

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 40137 OF 2010

BETWEEN:

CARMEN JACK

PLAINTIFF

AND:

BILLY STEWART

FIRST
DEFENDANT

AND:

ALESA Mc KENZIE

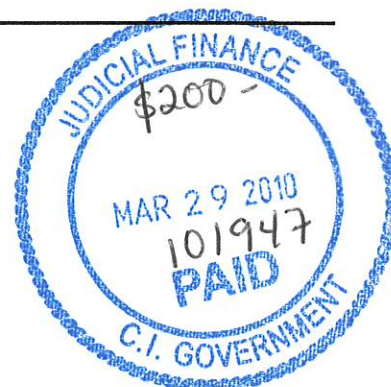
SECOND
DEFENDANT

WRIT OF SUMMONS

TO: Billy Stewart
95, Breezy Way,
George Town
Grand Cayman

To: Alesa Mc Kenzie,
20 Old Robin Road,
Northside,
Grand Cayman

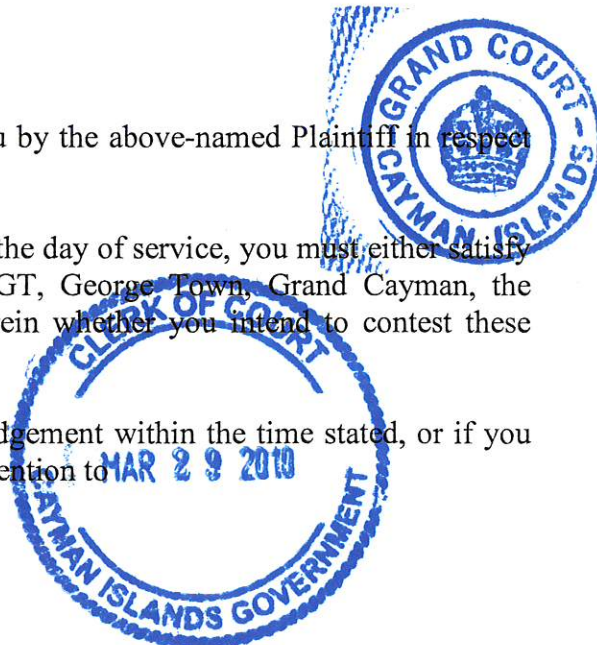
To: ICWI Insurance Co. Ltd
P.O. Box 461
150 Smith Road,
Grand Cayman, KY1-1106.



THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of a claim set out on the next page.

Within 14 days after service of this writ on you, counting the day of service, you must either satisfy the claim or return to the Court office, P.O. Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to



Attest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 29th day of March 2010

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

INDORSEMENT OF INSURER

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Second Defendant named herein is ICWI

This Writ was filed by Stenning & Associates, Attorneys-at-Law for the Plaintiff whose address for service is 58, Mary Street, Unit #8 Thompson Building, George Town, Grand Cayman. (JS/1109/001)

BETWEEN: CARMEN JACK PLAINTIFF

AND: BILLY STEWART FIRST DEFENDANT

AND: ALESA Mc KENZIE SECOND DEFENDANT

ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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2. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged -

Horizontal separator line

3. State whether the Defendant intends to contest the proceedings (tick appropriate box) [] yes [] no

Horizontal separator line

4. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box) [] yes [] no

Horizontal separator line

Service of the Writ is acknowledged accordingly

Attorneys for Defendant

Address for service:

NOTES ON ADDRESS FOR SERVICE

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

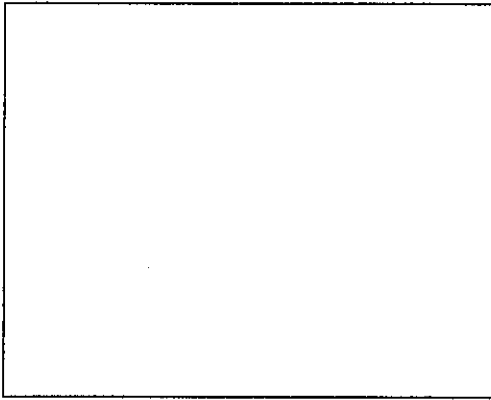
Endorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

STENNING & ASSOCIATES

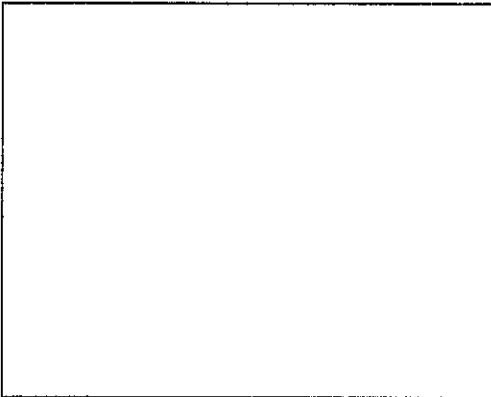
Attorneys-at-Law
Unit # 8 Thompson Building
58, Mary Street
George Town
Grand Cayman

REF: JS/756/001

Endorsement by **First defendant's Attorney** (or by defendant if suing in person) of his name, address and reference, if any, in the box below.



