

MODEL FORM OF NOTICE, COMPLAINT, AFFIDAVIT AND
REPLY
MODEL FORM -1 NOTICE BEFORE FILING THE COMPLAINT

Name and address

.....
(of the trader, dealer, firm, company, etc.)

.....
(Complete address)

IN RE: (Mention the goods/services complained of giving details)

.....

Dear Sir,

This is to bring to your kind notice that I had purchased.....from yourfor a consideration of Rs..... paid in cash vide your cash memo/Receipt/ Invoice No..... (or through cheque No dated drawn on.....bank for a sum of Rs.....

The said goods are suffering from the following defects:

- (i)
- (ii)etc

I have reported the above matter to you several times (give reference of earlier letters, if any) but despite all my pleadings you have not made good the defect in the goods (or deficiency in services) which is indeed regrettable and highly unbusiness like. On account of your aforesaid dereliction of duty and failure and neglect to rectify the same I have suffered losses/incurred expenses

.....
.....
.....
.....
.....

(give details)

which you are liable to compensate to me.

You are hereby finally called upon to

(i) remove the said defects in the goods

and / or

(ii) replace the goods with new goods

and / or

(iii) return the price / charges paid

(iv) pay compensation for financial loss/injury/interest suffered due to your negligence

(give details)

In the sum of Rswithinterest@.....
% per annum within days of the receipt of this notice failing which I shall be constrained to initiate against you for redressal of my aforesaid grievances and recovery of the aforesaid amount such proceedings, both civil and criminal as are warranted by law, besides filing a complaint under the statutory provisions of The Consumer Protection Act, 1986 exclusively at your own risk, cost, responsibility and consequences which please note.

Place.....

Dated.....

Sd/-

.....

Model Form – 2 –The complaint

BEFORE THE HON'BLE DISTRICT CONSUMER DISPUTES
REDRESSAL FORUM AT

OR

BEFORE THE HON'BLE STATE CONSUMER DISPUTES
REDRESSAL COMMISSION AT

OR

BEFORE THE HON'BLE NATIONAL CONSUMER DISPUTES
REDRESSAL

COMMISSION AT NEW DELHI

IN RE: COMPLAINT NOOF 20..... IN THE MATTER OF:
(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)

.....

Complainant

VERSUS

(FULL NAME) (DESCRIPTION) (COMPLETE ADDRESS)

..... Opposite Party/ Parties

**COMPLAINT UNDER SECTION 12/ SECTION 17/
SECTION 21 OF THE CONSUMER PROTECTION ACT, 1986.**

RESPECTFULLY SHOWETH

INTRODUCTION

(In this opening paragraph the complainant should give his introduction as well as that of the opposite party/parties.

TRANSACTION

(In this paragraph complainant should describe the transaction complained of, *i.e.*, particulars and details of goods/ services availed; items of goods/kind and nature of service; date of purchase of goods/availing of service; amount paid as price/ consideration, full or in part towards the goods/service; Photocopies of the bill/cash memo/voucher or receipt should be attached and properly marked as Annexure – A,B,C and so forth or 1,2,3 and so forth.)

DEFECT DEFICIENCY

(In this paragraph complainant should explain the grievance, *i.e.*, whether the loss or damage has been caused by some unfair trade practice or restrictive trade practice adopted by any trader or there is some defect in the goods or there has been deficiency in service or the trader has charged

excessive price for the goods. One should elucidate the nature of unfair trade practice adopted by the trader, *i.e.*, relating to the quality of goods/services; sponsorship; warranty or guarantee for such period promised. The nature and extent of defects in goods should be explained and so should the deficiency in service. In case of excessive price one should specify the details of actual price fixed by or under any law for the time being in force or as set out on goods and their packing vis-a-vis the price charged by the trader. Complaint can also be filed against offer for sale of goods hazardous to life and safety when used. You should narrate your grievance and rest assured it is being read /heard by compassionate and pragmatic judges. Photocopies of relevant documents must be attached.)

