

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 361 OF 2010

BETWEEN: BARBARA BARROWS PLAINTIFF

AND : KENNETH ANTHONY DOWNEY DEFENDANT

WRIT OF SUMMONS

To: Kenneth A. Downey
50 Cranbrook Drive
George Town
Grand Cayman



THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiffs in respect of the 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 Courts Office, P.O.Box 495, G.T. Grand Cayman the accompanying Acknowledgment of Service form stating therein whether you intend to contest the proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you fail to 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 at George Town this 30th day of September, 2010.

NOTE: This Writ may not be served later than four(4) calendar months (or,if leave is required to effect service out of the jurisdiction, six (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. The plaintiff is a Caymanian born on June 17th, 1965 and residing at Savannah in Grand Cayman. The defendant was born on October 23, 1972 and resides at 50 Cranbrook Drive in Grand Cayman, Cayman Islands.
2. On the 3rd day of October, 2007, around 3:15pm near Cayman Shoe Shop on Eastern Ave, while riding as a passenger in a Daihatsu Hi-Jet motor car, registration # 118370 the said motor car stopped behind a school bus when thereupon the Defendant caused his Ford F-350 truck, registration #119286 to collide into the rear of the motor car in which the defendant was a passenger.
4. The defendant failed to notice that the traffic in front of him had come to a halt. When he realized that the vehicles in front of him were stationary, it was too late for the defendant to stop or brake and his vehicle ran into the rear of the vehicle in which the plaintiff was a passenger.
5. The defendant was charged by the Police for careless driving.
6. The said collision was caused solely by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE

1. The defendant failed to discharge his duty of care towards other vehicles traveling on the same public road as he was and, in particular, his duty of care to the plaintiff.
2. The defendant drove too fast in all the circumstances.
3. Failing to drive his motor vehicle in such a manner and at such a distance from other vehicles as to be able to stop without being involved in a collision.
4. Failing to manage his motor vehicle as to be able to stop within the limit of vision available to him at the relevant time.
5. Failing to pay attention or sufficient attention to the traffic in front of his motor vehicle.
6. Failing to apply his brakes in time or at all to steer or control his truck so as to avoid colliding into the rear of the vehicle in which the Plaintiff was a passenger.
7. By reason of the matters aforesaid, the plaintiff suffered personal injuries and pain and loss and damages
8. The plaintiff has incurred medical expenses as a result of the injuries.

PARTICULARS OF INJURIES

9. The plaintiff, after the accident suffered pain and tenderness in the chest and back area.
10. She felt a crack in her shoulder as the collision jerked her body forward and backward .
11. She also suffered headaches and pain in the neck and upper back and wore neck brace form about 6 months.She feels numbness in the arm.
12. She has been diagnosed with mild but prolonged disability as a result.
13. Dr. Ambekar has stated that her present clinical status and prognosis are unknown.
14. Further particulars can be found in the reports of Drs. Ambekar, Quartly and Pomares.
15. The plaintiff will rely upon the said medical evidence to detail the full extent of her injuries.


PARTICULARS OF SPECIAL DAMAGES

- a. Medical expenses..... To be detailed but ongoing
 - b. The plaintiff reserves the right to produce full details of any other and all special damages at the trial of this action.....To be detailed but ongoing
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16. The plaintiff also claims from the defendant damages for pain, suffering and loss of amenities resulting from the injuries which she sustained in the collision as well as psychological damages.
 17. The plaintiff also claims future medical expenses from the defendant.

AND THE PLAINTIFF CLAIMS FROM THE DEFENDANT:-

- a) Damages
- b) Pre- and Post-Judgment interest according to statute and/or law.
- c) Costs
- d) Further and/or other relief

Dated this 30th day of September, 2010.



Barbara Burrows

To: The Clerk of the Courts
And To: The defendant, Kenneth Anthony Downey, 50 Cranbrook Ave, GT. Grand Cayman.
Filed by Barbara Barrows, Savannah, Garnd Cayman.

Service of the Writ is acknowledged accordingly

(Signed) _____

{ Attorney } for

{ Defendant in person }

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.

Indorsement by Plaintiff's attorney (or by Plaintiff if acting in person) of his name, address and reference, if any, in the space below:

Barbara Barrows
Savannah
Grand Cayman Cayman Islands
345-917-7544

Indorsement by Defendant's attorney (or Defendant if acting in person) of his name, address and reference, if any in the space 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, George Town, Grand Cayman.

2. A defendant who states in his Acknowledgement of Service that he intends to contest the proceedings **must also serve a defence** on the attorney for the plaintiff (or on the plaintiff acting in person).

If a Statement of Claim is endorsed on the Writ (ie. 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 a Statement of Claim is not endorsed 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 affidavit of his means. The affidavit should state any offer which the defendant desires to make for the payment of the money by installments or otherwise.

See over for notes for guidance

Please complete overleaf

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 a 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.