

STATEMENT OF CLAIM

1. At all material times the Plaintiff was a resident of the Cayman Islands.
2. At all material times the Plaintiff was a pedestrian on Main Street in the vicinity of the Judicial Administration Building and the George Town Public Library (“the accident location”).
3. At all material times, the Defendant was the owner and driver of a Suzuki Samurai motor vehicle registration number 51631 (“the defendant’s vehicle”) travelling north along Main Street.
4. On 13 October 2007 at approximately 11:20am the Plaintiff, having just alighted from a Toyota HiAce vehicle (“the mini bus”) and whilst crossing Main Street was struck and knocked to the ground by the Defendant’s motor vehicle which was in the process of overtaking the mini bus (“the collision”).
5. At the time of the collision, the weather was clear, the road dry and visibility was good.
6. The collision was caused as a result of the negligence and/or breach of statutory duty of the Defendant.

PARTICULARS OF NEGLIGENCE

- a. The Defendant overtook the mini bus in the process of alighting passengers when it was not reasonable or safe to do so;
- b. The Defendant failed to keep any or proper lookout;
- c. The Defendant failed to adequately or at all heed or act upon the presence or position of the Plaintiff;
- d. The Defendant failed to stop, slow down, swerve or otherwise manage to control his vehicle so as to avoid the collision;

- e. The Defendant failed to exercise the degree of skill and care to be expected of the average competent motorist in the circumstances;
 - f. The Defendant failed to take adequate care for the safety of the Plaintiff and/or other alighting passengers;
 - g. The Defendant failed to give way to the Plaintiff as a correctly proceeding pedestrian;
 - h. The Defendant failed to apply his brakes in time or at all;
 - i. The Defendant failed to retain control of his motor vehicle at all times;
 - j. The Defendant drove too fast in all the circumstances;
 - k. The Defendant drove without due care and attention with regard to all the circumstances;
 - l. Statutory breaches of the Traffic Law (2003 Revision) in particular Part VI thereof.
7. By reason of the Defendant's aforesaid negligence and breach of common law and statutory duty, the Plaintiff sustained personal injury, and has suffered loss and damage.

PARTICULARS OF INJURIES

The Plaintiff, a Filipino national, was born on 13 March 1970 and aged 37 at the time of the accident. In about the time of the accident, the Plaintiff was a domestic helper by profession.

The Plaintiff suffered an open fracture of mid shaft of the right tibia and fibula, as well as an undisplaced closed fracture of the right tibia more proximal to the open fracture.

The Plaintiff reserves the right to obtain and serve updated medical evidence.

PARTICULARS OF SPECIAL DAMAGES

The Plaintiff has incurred medical and other related miscellaneous expenses, particulars of which will be provided prior to trial.

8. The Plaintiff claims interest at the prevailing statutory rate.

WHEREFORE THE PLAINTIFF claims:

1. General Damages;
2. Special Damages;
3. Pre-Judgment interest in accordance with section 34 of the Judicature Law (2007 Revision);
4. Post-Judgment interest in accordance with section 34 of the Judicature Law (2007 Revision);
5. Further and/or other relief; and
6. Costs.

Dated 12th October 2010



CAMPBELLS for the Plaintiff

ENDORSEMENT AS TO INSURANCE OF MOTOR VEHICLES

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Defendant named herein is **The Insurance Company of the West Indies (Cayman) Limited**, 150 Smith Road, P.O. Box 461, Grand Cayman, KY1-1106, Cayman Islands.

To: The Clerk of the Court

And to: **Harold Solomon
41 Rock Hole
Mary Street
George Town
Grand Cayman
Cayman Islands**

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.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION**

G OF 2010

BETWEEN: EVELYN CORREOS SOMOSOT PLAINTIFF
AND: HAROLD SOLOMON DEFENDANT

**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 the Defendants whereby they 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 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

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.

Campbells
4th Floor, Scotia Centre
PO Box 884 GT
George Town
Grand Cayman

Ref STM/mr/10855-16389

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