

Writ of Summons (O.6, r.1)
IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

L/A 64/10
CAUSE NO. 357 OF 2010



BETWEEN

PAULINE MONICA BROWN

PLAINTIFF

AND:

1. BARBARA HAMILTON
2. JARRON CONOLLY
3. PHILIP BODDEN

DEFENDANTS

SPECIALY ENDORSED WRIT OF SUMMONS

TO: THE DEFENDANTS:

1. BARBARA HAMILTON, 51 Crysdel Avenue, Northward, Grand Cayman, Cayman Islands.
2. JARRON CONOLLY, 51 Crysdel Avenue, Northward, Grand Cayman, Cayman Islands.
3. PHILIP BODDEN, 13 Towbis Lane, Bodden Town, Grand Cayman, Cayman Islands.

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

Within 14 days after the 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 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 24 day of September 2010.

NOTE - This Writ may not be served later than 4 calendar 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.

STATEMENT OF CLAIM

1. On 28 September 2007, at or about 7.30 p.m., the Plaintiff was walking in an easterly direction along Crewe Road towards Ryan's Retreat.
2. The first Defendant permitted her son to drive her second hand Toyota Tercel DLX motor vehicle registration number 66710 at a time when the brakes to the motor vehicle were defective as a result of a her failure to maintain the motor vehicle in a safe and roadworthy condition which may have resulted in substantial risk of danger to other persons. On Friday, 28 September 2007 the Second Defendant needed to collect a rental motor vehicle from Budget Rental Car Company. The second Defendant drove his mother's motor vehicle to Budget Rental Car Company. Whilst there he telephone a friend, Horace Morgan, and asked the friend to assist him to drive his mother's motor vehicle home. That friend brought with him the third Defendant who represented that he could drive a standard motor vehicle. The third Defendant then proceeded to drive the first Defendant's motor vehicle from Budget Rental Car Company at the airport to the home of the first Defendant who resided at 51-2 Crystal Drive, Northward.
3. The third Defendant was driving behind motor vehicles including a white motor vehicle along Crewe Road. The third Defendant undertook the white motor vehicle and accelerated away at which time his motor vehicle hit the Plaintiff. The third Defendant so negligently drove the motor vehicle, the property of the first Defendant, and as a servant or agent of the second Defendant, along Crewe Road that it collided with and knocked down the Plaintiff.

PARTICULARS OF NEGLIGENCE OF THE FIRST AND SECOND DEFENDANT

- (a) The First Defendant failed to ensure or keep her motor vehicle in a safe and roadworthy condition.
- (b) The condition of the brakes which were defective had made the motor vehicle unsafe.
- (c) The First Defendant failed to ensure that the motor vehicle would not be driven on the highway without any reasonable possibility of an intermediate or any examination.
- (d) The motor vehicle might have been driven by the First or Second Defendant.
- (e) The First Defendant failed to take any adequate steps to warn the Second Defendant that the motor vehicle was unsafe before he drove it.
- (f) The First Defendant permitted the Second Defendant to drive her motor vehicle at a time when it was unsafe and not roadworthy.
- (g) The Second Defendant permitted the Third Defendant to drive the motor vehicle at a time when it was unsafe to do so without ensuring that the motor vehicle was roadworthy and in the circumstances exposed the Plaintiff to a risk of injury of which the first and second Defendant knew or ought to have known.

PARTICULARS OF NEGLIGENCE OF THE THIRD DEFENDANT

- (a) Driving too fast.
 - (b) Failing to keep any or any proper lookout or to have any or any sufficient regard for other road users and here in particular the pedestrian.
 - (c) Failed to heed or to observe the presence of the Plaintiff.
 - (d) Failed to see the Plaintiff, in time or at all
 - (e) He failed to have any regard for the prevailing road conditions.
 - (f) Undertook a line of traffic as it was unsafe so to do.
 - (g) Failing to stop, to slow down, to swerve, or in any other way so to manage or control the motor vehicle so as to avoid colliding with the Plaintiff.
 - (h) Collided with the pedestrian who was walking on the left side of the road.
 - (i) Failed to warn the Plaintiff by sounding his horn.
4. The second Defendant was convicted in the Summary Court sitting at George Town, Grand Cayman, on his own plea of guilty of unlawfully permitting a person to drive motor vehicle registration number 66710 whilst disqualified contrary to section 78(1) of the Traffic Law.
 5. Further, the third Defendant was convicted on 13 November 2007, in the Summary Court sitting at George Town, Grand Cayman, on his own plea of guilty of unlawfully driving the motor vehicle registration number 66710 on Crewe Road in a manner which was careless to the public having regard to the circumstances of the case, driving whilst disqualified, driving without insurance and leaving the scene of the accident. He was formally sentenced on 29 January 2008 contrary to The Traffic Law. The said conviction is relevant to the issue of negligence and the Defendant intends to rely on it as evidence in this action.
 6. Further it is averred that the facts of the accident speak for themselves as being an occurrence which cannot normally happen without negligence.
 7. By reason of the matters aforesaid, the Plaintiff sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

The Plaintiff's date of birth is 27 December 1963. Following the accident on 28 September 2008, the Plaintiff did not lose consciousness but suffered injuries, inter alia, a severe depressed fracture of the lateral condyle of the left tibia. She was unable to work whilst she was recovering from her injuries and is still unable to work.

PARTICULARS OF SPECIAL DAMAGE

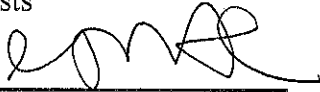
Date	Description	Costs (CIS)
28 September 2007 to 3 March 2008	- medical expenses	CI\$14,148.50
	Loss of income from 28 September 2010 at CI\$200.00 per week	\$31,200.00 (to be further particularised in due course and to be assessed by the court)

AND the Plaintiff claims

(i) Damages

(ii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.

(iii) Costs



Clyde H. Allen, Chambers

THIS WRIT was issued by Clyde H. Allen, Chambers on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 9, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. OF 2010

BETWEEN PAULINE MONICA BROWN PLAINTIFF
AND:

- 1. BARBARA HAMILTON
- 2. JARRON CONOLLY
- 3. PHILIP BODDEN DEFENDANTS

ACKNOWLEDGMENT 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.

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

2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

yes no

3. If the claim against the Defendant is for a debt or a 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

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

Please complete overleaf

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.

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

Clyde Allen
Clyde H. Allen, Chambers,
Attorneys-At-Law
PO Box 31076SMB
Jack & Jill Bldg, KY1-1205
Grand Cayman
Cayman Islands

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