

# 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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