

STATE OF NEW YORK

SUPREME COURT COUNTY OF [Insert County]

[Insert Caption]

Plaintiff

(Motor Vehicle Summons and
Complaint with
Single passenger plaintiff suing
Driver of Second Car)

SUMMONS

vs.

Index No: [Insert Index Number]

Defendant[s]

To the above named defendant[s]:

YOU ARE HEREBY SUMMONED and required to serve upon plaintiff's attorneys a verified answer to the verified complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: [Insert Date]

[Name of Attorney]
[Name of Law Firm]
Attorneys for Plaintiff[s]
[Address]
[Telephone Number]

Trial is desired in the County of [Insert County].

The basis of venue designated above is that Plaintiff resides there [or, defendant resides there, or is a foreign common carrier corporation, and the cause of action arose in the County of [Insert County]].¹

¹ These are some common venue bases in personal injury actions. Venue, however, must be decided on a case by case basis, *see* CPLR 501, 503–505.

STATE OF NEW YORK

SUPREME COURT COUNTY OF [Insert County]

[Insert Caption]

VERIFIED COMPLAINT

Plaintiff

Index No: [Insert Index Number]

vs.

Defendant

Plaintiff, [Insert plaintiff's Name] by and through her attorneys, [Name of Law Firm] as and for a Verified Complaint against the defendant² alleges that at all times hereinafter mentioned:

1. Plaintiff is a resident of the City/Town of [Insert City/Town Name], County of [Insert County], State of New York.
2. Upon information and belief, defendant, [Insert Name of defendant], is a resident of the County of [Insert County], State of New York.
3. The incident complained of herein occurred on [Insert Date of Occurrence], on [Insert Address of Accident Site], in the City/Town of [Insert City/Town Name], County of [Insert County], State of New York.
4. [Insert Address of Accident Site], in the City/Town of [Insert City/Town Name], County of [Insert County], State of New York, is and was at all times a public highway.
5. Defendant, [Insert defendant's Name], was the operator of a certain [Insert Automobile Year/ Make/Model] motor vehicle bearing New York State Registration Plate No. [Insert Number] for the year [Insert Year].
6. Defendant, [Insert defendant's Name], was the owner of the [Insert Vehicle Year/Make/ Model] motor vehicle bearing New York Registration Plate No. [Insert Number] for the year [Insert Year].

² This complaint is by a passenger in one car that is suing the driver of the second car for damages. The attorney should independently determine whether the drivers for both cars [or more if there is a multi-car collision] should be sued. If so, the attorney should amend this complaint to add the driver of the passenger's car. If there is a family relationship between the injured passenger and the driver of the passenger's car, potential conflicts may present if the passenger sues both drivers, or if the attorney represents more than one injured party, including if the attorney represents the injured driver of the passenger's car and the injured passenger. The deskbook discusses this issue in the context of *Dorsainvil v. Parker* at fn 14 *supra* at II(B)(3).

7. Upon information and belief, defendant, [Insert defendant's Name], was operating the aforesaid motor vehicle with the consent of the owner, express or implied.
8. At the aforesaid time and place, plaintiff, [Insert plaintiff's Name], was a passenger in a [Insert Year/Make Model of Automobile] motor vehicle bearing New York Registration Plate No. [Insert Number] for the year [Insert Year].
9. At the aforesaid time and place, the defendant, [Insert defendant's Name], used and operated the aforesaid [Insert Year/Make Model of Automobile] motor vehicle in such a manner as to cause said motor vehicle to come into collision with aforesaid [Insert Year/Make Model of Automobile] motor vehicle.
10. One or more of the exceptions set forth in CPLR Section Sixteen Hundred Two applies to this action or claim for damages.

AS AND FOR A FIRST CAUSE OF ACTION³

11. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "10" above with the same force and effect as if more fully set forth here, and further alleges:
12. By reason of the foregoing collision, the plaintiff, [Insert plaintiff's Name], sustained a "serious injury" as defined by Article 51 of the Insurance Law of the State of New York.
13. As a result of the foregoing collision, the plaintiff, [Insert plaintiff's Name], suffered "economic loss" in excess of "basic economic loss," as those terms are defined by Article 51 of the Insurance Law of the State of New York.
14. The collisions, and the injuries and damages resulting therefrom, occurred as the result of the careless, reckless and negligent conduct of the defendant, in the operation and ownership of defendant's motor vehicle.
15. By reason of the facts aforesaid, plaintiff, [Insert plaintiff's Name], has been damaged in a sum that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff, [Insert plaintiff's Name], demands judgment⁴ against the defendant as follows:

- (a) on the first cause of action, in a sum of money that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

³ If the plaintiff was an infant, or married, then the attorney should consider suing a derivative cause of action on behalf of the parents of the infant plaintiff or the spouse of the injured plaintiff passenger. Examples of a derivative cause of action for parents for injury to their infant are set out in the medical malpractice complaint as the Fourth Cause of Action on page 293. The spouse of the injured passenger plaintiff would plead the same cause of action except for changing relevant facts pled in that cause of action essentially from infant to spouse.

⁴ This complaint is against one defendant. If two defendants were sued, the complaint should state "demands judgment jointly and severally against defendants."

(b) together with the costs and disbursements of this action.

DATED: [Insert Date]

[Name of Attorney]
[Name of Law Firm]
Attorneys for Plaintiff
[Address]
[Telephone Number]

Sample

Sample

VERIFICATION⁵

STATE OF NEW YORK)

) ss.:

COUNTY OF _____)

_____, being duly sworn, depose and says that he is one of the attorneys for the plaintiff in the above-entitled action; that he has read the foregoing Summons & Complaint, and that the same is true to his own knowledge, except as to those matters stated therein to be alleged on information and belief, and as to those matters, he believes them to be true.

This verification is made by deponent instead of the said plaintiff because the plaintiff resides outside the County of [Insert County] where deponent maintains his offices.

[Name of Attorney]

Sworn to before me
_____ day of _____, _____.

Notary Public

⁵ If the plaintiff resides in the County where the attorney maintains his office, that the plaintiff must verify the complaint if verification is desired, *see* CPLR 3020(a).