

§ 6.4

General Allegations

Setting the Stage for the Claims in the Complaint

INTRODUCING THE PLAINTIFF'S STORY

Causes of action compose the body of the complaint. There are many methods of drafting complaints and establishing valid causes. We will focus on one of the best techniques: The *three-step cause of action*.

There is an important concept we mentioned at the beginning of this chapter that you should remember:

An attorney will never win a case in the complaint, but an attorney can certainly lose a case in the complaint.

If the complaint does not contain at least one valid cause of action, the court can dismiss the case. No matter how well-crafted the complaint, no matter how beautifully written and convincingly present an argument, you will never win the matter in the complaint. (In any case, you should never “argue” in the complaint.) So, while you want to draft a strong set of allegations, do not try to prove anything at this stage. Just allege the facts and damages. *Proof will come at trial.*

One of the most effective forms of establishing valid claims for relief is the three-step cause of action. Your instructor, or eventual supervising attorney, may have his or her own method of drafting a complaint. If so, follow your instructor’s method. As a paralegal, part of your job is to be flexible. If you work for seven litigation attorneys, there will likely be seven “most appropriate ways” to draft a complaint. Get used to it. Do not fight it. Prepare documents as you are instructed by you the attorney assigning you the task.

General Allegations

The *three-step cause of action* relies on the author to first draft a thorough set of *general allegations*, sometimes referred to as *common allegations*. The first few paragraphs within the general allegations will be the jurisdictional statements, followed by a setting forth of the alleged facts, which must include some sort of damage. Without damages, there is no case. For instance, leaving a manhole open, with the cover off, would certainly be negligent. Unless someone falls in and is injured, or damaged, by the negligent act, however, there is no actionable case.

Once the general allegations are established, you will use the *three-step cause of action* (described in following sections) for each claim. For example, if negligence and breach of fiduciary duty are both claimed, the paralegal would incorporate the *three-step cause of action* twice, once for each claim. But there will only be one set of *General Allegations*. They are set forth at the beginning of the complaint.

GENERAL ALLEGATIONS

(Against All Defendants)

I.

Plaintiffs are now and at all times relevant have been residents of Kent County, state of Confusion.

II.

Defendants are now and at all times relevant have been residents of Kent County, state of Confusion.

III.

On or about October 23, 2011, Defendant was driving a taxi in which Plaintiff(s) were passengers. The Defendant, traveling north on Hill Boulevard, was traveling 60 mph in a 30 mph zone.

IV.

At the intersection of Hill Boulevard and Lee Road, Defendant failed to stop for a red light.

V.

Defendant's taxi subsequently struck a vehicle traveling south on Lee Road. The vehicle that was struck possessed the right of way.

VI.

Both Plaintiffs suffered severe damages as a result of the accident requiring lengthy hospitalization.

VII.

Both Plaintiffs have been forced to miss work because of the accident.

VIII.

As a result of this litigation, Plaintiffs have secured the services of an attorney.