

1 SELARZ LAW CORP.
DANIEL E. SELARZ (State Bar No. 287555)
2 *dselarz@selarzlaw.com*
11777 San Vicente Blvd., Suite 702
3 Los Angeles, California 90049
Telephone: 310.651.8685
4 Facsimile: 310.651.8681

5 **Attorneys for Plaintiff(s),**
[CLIENT'S NAME]

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF [COUNTY], [DISTRICT]**

10 [PLAINTIFF(S)], an individual,
11 Plaintiff,
12 vs.
13 [DEFENDANT(S)], and DOES 1 to [#],
inclusive,
14 Defendants.

Case No. []
Honorable []
Dept. [#]

PLAINTIFF'S TRIAL BRIEF

Action Filed: []
Trial Date: []

16 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

17 Plaintiff [CLIENT'S NAME] ("Plaintiff") hereby submits the following Trial Brief
18 for the Court's consideration:

19 **I. INTRODUCTION**

20 This case arises from a two-vehicle motor vehicle collision, which took place on
21 [Date of Incident], at [Location of Incident].

22 Plaintiff contends that Defendant's negligent operation of [his/her] vehicle caused
23 the collision, and that as a result of the collision, Plaintiff sustained personal injuries and
24 damages.

25 [Defendant admits liability for causing the collision but disputes the nature and
26 extent of the injuries and damages being claimed by Plaintiff/Defendant disputes liability
27 for causing the collision and further disputes the nature and extent of the injuries and
28

1 damages being claimed by Plaintiff.]

2 **II. LEGAL AND FACTUAL ISSUES**

3 **A. Liability**

4 Liability in the instant case is clear. “Everyone is responsible, not only for the
5 results of his willful acts, but also for an injury occasioned to another by his want of
6 ordinary care or skill in the management of his property or person, except so far as the
7 latter has willfully, or by want of ordinary care, brought the injury upon himself.” This
8 statute is the foundation of negligence law in California. *Rowland v. Christian* (1968) 69
9 Cal.2d 108, 111-112.

10 **Rear End (if applicable):** As corroborated by all parties and evidence, Defendant
11 negligently and unlawfully rear-ended the vehicle driven by our client, in violation of
12 *California Vehicle Code* Section 22350. At the time of the collision, our client was
13 completely and lawfully stopped in [his/her] vehicle due to traffic in front of [him/her].

14 As stated in the Traffic Collision Report, “[Quote Traffic Collision Report (if
15 applicable)].”

16 A collision in which a following motorist collides with the rear end of a vehicle
17 ahead evidences negligence on the part of the following motorist. *Larson v. Solbakken*
18 (1963), 221 CA 2d 473, 34 CR 450, 458. Such a collision indicates a violation of the basic
19 speed law (*Vehicle Code* Section 22350) following another automobile too closely
20 (*Vehicle Code* Section 21703), and inattentiveness of the driver. A motorist remains bound
21 to anticipate that he may meet persons or vehicles at any part on the street and he must
22 keep a proper lookout for them, always keeping his automobile under such control
23 enabling him to avoid a collision. *Huetter v. Andrews* (1949), 91 CA 2d 142, 204 P 2 655.
24 Moreover, failure to keep such a lookout or failure to see that which may be readily seen
25 constitutes negligence as a matter of law. *Huetter v. Andrews* (supra).

26 Because Defendant violated *California Vehicle Code* section 22350, a statute
27 designed to prevent unsafe driving maneuvers and accidents resulting therefrom,
28

1 Defendant is negligent per se. California Evidence Code section 669 provides in pertinent
2 part: (a) the failure of a person to exercise due care is presumed if: (1) he violated a statute,
3 ordinance, or regulation of a public entity; (2) the violation proximately caused death or
4 injury to person or property; (3) the death or injury resulted from an occurrence of the
5 nature which the statute, ordinance or regulation was designed to prevent; and (4) the
6 person suffering the death or the injury to his person or property was one of the class of
7 persons for whose protection the statute, ordinance or regulation was adopted.

