ the same herein as though set forth in full.

<>. Cross-complainant ___ contends that he ___ is in on way legally responsible for the damages alleged in plaintiff's ___ complaint. However, if as a result of the matters alleged in plaintiff's ___ complaint, cross-complainant ___ is ___ held liable for all or any part of plaintiff's ___ alleged damages, cross-defendants herein, and each of them, to the extent that their fault is determined by the court, are obligated to reimburse and are liable to cross-complainant for all or any liability so assessed by way of contribution, and

cross-complainant accordingly asserts herein such right to contribution.

WHEREFORE, cross-complainant___ prays___ for judgment as follows:

1. For a declaration of cross-complainant's___ rights and duties;
2. For an order of the court declaring the percentage of fault, if any, between cross-complainant and cross-defendants, and each of them, for damages and losses allegedly caused to plaintiff___;
3. For an order of the court awarding judgment in favor of cross-complainant___ against cross-defendants, and each of them, based upon the relative percentage of fault of each party including the plaintiff___;
4. For an order of this court that the cross-complainant___ is___ entitled to be fully indemnified by cross-defendant, and each of them, for any and all settlements or compromises and/or judgments entered into by cross-complainant___ as a result of this action;
5. For attorney's fees, court costs, investigative costs and other expenses incurred in the defense of the complaint according to proof; and
6. For such other and further relief as the court may deem just and proper.

Date: _____
_____ [Plaintiff's name]
Plaintiff *In Pro Per*

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