

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No. 347 of 2010

BETWEEN:

ANREE ANGELA ANDERSON

PLAINTIFF



AND:

ARNEL JACOSALEM



DEFENDANT

**SPECIALLY ENDORSED
WRIT OF SUMMONS**

TO: ARNEL JACOSALEM, the Defendant of 108 Mangroves Avenue, Prospect, Grand Cayman, Cayman Islands.

AND TO: CAYMAN FIRST INSURANCE COMPANY LIMITED, C/- Cayman National Trust Co. Ltd., 62 Forum Lane, Camana Bay, Grand Cayman, Cayman Islands (registered office).

THIS SPECIALLY ENDORSED 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 495, George Town, Grand Cayman, KY1-1106, 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: 16 September 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.

STATEMENT OF CLAIM

1. At all material times:
 - 1.1 The Plaintiff was the driver of a private car, namely a white Toyota Corolla car bearing the registration number 136 029 (the "Corolla").
 - 1.2 The Defendant was the owner and the insured of a green Toyota Windom car bearing the registration number 101 399 (the "Windom").
 - 1.3 Cayman First Insurance Company Limited ("Cayman First") was the insurer for the Windom and Cayman First is named in this Statement of Claim pursuant to the particular below.

Particulars

- 1.3.1 Order 6, rule 4(1) of the GCR.
2. On or about 30 August 2009 at or about 10.25 a.m. the Plaintiff was driving her Corolla in the vicinity of the junction of Almond Avenue and

Mahogany Drive in Prospect, Grand Cayman, Cayman Islands. At all times the Plaintiff was wearing her seatbelt. Upon reaching the junction of Almond Avenue and Mahogany Drive, the Plaintiff came to a complete stop at the stop sign, looked left and right in order to confirm that she was able to proceed and began turning right onto Almond Avenue. Before she was able to complete the turn, the Windom driven by the Defendant and owned and insured by Cayman First collided with the front-end of the Plaintiff's Corolla (the "accident").

3. As a result of the accident the front end of the Plaintiff's Corolla was severely damaged.
4. The accident was caused by the negligence and/or breach of statutory duty of the Defendant.

**PARTICULARS OF NEGLIGENCE AND/OR
BREACH OF STATUTORY DUTY OF THE DEFENDANT**

- 4.1 The Defendant:
 - 4.1.1 Failed to stop at the stop sign.
 - 4.1.2 Was driving too fast.
 - 4.1.3 Failed to keep any or any proper look out.
 - 4.1.4 Failed to stop, steer, swerve, slow down or otherwise control or manoeuvre the Windom so as to avoid colliding with the Plaintiff.
 - 4.1.5 Collided with the Plaintiff's Corolla.

- 4.1.6 Negligently and/or in breach of Section 59 of the *Traffic Law* (2003 Revision) failed to exercise care and attention and/or to have regard to the safety and comfort of the Plaintiff.
- 4.1.7 Negligently and/or in breach of Section 60(a) of the *Traffic Law* (2003 Revision) failing to drive in such a manner as to have full control of the Windom car at all material times.
5. By reason of the matters pleaded above, the Plaintiff who is now 40 years of age having been born on 1 October 1969 has suffered pain, injury, loss and damage.

PARTICULARS OF INJURY

- 5.1 The Plaintiff was taken by ambulance consulted at the George Town Hospital on the day of the accident. She complained of pain to her neck, upper back, pain in her chest and numbness in her right shoulder and left hip. The Plaintiff had subsequent consultations at the Cayman Islands Hospital in George Town. She continues to suffer neck pain, pain in the right shoulder, chest and right ribcage.
- 5.2 On 30 August 2009, George Town Hospital carried out a chest x-ray and CT scan of the cervical and thoracic spine each of which were found to be normal.
- 5.3 Prior to the material accident the Plaintiff had not experienced any problems with her neck, shoulder, back or ribcage. The plaintiff had previously experienced pain in her chest area and was later diagnosed with breast cancer in December 2009.

- 5.4 The Plaintiff now has neck and shoulder pain and tenderness of the right ribcage which interferes with her work so that by the end of the day she is in pain.
- 5.5 The Plaintiff has found that medication has offered assistance.
- 5.6 The Plaintiff consulted with an Orthopaedic surgeon on 1 September 2010 who concluded that the Plaintiff's current injuries may improve moderately with physiotherapy.
- 5.7 She has been diagnosed as having suffered from mild post-traumatic stress disorder ("PTSD") as she suffered from nightmares about the accident and a fear of driving but she managed to overcome the PTSD within about 3 months of the accident.
- 5.8 The medico-legal report of Dr. Ajit Ambekar, MS Orth; FCPS; MCh Orth; FRCS (Eng), Orthopaedic Surgeon, dated 3 September 2010 was served on the Defendant and his insurer with this Statement of Claim and the Plaintiff will rely on this report at any eventual trial on the question of general damages.
- 5.9 Further details will be provided by way of medical reports.