RECTIFICATION

(In this paragraph complainant should highlight what attempts were made by him to set things right, *i.e.*, personal visits or negotiations; communication in writing if any; whether any legal notice was got served and / or whether he has approached any other agency for redressal like, Civil or Criminal Court of competent jurisdiction; the stage of its proceedings, its outcome, if any, along with copies (certified preferably) of such proceedings. The nature of response got from the trader when irregularities were brought to his notice, should also be disclosed here).

OTHER PROVISIONS

(In this paragraph reference may be made to any other law or rules or regulations of particular procedure which is applicable to the case and/or which has been violated by the trader and consumer's rights under the same. There are incidental statutory obligations, which traders must fulfil and in case of their failure to do so the case in *prima facie* made out and Forum would take cognizance).

EVIDENCE

(In this paragraph complainant should give details of documents and/or witnesses he will rely upon to substantiate his case. The documents attached as Annexures as stated above may be incorporated in a proper list and a list of witnesses (if any) may be filed similarly). The annexures should be attested as "True Copy".

JURISDICTION

(In this paragraph complainant should liquidate the claim in the complaint, *i.e.*, upto 20 lakh; 20 lakh to one crore; or above and set out the pecuniary jurisdiction of the Forum/ State Commission/National

Commission, as the case may be. The territorial Jurisdiction should be highlighted to obviate any formal objection).

LIMITATION

That the present complaint is being filed within the period prescribed under section 24A of the Act.

RELIEF CLAIMED

(In this paragraph complainant should describe the nature of relief he wants to claim. *i.e.*, for removal of defects in goods or deficiency in service; replacement with new goods; return of the price or charges, etc., paid and/or compensation on account of financial loss or injury or detriment to his interest occasioned by negligence of the opposite party and elucidate how you have calculated the amount of compensation claimed).

PRAYERCLAUSE

It is, therefore, most respectfully prayed that this Hon'ble Forum/Commission may kindly be pleased to
(Details of reliefs which complainant wants the Court to grant)

Place:

Dated :.....

Complainant Through
(Advocate or Consumer Association, etc.)

Verification

I, the complainant above named, do hereby solemnly verify that the contents of my above complaint are true and correct to my knowledge, no part of it is false and nothing material has been concealed therein. Verified this day of 20 at
.....Complainant.

Note: Although it is not compulsory, complainant may file an affidavit in support of the complaint which adds to the truth and veracity of allegations and gives credibility to the cause. It need not be on a Stamp paper but one should get it attested from an Oath Commissioner appointed by a High Court. The format is just as simple.

Model Form -3- Affidavit in support of the complaint

BEFORE THE HON'BLE IN RE: COMPLAINT
NO.....OF 20.....IN THE MATTER OF:

.....
.....Complainant

.....
.....Opposite party

AFFIDAVIT

Affidavit of
Shri..... S/o. Shri.....
aged.....years, resident of.....
.....

- (1) That I am complainant in the above case, thoroughly conversant with the facts and circumstances of the present case and am competent to swear this affidavit.
- (2) That the facts contained in my accompanying complaint, the contents of which have not been repeated herein for the sake of brevity may be read as an integral part of this affidavit and are true and correct to my knowledge.

Deponent

Verification:

I, the above named deponent do hereby solemnly verify that the contents of my above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therein.

Verified this.....day of.....
20..... at.....

Deponent

Model Form -4- Reply by the trader to the complaint

BEFORE THE HON'BLE THE
CONSUMER DISPUTES REDRESSAL FORUM / COMMISSION
AT.....

IN RE: COMPLAINT NO.....OF 20.....

IN THE MATTER OF:

.....Complainant
VERSUS
.....Opposite
Party

DATE OF HEARING.....