8 Accordingly, Defendant acted negligently and in violation of statutory law, in
9 addition to general negligence laws.

10 **Lane Change (if applicable):** As corroborated by all parties and evidence,
11 Defendant carelessly, negligently and unlawfully made an extremely dangerous lane
12 change in violation of *California Vehicle Code* Sections 22107 and 21658 and collided
13 directly into our client’s vehicle.

14 As stated in the Traffic Collision Report, “[Quote Traffic Collision Report (if
15 applicable)].”

16 Because Defendant violated *California Vehicle Code* sections 22107 and 21658,
17 statutes designed to prevent unsafe driving maneuvers and accidents resulting therefrom,
18 Defendant is negligent per se. California Evidence Code section 669 provides in pertinent
19 part: (a) the failure of a person to exercise due care is presumed if: (1) he violated a statute,
20 ordinance, or regulation of a public entity; (2) the violation proximately caused death or
21 injury to person or property; (3) the death or injury resulted from an occurrence of the
22 nature which the statute, ordinance or regulation was designed to prevent; and (4) the
23 person suffering the death or the injury to his person or property was one of the class of
24 persons for whose protection the statute, ordinance or regulation was adopted.

25 Accordingly, Defendant acted negligently and in violation of statutory law, in
26 addition to general negligence laws.

27 **Intersection (if applicable):** As corroborated by all parties and evidence, Defendant
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1 carelessly, negligently and unlawfully proceeded through an intersection on a red light, in
2 violation of *California Vehicle Code* Section 22453, and collided directly into our client’s
3 vehicle.

4 As stated in the Traffic Collision Report, “[Quote Traffic Collision Report (if
5 applicable)].”

6 Because Defendant violated *California Vehicle Code* section 22453, a statute
7 designed to prevent unsafe driving maneuvers and accidents resulting therefrom,
8 Defendant is negligent per se. California Evidence Code section 669 provides in pertinent
9 part: (a) the failure of a person to exercise due care is presumed if: (1) he violated a statute,
10 ordinance, or regulation of a public entity; (2) the violation proximately caused death or
11 injury to person or property; (3) the death or injury resulted from an occurrence of the
12 nature which the statute, ordinance or regulation was designed to prevent; and (4) the
13 person suffering the death or the injury to his person or property was one of the class of
14 persons for whose protection the statute, ordinance or regulation was adopted.

15 Accordingly, Defendant acted negligently and in violation of statutory law, in
16 addition to general negligence laws.

17 **B. Causation**

18 The injuries described below will be proven to have been the consequence of the
19 negligent actions of Defendant.

20 **C. Damages**

21 Plaintiff alleges that Defendant’s negligent operation of [his/her] vehicle caused the
22 accident, and that such negligence caused Plaintiff personal injuries and damages.
23 Defendant disputes the nature and extent of Plaintiff’s injuries and the reasonableness of
24 Plaintiff’s treatment.

25 **1. Plaintiff’s Injuries and Treatment**

26 As a result of the collision, [Client’s Name] sustained [Insert information about
27 injuries/diagnosis].

28

1 examination with [First Medical Provider], Plaintiff was continuing to experience mild to
2 moderate, sharp, throbbing pain in [his/her] [insert information about injuries/diagnosis] as
3 a result of being hit by Defendant.

4 Any activity or movement continues to exacerbate [his/her] pain. Plaintiff also has
5 difficulty with prolonged sitting, standing and going about [his/her] daily routine. Plaintiff
6 was a very active and fit individual, who is now limited by [his/her] pain. Consequently,
7 [he/she] has become extremely irritable and depressed. Only rest alleviates his discomfort.

8 Plaintiff has also suffered mental and emotional distress due to the pain, suffering
9 and hardship that the accident created. Plaintiff's personal life was adversely affected as
10 well. As a result of the pain and emotional distress experienced all day, Plaintiff was
11 usually tired in the evenings. Particularly for the first four months [he/she] experienced
12 difficulty sleeping. It was virtually impossible for [him/her] to find a comfortable position
13 to fall asleep in. Then once asleep, involuntary movements at night caused pain,
14 awakening [him/her]. Getting out of bed in the morning was difficult because during the
15 night [his/her] body would stiffen. This loss of sleep and resulting irritability caused
16 [his/her] to stay at home more often than before the accident, isolated from [his/her]
17 friends. The injury caused a general weakening of the supportive soft tissue structure.
18 Plaintiff continues to experience some pain and discomfort in [his/her] mid-back.