PARTICULARS OF SPECIAL DAMAGE

Sub-para	Medical Provider	Description	Amount CI\$	Date
5.8.1	Police Report	Invoice	75.00	19 May 2010
5.8.2	Cayman Islands	Receipt	18.91	31 August

	Hospital			2009
5.8.3	Cayman Islands Hospital	Receipt	26.00	18 September 2009
5.8.4	Cayman Islands Hospital	Receipt	3.50	18 September 2009
5.8.5	Cayman Islands Health Services Authority	Statement	2,542.29	4 September 2009
5.8.6	Cayman Islands Health Services Authority	Receipt	3.50	31 January 2009
5.8.7	Cayman Islands Hospital	Receipt	8.25	30 July 2010
5.8.8	TOTAL		\$2,677.45	

5.9 The Plaintiff was off work for the period from 31 August 2009 – 26 October 2009. Further particulars will be provided.

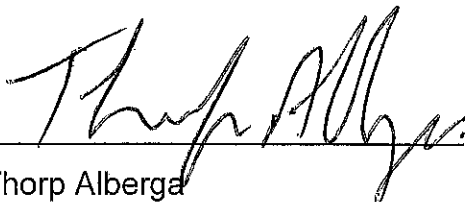
5.10 The Plaintiff will file and serve a supplementary Schedule of Special Damages in this cause when such further items have been quantified.

AND the Plaintiff claims:

1. General and Special Damages;
2. Interest pursuant to the Judicature Law (2007 Revision) and the Grand Court Rules (1995 Revision);
3. Costs;

4. Such further and/or other relief as may be just.

DATED: 16 September 2010



Thorp Alberga

Attorneys-at-Law for the Plaintiff

If, within the limited for returning the Acknowledgment of Service the Defendant pays the amount claimed to the Plaintiff or its Attorneys further proceedings will be stayed.

TO: The Clerk of the Court

AND TO: ARNEL JACOSALEM, the Defendant of 108 Mangroves Avenue, Prospect, Grand Cayman, Cayman Islands.

AND TO: CAYMAN FIRST INSURANCE COMPANY LIMITED, C/- Cayman National Trust Co. Ltd., 62 Forum Lane, Camana Bay, Grand Cayman, Cayman Islands (registered office).

This **SPECIALY ENDORSED WRIT OF SUMMONS** and **STATEMENT OF CLAIM** was issued by Thorp Alberga, Attorneys-at-Law for and on behalf of the Plaintiff whose address for service is Harbour Place, P.O. Box 472, Grand Cayman KY1-1106 (Ref: CMD/A0614-001).

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No. of 2010

BETWEEN:

ANREE ANGELA ANDERSON

PLAINTIFF

AND:

ARNEL JACOSALEM

DEFENDANT

ACKNOWLEDGMENT OF SERVICE
OF SPECIALLY ENDORSED 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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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

TO: ARNEL JACOSALEM, the Defendant of 108 Mangroves Avenue, Prospect, Grand Cayman, Cayman Islands.

AND TO: CAYMAN FIRST INSURANCE COMPANY LIMITED, C/- Cayman National Trust Co. Ltd., 62 Forum Lane, Camana Bay, Grand Cayman, Cayman Islands (registered office).

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 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

[Defendant in person]

Address for service:

Please complete overleaf

Notes on address for service

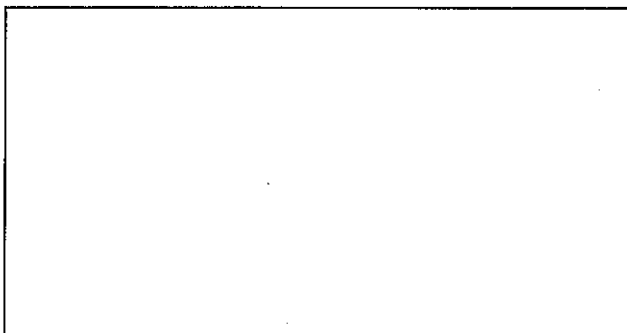
Attorney: Where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

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.

Thorp Alberga
Attorneys-at-Law
P.O. Box 472
Grand Cayman, KY1-1106
Cayman Islands
Attorney: Christopher McDuff
Phone: (345) 949-0699
Facsimile: (345) 949-8171
Email: cmcduff@thorpalberga.com
Ref: CMD/A0614-001.

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



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, Grand Cayman, KY1-1106.

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 its 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.