

A pedestrian was struck in a crosswalk by a truck and severely injured. The pedestrian brought a federal diversity action against the driver of the truck, alleging the following in the complaint: "On January 15, 2019, on Broad Street in City A, located in State B, the defendant negligently drove a motor vehicle, striking the plaintiff. As a result, the plaintiff was physically injured, lost wages or income, suffered physical and mental pain, and incurred medical expenses of \$100,000."

The truck driver has moved to dismiss the action for failure to state a claim, arguing that the complaint lacks sufficient detail.

Is the court likely to grant the motion?

- A. No, because the complaint alleges facts showing plausible entitlement to relief.
- B. No, because the pedestrian has not had an opportunity to conduct discovery.
- C. Yes, because the complaint fails to allege facts showing probable entitlement to relief.
- D. Yes, because the complaint uses the term "negligently," which is a legal conclusion.

## Explanation:

### Specificity of pleadings

Claim	Pleading requirements
<b>General rule</b>	<ul style="list-style-type: none"><li>• Complaint – short &amp; plain statement of claim showing plaintiff is entitled to relief</li><li>• Answer – short &amp; plain statement of admissions, denials, defenses &amp; claims against other parties</li></ul>
<b>Fraud/mistake/mental condition</b>	<ul style="list-style-type: none"><li>• Malice, intent, knowledge, or other mental condition may be alleged generally</li><li>• Circumstances giving rise to fraud/mistake must be stated with particularity</li></ul>
<b>Conditions precedent</b>	<ul style="list-style-type: none"><li>• Assertion that conditions precedent occurred may be alleged generally</li><li>• Denial that conditions precedent occurred must be stated with particularity</li></ul>
<b>Damages</b>	<ul style="list-style-type: none"><li>• General damages may be alleged generally</li><li>• Special damages must be specifically stated</li></ul>

A **complaint** is the pleading that **starts a civil lawsuit** and states the **basis for the plaintiff's claim**. It generally must contain a **short and plain statement** of the claim showing that the plaintiff is entitled to relief.\* The statement of the claim need only contain enough facts for a court to **plausibly infer** that a **claim for relief** exists. A court may dismiss a complaint for failure to state a claim if the complaint does not satisfy this low standard.

Here, the pedestrian's complaint sets forth that the truck driver negligently struck the pedestrian on a particular date (January 15, 2019) and at a specific location (Broad Street in City A, located in State B). It then lists the damages that the pedestrian seeks to recover. Therefore, the complaint alleges facts showing plausible entitlement to relief, and the court will likely deny the truck driver's motion to dismiss for failure to state a claim.

\*Detailed, specific facts are unnecessary unless the claim alleges fraud or mistake (neither of which applies here).

**(Choice B)** Discovery is the pretrial phase of a lawsuit that occurs after the pleading phase in which the parties are compelled to disclose information related to the case. Although the pedestrian has had no opportunity to conduct discovery, the court will deny the truck driver's motion because the complaint sets forth a plausible claim for relief.

**(Choice C)** Plausible entitlement to relief is a lower standard than probable entitlement to relief. The higher standard of probable entitlement is only used in situations where a preliminary injunction is sought (not seen here).

**(Choice D)** A plaintiff can state legal conclusions in a complaint. Therefore, the fact that the pedestrian's complaint uses the legal term "negligently" does not render the complaint defective.

**Educational objective:**

A complaint must generally contain a short and plain statement of the claim showing that the plaintiff is entitled to relief. The statement of the claim need only contain enough facts for a court to plausibly infer that a claim for relief exists.

**References**

- Fed. R. Civ. P. 8 (complaint requirements).
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555–56 (2007) (holding that a complaint must contain a short and plain statement containing enough facts for the court to plausibly infer that a claim for relief exists).

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