

MEMORANDUM

To: Civil Law and Procedure Students
From: Prof. Kerin E. Coughlin
Date: November 9, 2021
Re: Summons and Complaint Assignment

This memorandum addresses the Summons and Complaint assignment each student is required to complete in this course (5% of course grade). This is a scaffolded project, so it is comprised of several assignments that will help you move toward the ultimate goal of preparing a summons and complaint that could be filed in a New York court to commence an action. The first of these assignments is due **this Thursday, November 11, 8am** and is described below. There will be several more such assignments, then the final documents will be due Tuesday, December 7, and graded according to the rubric on the back of this page.

SCENARIO

You are a paralegal at the law firm of Dewey, Cheatem & Howe, LLP, 300 Jay Street, Suite 622, Brooklyn, New York 11201, (718) 260-5124. Your firm represents Pedro Proprietor, owner of Pedro's Home Furnishings. Donatella Dewey, Esq. is the attorney assigned to Mr. Proprietor's case. Ms. Dewey has asked you to prepare a summons and verified complaint to commence an action on behalf of Mr. Proprietor in a New York State court against Ms. Camille Consumer, based on the facts below which Ms. Dewey obtained by interviewing Mr. Proprietor.

In preparing the summons and complaint, you are welcome and encouraged to follow appropriate forms from C&W Appendix B, or that you find online or elsewhere. However, you are responsible for ensuring that all documents you submit are appropriate for this assignment, and they conform to all applicable rules and requirements. "That's what the form said" is not an excuse.

FACTS

Mr. Proprietor owns Pedro's Home Furnishings, 35 Flatbush Avenue Extension, Brooklyn, New York 11201. He lives above the store. On June 13, 2020, Mr. Proprietor delivered to Ms. Camille Consumer, 67-118 Clyde Street, Forest Hills, New York 11375 (in Queens), the following items: (1) computer system and software, valued at \$7,000; (2) a desk, valued at \$4400; (3) two chairs, at \$1000 each; (4) two end tables, at \$600 each; (5) two lamps, at \$200 each; and (6) a coffee table, \$1500. Ms. Consumer purchased the items on credit extended by Mr. Proprietor, and in the transaction, she agreed to pay Mr. Proprietor the total of the prices listed above, in full, by September 30, 2021. On June 13, 2020, Ms. Consumer accepted the goods listed above, that had been sold and delivered to her. However, by October 30, 2021, Ms. Consumer still had not paid Mr. Proprietor any money for them. Mr. Proprietor made several written and oral demands to Ms. Consumer to pay the money, but Ms. Consumer still has not paid.

FIRST ASSIGNMENT – due 8am Thursday, November 11!

Review C&W ch. 14 (Pleadings), especially pp. 115-118 and 120E, and locate and read CPLR §§ 3016, 3020 and 3021. By 8am Thursday, November 11, please send me the answers to questions A and B below, in complete, grammatically-correct sentences, in an email, either right in the body of the email, OR in an attached Word or PDF document. (Not a link!) ****Hint!** The underlined and italicized terms above will help you figure out the answers to the questions!

- A. i. Which subsection of CPLR § 3016 (that is, subsection (a), or (b), or (c), etc.) applies to Mr. Proprietor's case regarding his sale and delivery of goods to Ms. Consumer?
ii. What does that subsection require or permit Mr. Proprietor to do? Is Mr. Proprietor required, or just permitted, to do it? Explain your answer.
iii. What does that subsection thereupon require or permit Ms. Consumer to do? Is Ms. Consumer required, or just permitted, to do it? Explain your answer.
- B. According to CPLR § 3020(a) and C&W ch. 14 p. 120E, what is a "verification" of a pleading? What type of document is it similar to? What is a party doing when she/he verifies a complaint?

Grading Rubric: Law 1103 Summons and Complaint Assignment

Score: _____ / 25

	Good	Passable	Poor
Summons: Includes all necessary information; shows careful proofreading (correct grammar, spelling, etc.); follows proper format.	6	4	1
Complaint: Includes all necessary information; excludes unnecessary information; sufficiently particular per CPLR 3016; plain and concise statements; consecutively numbered paragraphs, each with only one allegation; cause(s) of action separately stated and numbered; carefully proofread (correct grammar, spelling, etc.); proper format.	6	4	1
Verification: Includes all necessary information; shows careful proofreading (correct grammar, spelling, etc.); follows proper format.	6	4	1
Overall: Demonstrates understanding of legal concepts, attention to detail, and academic effort that are appropriate for a student in this college-level course.	6	4	1