**WRITTEN STATEMENT ON BEHALF OF RESPONDENTS
TO THE COMPLAINT OF THE COMPLAINANT**

RESPECTFULLY SHOWETH:

Preliminary Objections

1. That the present complaint is wholly misconceived, groundless and unsustainable in law and is liable to be dismissed as such. The transaction question was without any consideration and free of charge.
2. That this Hon'ble Forum/Commission has no jurisdiction to entertain and adjudicate upon the dispute involved in the complaint in as much as it is not a consumer dispute and does not fall within the ambit of the provisions of the Consumer Protection Act, 1986, hereinafter called the said Act and is exclusively triable by a Civil Court and as such the complaint is liable to be dismissed summarily on this score alone.
3. That the dispute raised by the complainant in the present complaint is manifestly outside the purview of the said Act and in any event, the Act is in addition to an not in derogation of the provisions of the.....Act. The proceedings initiated by the complainant under the Act are honest, null and void and without jurisdiction.
4. That the definitions of 'Complainant', 'Complaint', 'Consumer Dispute' and 'Service', as defined in Section 2(1) of the said Act do not cover the claims arising under the present dispute and that from the aforesaid definitions, the complainant is not consumer' and the controversy involved in the complaint is not a 'consumer dispute'.
5. That the present complaint is baseless and flagrant abuse of process of law to harass and blackmail the answering respondent.
6. That the complainant has no *locus standi* to initiate the present proceedings.
7. That the complaint is bad for non-joinder of necessary and proper party and is liable to be dismissed on this score alone.
8. That the complainant has already filed a Civil Suit for in a court of competent jurisdiction which is pending disposal in the Court ofand the present complaint has become infructuous.
9. That the present complaint is hopelessly barred by limitation.
10. That this Hon'ble Forum/Commission has no territorial or pecuniary jurisdiction in as much as the amount involved in the subject-matter exceeds/is less than the limit prescribed by Section 11(1) Section 17(1)(a)(i)/Section 21(a)(i) of the Act.
11. That the present complaint is frivolous and vexatious and liable to be dismissed under Section 26 of the Act.
12. That the present complaint has not been verified in accordance with law.

On Merits:

In these paragraphs respondent must reply each and every allegation made and contention raised by the complainant, factual and legal as well. In

case one has already made good the defect or deficiency, elucidate steps taken. One may have, *inter alia*, following goods defences as well.

1. That the transaction entered between the parties to the above dispute is a commercial one and the complainant cannot claim any relief from this authority in as much as..... (give details)
2. That the complainant had purchased the goods as a seller/retailer/distributor, etc., for consideration of resale and a such is barred from moving this Hon'ble Forum/Commission for the alleged defect/deficiency etc. in as much as..... (give details)
3. That the complainant has already availed the warranty period during which the answering respondent has repaired/replaced the goods in question. The complainant is thus legally stopped from enforcing this complaint or to take benefit of his own wrong.
4. That the present complaint is an exaggeration beyond proportion despite the fact that the complainant is himself responsible for delay and laches in as much as he has on several occasions changed his option for class of goods/type of allotment scheme of flats/model of vehicle, etc. (give details)
5. That the answering respondent is well within his rights to charge extra price for the subject-matter of the above dispute in as much as time was not the essence of delivery thereof. The complainant is liable to pay the increased price w.e.f on account of escalation due to excise duty/budgetary provisions etc. in as much as..... (give details)
6. That the complainant has accepted the goods and/or service towards repair/replacement etc. without protest and the present complaint is merely an after thought.
7. That without prejudice the answering respondent as a gesture of goodwill is prepared to..... (give details of rectification, if any, which can be done in case of minor or tolerable problems to avoid harassment to consumer and litigation problems)

The allegations of defect/default/negligence and/or deficiency in service are wholly misconceived, groundless, false, untenable in law besides being extraneous and irrelevant having regard to the facts and circumstances of the matter under reference.

Prayer clause with all the submissions made therein is absolutely wrong and is emphatically denied. Complainant is not entitled to any relief whatsoever and is not entitled Model Form costs.

Sd/-
(Opposite Party)

Place

Date

through

(Advocate)

Verification

I.....the above named respondent do hereby verify that the contents of paras toof the written statement on merits are true and correct to my knowledge. While paras to of preliminary objections and to of reply on merits are true to my information, belief and legal advice received by me and believed to be true while the last para is prayer to this Hon'ble Court. Verified at this day of 20.....

Sd/-
(Opposite party)