

Form – Defendant’s Original Answer

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____ DIVISION

_____,)
)
Plaintiff,) Civil Actions No. _____

vs.)
) Judge _____
_____,)
)
Defendant)

DEFENDANT’S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW _____, defendant in the above cause, to file this answer to the original petition of _____, plaintiff herein, and would respectfully show the Court as follows:

I.

Defendant specially excepts to the following allegations in paragraph _____, page _____ of plaintiff’s original petition:

Defendant is entitled to know the specific acts and omissions upon which the plaintiff bases his allegations of negligence on the part of the defendant.

II.

Defendant also specially excepts on the ground that plaintiff has alleged damages exceeding the minimum jurisdictional amount. Defendant is entitled to know the maximum amount of damages claimed and each element of those damages.

III.

Subject to all stipulations and admissions that may hereafter be made, defendant asserts a general denial as is authorized by Rule _____ of the (State) Rules of Civil Procedure, and defendant respectfully requests that the plaintiff be required to prove the charges and allegations against defendant by a preponderance of the evidence as is required by the Constitution and the Laws of the State of _____.

IV.

Defendant expressly reserves his right to subsequently amend this Answer to assert any counterclaims or causes of action defendant may have against plaintiff and to aver any affirmative defenses available to defendant.

WHEREFORE, PREMISES CONSIDERED, defendant prays that plaintiff take nothing by reason of this suit, and that the defendant recover all costs and be granted such other and further relief, both general and special, to which defendant may be justly entitled wither at law or equity.

Respectfully submitted,

(FIRM NAME)

By: _____

(Attorney's name)

(Firm address)

Form - Counterclaim

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF _____ DIVISION

_____,)
)
Plaintiff,) Civil Actions No. _____
vs.)
) Judge _____
_____,)
)
Defendant)

Answer to First Count

Defendant, _____, answers as follows:

1. Defendant admits the allegations of Paragraphs 1, 2 and 3 of the complaint.
2. Defendant denies each and every allegation of Paragraphs 4, 5, 6 and 7 of the complaint.

Answer to Second Count

3. In answer to Paragraph 8 of Count Two of the complaint, wherein plaintiff incorporates by reference certain paragraphs of Count One of the complaint, defendant admits, denies and alleges to the same effect and in the same manner as she admitted, denied and alleged to those specific paragraphs previously in this answer.
4. In answer to Paragraph 9 of Count Two of the complaint, defendant admits that plaintiff, _____, was a passenger in a vehicle being driven by co-plaintiff, _____, but denies each and every other allegation contained in said paragraph.
5. Defendant denies each and every allegation contained in Paragraph 10 of the complaint.

First Affirmative Defense

As and for an affirmative defense, defendant alleges that plaintiff's right to maintain this action is barred by the statute of limitations in that more than one year has now elapsed between the date plaintiff's alleged cause of action arose and the date plaintiff's filed their complaint.

Second Affirmative Defense

As and for a separate defense, defendant alleges that plaintiffs were themselves negligent in that plaintiff Gordon Sheffield failed to use ordinary care in the operation of his motor vehicle, and failed to keep a proper lookout for other vehicles, and that both plaintiffs Gordon Sheffield and Amy Sheffield failed to exercise ordinary care in that neither wore a seat belt. Defendant further alleges that said negligence contributed in whole or in part to any injuries that may have resulted.

Counterclaim

As a counterclaim against plaintiff, _____, defendant alleges:

1. On or about April 29, 20____, in a public highway called Market Street in San Francisco, California, plaintiff, Gordon Sheffield, negligently drove a motor vehicle, causing it to collide with another motor vehicle, owned by defendant Linda Granger.
2. That the motor vehicle driven by Gordon Sheffield was owned jointly by plaintiffs Gordon Sheffield and Amy Sheffield and that at all times herein mentioned was driven and operated by Gordon Sheffield with the knowledge and consent of plaintiff Amy Sheffield.
3. As a result of plaintiff's negligence, defendant's motor vehicle was damaged, and defendant has incurred expenses in the amount of \$5,000 to repair said vehicle.
4. Also as a result of said motor vehicle collision, co-plaintiff, AMY SHEFFIELD, has commenced a tort action against defendant for the recovery of \$150,000.00, her alleged damages resulting from the collision. Defendant alleges that should judgment be assessed against defendant in favor of plaintiff Amy Sheffield, that defendant Linda Granger is entitled to recover from plaintiff Gordon Sheffield all or part of said judgment.

Wherefore defendant prays:

1. That the court enters judgment dismissing the complaint;
2. That defendant has judgment against plaintiff Gordon Sheffield in the amount of \$5,000.00;
3. That defendant has judgment against plaintiff Gordon Sheffield in an amount equal to any judgment in favor of plaintiff Amy Sheffield;
4. That defendant be awarded costs incurred herein;

5. That defendant be awarded such other and further relief as the court deems just.

Dated: _____ 20_____

Taylor Martin, Attorney for Defendant

15 Plaza Dr.

Silo, California 94823