

COMPLAINT FOR DAMAGES FOR WRONGFUL DEATH

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.

_____ **CAUSE OF ACTION**
(Negligence Against _____)

1. The only surviving heirs of _____ [name], deceased (referred to in this complaint as "decedent"), are:

[Name: Address: Relationship Age:to Decedent:

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

2. Plaintiffs are the surviving heirs at law of the decedent. _____ [Plaintiff _____ (name) is the surviving spouse of the decedent and plaintiff _____ (name) is the surviving minor child of decedent.]

3. _____ [Add if applicable: For the purposes of this action, _____ (name) was duly appointed guardian ad litem of plaintiff _____ (name of minor child) on _____ (date) by order of this court. A copy of the order is attached and incorporated by reference.]

4. _____ [Add if applicable: _____ (Names of heirs) are joined as

defendants in this action pursuant to section 382 of the Code of Civil Procedure for the reason that _____ [state why the heirs are not named as plaintiffs, such as: their consent to be joined as plaintiffs was sought and refused.]

5. Plaintiffs do not know the true names of defendants DOES 1 through 50, inclusive, and therefore sue them by those fictitious names. _____ [Optionally, in addition to language in charging allegations that includes fictitiously named defendants: Plaintiffs are informed and believe, and on the basis of that information and belief allege, that each of those defendants was in some manner negligently and proximately responsible for the events and happenings alleged in this complaint and for plaintiffs' damages.]

6. Plaintiffs are informed and believe, and on the basis of that information and belief allege, that at all times mentioned in this complaint, defendants were the agents and employees of their codefendants, and in doing the things alleged in this complaint were acting within the course and scope of that agency and employment.

7. Defendant _____ [name of manufacturer] is now, and at all times mentioned in this complaint was, a corporation organized and existing under the laws of the State of California, with its principal place of business in _____ County, California.

8. Defendant _____ [name of manufacturer] is now, and at all times mentioned in this complaint was, in the business of designing, manufacturing, constructing, and assembling _____ [type of product] for use by members of the general public.

9. Defendant _____ [name of retailer] is now, and at all times mentioned in this complaint was, a corporation organized and existing under the laws of the State of California, with its principal place of business in _____ County, California.

10. Defendant _____ [name of retailer] is now, and at all times mentioned in this complaint was, in the business of selling _____ [type of product] for use by

members of the general public.

11. Sometime prior to _____ [date], decedent purchased from defendant _____ [name of retailer] a _____ [describe specific product, giving model number, serial number, or other identifying information] made by defendant _____ [name of manufacturer] for the sum of \$_____.

12. At all times mentioned in this complaint, defendants and each of them so negligently and carelessly designed, manufactured, constructed, assembled, and sold the _____ [product] described above that it was dangerous and unsafe for its intended uses.

13. As a direct and proximate result of defendants' negligence and carelessness as described above, decedent was seriously injured on _____ [date], while using the _____ [product] in the manner for which it was intended.

14. The injuries so inflicted on the decedent resulted in the decedent's death on _____ [date].

15. As the direct and proximate result of the foregoing and the death of the deceased, plaintiff _____ [name of surviving spouse] has been deprived of a kind and loving spouse and of _____ [his or her] care, comfort, society, protection, love, companionship, affection, solace, moral support, loss of marital consortium, physical assistance in the operation and maintenance of the home, and financial support.

16. As a further direct and proximate result of the foregoing death of the deceased, plaintiff _____ [name of minor heir] has been deprived of a kind and loving parent and of _____ [his or her] care, comfort, love, protection, advice, society, physical assistance, and financial support.

17. As a further direct and proximate result of the foregoing, plaintiffs have been generally damaged in a sum to be established according to proof, as provided by Code of Civil Procedure sections 425.10 and 425.11.

18. As a further direct and proximate result of the death of the deceased, plaintiffs have incurred reasonable and necessary expenses for decedent's funeral, burial, and memorial services to their damage in a presently unascertained sum. Plaintiffs request permission to insert the amount when it is finally determined. Wherefore, plaintiffs demand judgment as set forth below.

SECOND COUNT

(Strict Products Liability Against _____)

19. Plaintiffs incorporate by this reference each and all of the allegations contained in Paragraphs __ through __ of this complaint as though fully set forth here.

20. At all times mentioned in this complaint, the _____ [product] and its component parts were defective as to design, manufacture, and warnings, causing the _____ [product] and its component parts to be in a defective condition that made them dangerous and unsafe for their intended uses.

21. As a direct and proximate result of the dangerous and defective condition of the _____ [product] as described above, decedent was seriously injured on _____ [date], while using the _____ [product] in the manner for which it was intended.

WHEREFORE plaintiffs demand judgment against defendants, and each of them, jointly and severally, as follows:

- (1) For general damages according to proof;
- (2) For special damages according to proof;
- (3) For costs of suit;
- (4) For prejudgment interest and post-judgment interest according to law; and

(5) 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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