Endorsement by **Second defendant's Attorney** (or by defendant if suing in person) of his name, address and reference, if any, in the box below.



This Writ was filed by Stenning & Associates, Attorneys-at-Law for the Plaintiff whose address for service is 58, Mary Street, Unit #8 Thompson Building, George Town, Grand Cayman. (JS/1109/001)

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE

OF WRIT OF SUMMONS

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495, George Town, Grand Cayman

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by installments or otherwise.

See over for notes for guidance

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a **FIRM** and an attorney is not instructed, the form must be completed by a **PARTNER** by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

STATEMENT OF CLAIM

1. The Plaintiff is a Caymanian citizen and is resident in the Cayman Islands. Her address for service is care of her attorneys, Stenning Associates, P.O. Box 30330, Grand Cayman, KY1 1202, Cayman Islands. At all material times she was a front seat passenger in motor vehicle registration 66 356 .

2. The First Defendant is the registered owner of motor vehicle registration 66 356 (hereinafter the “ vehicle”) and is a Caymanian citizen resident in the Cayman Islands . His address is #95 Breezy Way, George Town, Grand Cayman.

3. The Second Defendant is a Caymanian citizen. The Second Defendant was at all material times the driver of said vehicle and is resident in the Cayman Islands. Her address is #20 Old Robin Road, Northside, Grand Cayman.

4. The second Defendant was, on 3rd November 2009 at or about 9 30pm, driving the vehicle at Shamrock Road in the vicinity of Ocean Club, in a northerly direction when owing to her negligence and breach of duty she drove off the road and crashed into a CUC light pole thereby causing the Plaintiff to suffer severe personal injury loss and damage.

5. The second Defendant has been charged with careless driving arising from the accident.

6. **PARTICULARS OF NEGLIGENCE AND BREACH OF DUTY**

The Defendants, their servants or agents were negligent and in breach of duty in :

- Losing control of the vehicle

- Failing to stop, slow down, brake or otherwise take any evasive action
- Failing to keep a proper lookout
- Driving recklessly and carelessly
- Failing to drive with due care and attention
- Crashing off the road into a light pole
- Driving at excessive speed
- Failing to observe the speed limit in the circumstances

The Plaintiff will rely on any other Particulars adduced at or before trial.

7. PARTICULARS OF PERSONAL INJURY

The Plaintiff was in severe distress following the collision. She was transported to George Town hospital for medical treatment. The Plaintiff suffered laceration to her face and a fractured right femur. She was transported by air ambulance to The Tony Thwaites Wing of the University Hospital of the West Indies on 4th November for further treatment. The Plaintiff was found to have a closed fracture of the shaft of the right femur at the mid-shaft. When admitted she had stable vital signs. The Plaintiff was prepared and taken to Theatre on 6th November 2009 where she had internal fixation using a zimmer locked nail with both proximal and distal locking screws. The fracture site was undisturbed. The Plaintiff was discharged home on 9th November 2009 for removal of sutures. She remained non-weight bearing until radiographs were done at the six weeks stage. The Plaintiff is under the care of Mr. Kenneth Vaughan Consultant Orthopaedic Surgeon. Her condition is painful and ongoing and additional sequelae will be notified in due course.

8. PARTICULARS OF SPECIAL DAMAGE


Hospital and medical fees.....to be vouched
 Loss of earnings.....to be vouched
 Miscellaneous expenses.....to be vouched

The Plaintiff will furnish specific details of all special damages prior to trial.

9. AND THE PLAINTIFF CLAIMS :

- 1) General Damages for severe personal injury, pain, suffering and distress.
- 2) Loss of income.
- 3) Special Damages for medical care, assistance and other expenses arising from the accident.
- 4) Pre-judgement and post-judgement interest in accordance with the Judicature Law (as amended).
- 5) Costs of proceedings.
- 6) Such further and other relief as this Honourable Court deems appropriate.

Dated the 29 day of March 2010


STENNING & ASSOCIATES
Attorneys-at-Law for the Plaintiff

TO: Clerk of the Court

AND TO: Billy Stewart
95, Breezy Way
George Town
Grand Cayman

AND TO : Alesa Mc Kenzie
20 Old Robin Road,
Northside,
Grand Cayman

AND TO: The Insurance Company of the West Indies (Cayman) Ltd.
P.O. Box 461,
150 Smith Road,
Grand Cayman
KY1 1106
Cayman Islands

This Writ was filed by Stenning & Associates, Attorneys-at-Law for the Plaintiff whose address for service is 58, Mary Street, Unit #8 Thompson Building, George Town, Grand Cayman. (JS/1109/001)