19 Plaintiff's doctor believes continued treatment is essential to alleviate the pain from
20 worsening and to relieve the pain caused by the injury. Although Plaintiff is now
21 considerably improved, [he/she] will not forget the incident of [Date of Accident]. The
22 pain and suffering associated with it has continued since then and will go on for some time
23 to come.

24 **IV. CONCLUSION**

25 Based on [his/her] injuries, Plaintiff respectfully requests a verdict to compensate
26 [him/her] for [his/her] past and future medical expenses, past and future lost wages and
27 general damages associated with the pain and suffering [he/she] has endured as a result of
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1 the negligence of the Defendant. Plaintiff estimates that the trial of this matter will take
2 [#] days. Plaintiff's most recent settlement demand is in the amount of [\$. Defendant's
3 most recent offer is [\$.
4
5

6 DATED: May 24, 2020

SELARZ LAW CORP.

7
8 By: _____
9 Daniel E. Selarz, Esq.
10 **Attorneys for Plaintiff(s),**
11 [Client's Name(s)]
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1 **PROOF OF SERVICE**

2 Case No. []

3 I, the undersigned, declare as follows:

4 I am employed in the County of Los Angeles, State of California. I am over the age of 18
5 years, and not a party to the within action. I am an employee of, or agent for, SELARZ LAW
6 CORP., whose business address is 11777 San Vicente Blvd., Suite 702, Los Angeles, CA 90049.

7 On May 24, 2020 I served the foregoing document(s) **PLAINTIFF’S TRIAL BRIEF**
8 to the following party(ies) in this action addressed as follows:

9 **PLEASE SEE ATTACHED SERVICE LIST**

10 (BY MAIL) I caused a true copy of each document, placed in a sealed envelope
11 with postage fully paid, to be placed in the United States mail at Beverly Hills,
12 California. I am “readily familiar” with this firm’s business practice for
13 collection and processing of mail, that in the ordinary course of business said
14 document(s) would be deposited with the U.S. Postal Service on that same day. I
15 understand that the service shall be presumed invalid if the postal cancellation
16 date or postage meter date on the envelope is more than one day after the date of
17 deposit for mailing contained in this affidavit.

18 (BY PERSONAL SERVICE) I caused to be delivered each such document by hand
19 to each addressee above.

20 (BY CERTIFIED MAIL – CCP §§1020, et seq.) I caused said document(s) to be
21 deposited with the United States Mail, postage prepaid, return receipt requested,
22 signed by addressee that said documents were received.

23 (BY OVERNIGHT DELIVERY) I caused a true copy of each document, placed in a
24 sealed envelope with delivery fees provided for, to be deposited in a box regularly
25 maintained by **United Parcel Service®(UPS)**. I am readily familiar with this
26 firm’s practice for collection and processing of documents for overnight delivery
27 and know that in the ordinary course of business practice the document(s)
28 described above will be deposited in a box or other facility regularly maintained
by UPS or delivered to a courier or driver authorized by UPS to receive
documents on the same date it is placed for collection.

(BY FACSIMILE) By use of facsimile machine number (310) 651-8681, I served a
copy of the within document(s) on the above interested parties at the facsimile
numbers listed above. The transmission was reported as complete and without
error. The transmission report was properly issued by the transmitting facsimile
machine.

(BY ELECTRONIC SERVICE) Based on a court order or an agreement of the
parties to accept service by electronic transmission, I caused the documents to be
sent to the persons at their electronic notification addresses. I did not receive,
within a reasonable time after the transmission, any electronic message or other
indication that the transmission was unsuccessful.

Executed on May 24, 2020, in Los Angeles, California. I declare under penalty of perjury
under the laws of the State of California that the above is true and correct.

Daniel E. Selarz

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SERVICE LIST
Case No. []

SENT VIA U.S. MAIL

[Attorney's Name]
[Law Firm Name]
[Street Address]
[City, State & Zip Code]

Tel: (xxx) xxx-xxxx / Fax: (xxx) xxx-xxxx
Email: [Email Address]

[Attorneys for Defendant [DEFENDANT'S NAME]]