

)	
)	
)	
Petitioner/Plaintiff,)	
)	
Vs.)	
)	
)	
Respondent/Defendant)	
)	

NO. _____

Comes now plaintiff, _____, mother and legal representative of the heirs of
_____, deceased, and files this action for wrongful death against the defendant,
_____ and _____, and states as follows:

The plaintiff is an adult resident citizen of _____ County,
_____.

Defendant, _____, is a foreign corporation organized and existing under the laws of a state other than _____, but is qualified to do and is doing business in the state of _____. Said defendant can be served with process through its registered agent, _____, of _____, _____.

- 1 -

4.

On or about the ____ day of _____, 20____, at approximately ____ p.m., the deceased, _____, was traveling in a _____ on _____ Road in _____ County, _____, which runs in a northerly and southerly direction.

5.

As the decedent, _____, traveled in a southerly direction on _____ Road, he approached a railroad crossing that intersected said road at a ninety-degree angle. The _____'s vehicle was struck by a train owned and operated by _____. As a result of the collision between the vehicle and the _____ train operated by an employee of _____, _____ was killed.

6.

The death of _____ was a direct result of the negligence of the defendant, the _____ and its employee driver of the train who was an agent of _____ at all relevant times.

7.

The defendant was guilty of the following acts of negligence:

- a. Operating the train at an excessive rate of speed;
- b. Reckless operation of the train;
- c. Failure to keep a proper lookout for oncoming traffic;
- d. Failure to have proper warning signs and signals at a known dangerous railroad crossing;

- e. Maintaining an extra-hazardous grade crossing at the location on _____ Road in _____ County, _____ in that:
- (1) There were trees, shrubbery, brush and other vegetation on the railroad right of way which obstructed the visibility of motorists along the railroad tracks;
 - (2) There were trees, shrubbery, brush and other vegetation on the railroad right of way which obstructed the visibility of the train crew looking for motorists approaching and crossing the railroad tracks;
 - (3) There were no gates, proper flashing lights or other protective devices necessary to warn motorists of an approaching train;
- f. Failure to acquire reduced speed of its trains traversing and crossing in light of the above circumstances at said crossing. _____, acting by and through its driver, negligently operated its locomotive and train contrary to all applicable duties and failed to exercise reasonable care under the circumstances then and there existing at the _____ Road crossing so as to avoid injury and damage to persons using said crossing.

8.

As a result of the negligence described above of the defendant, the plaintiff's decedent was killed and his automobile was destroyed.

9.

The plaintiff demands judgment for loss of society and companionship of the decedent, medical and funeral bills, the total destruction of the automobile, the decedent's pain and suffering, hedonic damages, and loss of enjoyment of life.

WHEREFORE, the plaintiff demands judgment from and against the defendant, _____ and _____ in the amount of _____ (\$_____) for actual and punitive damages.

Respectfully submitted,

Dated: _____

Name: _____

Title: _____

Address: _____

Address: _____

City, State, Zip: _____

Phone: _____

Fax: _____

E-Mail: _____

Attorney No.: _____

CERTIFICATE OF SERVICE

I, _____, do hereby certify that I have this day mailed, U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing to _____, at the following address;

THIS the ____ day of _____, 20____.
