

## § 6.6

**Establishing Each Cause of Action***The Three-Step Process for Each Claim in the Complaint*

Begin by captioning the claim, such as:

**FIRST CLAIM FOR RELIEF**

Negligence

Keeping in mind the facts that have been alleged in the general allegations, follow these three steps:

1. *Provide the incorporation paragraph.*

This paragraph incorporates by reference all the facts and allegations contained in the previous paragraphs, including the General Allegations. For example, "Plaintiff hereby incorporates and realleges Paragraphs 1 through 7, as though fully set forth at length herein." Yes, it is legal jargon. The advantage is that it saves space, not requiring the restatement of facts alleged previously.

2. *Allege the cause of action.*

Whatever the cause of action, allege that the defendant's conduct amounted to that claim. For example, "Defendant had a duty to properly obey the traffic laws of the state and county where the accident occurred and, by failing to do so, acted in a negligent manner." If the matter is a breach of contract case, the paragraph might read, "Defendant, by her failure to provide the items ordered and paid for, is currently in breach of that contract." The writer is establishing the claim as a result of the defendant's stated conduct.

3. *Allege damages as a result of the cause of action.*

To be actionable, the plaintiff generally must claim that he or she suffered damages (although there are exceptions). For example, "As a result of Defendant's negligent conduct stated above, Plaintiff has suffered specific damages including, but not limited to, medical expenses and lost wages." Or, in the breach of contract matter, "Plaintiff, as a result of Defendant's breach of contract, has suffered loss of potential earnings and lost contracts with retailers who were promised the contracted items."

**FIRST CAUSE OF ACTION**

Negligence

**IX.**

Plaintiff hereby incorporates and realleges Paragraphs 1 through 7, as though fully set forth at length herein.

**X.**

Defendant had a duty to obey the traffic laws of the state and county where the accident occurred, and by failing to do so acted in a negligent manner.

**XI.**

As a result of Defendant's negligent conduct stated above, Plaintiff has suffered specific damages, including, but not limited to, medical expenses and lost wages.

## EXAMPLE | THE COMPLETE COMPLAINT

**DISTRICT COURT OF CLARK COUNTY  
STATE OF CONFUSION**

JOHN and SALLY SMITH

Plaintiff,

vs.

JACK DOE

Defendant.

**COMPLAINT**

Come now the Plaintiffs, John and Sally Smith, and for cause of action against the Defendant(s), and each of them, complain and allege as follows:

**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 November 20, 2010, Defendant was driving a taxi, in which Plaintiff(s) were passengers. 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 and employment opportunities due to the accident.

**VIII.**

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

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**FIRST CAUSE OF ACTION**  
(Negligence)

**IX.**

Plaintiffs hereby incorporate and reallege Paragraphs I through VIII, as though fully set forth at length herein.

**X.**

Defendant had a duty to obey the traffic laws of the state and county where the accident occurred, and by failing to do so acted in a negligent manner.

**XI.**

As a result of Defendant's negligent conduct stated above, Plaintiffs have suffered specific damages, including, but not limited to, medical expenses and lost wages.

**SECOND CAUSE OF ACTION**  
(Negligence per se)

**XII.**

Plaintiffs hereby reallege and incorporate by reference Paragraphs I through XI, inclusive, as though fully set forth at length herein.

**XIII.**

Defendant owed a duty to the users of the public roadways to operate his vehicle in a manner consistent with the laws of the state of Confusion.

**XIV.**

As a direct and proximate result of the Defendant's speeding, Defendant was negligent per se, and Plaintiffs suffered specific damages.

WHEREFORE, Plaintiffs pray for judgment against the defendant as follows:

1. For general damages in excess of \$10,000.00, according to proof,
2. For loss of earnings and earning capacity, according to proof,
3. For medical expenses, future medical expenses, and all incidental expenses, according to proof,
4. For interest from the date of the accident to the time of judgment,
5. For costs of suit incurred herein,
6. For attorney's fees incurred herein, and
7. For such other and further relief as the Court deems proper.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Attorney Name State Bar No. 1907  
Address  
Attorney for Plaintiffs

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**ASSIGNMENT § 6.6 | SUMMONS AND COMPLAINT**

Prepare a Summons and Complaint based on your client's case. Keep track of your billable hours while preparing these documents. Staple or attach your time sheet to the end of the assignment. It is recommended that you utilize the *Legal Writing Labs* on the *Study Support website* for all written assignments.