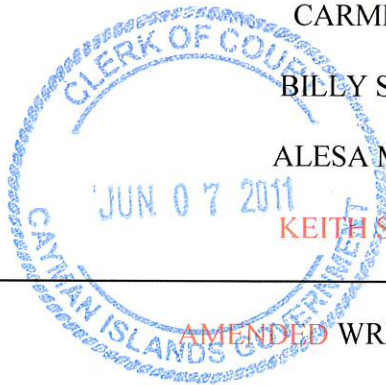


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: G0137 OF 2010

BETWEEN: CARMEN JACK PLAINTIFF
AND: BILLY STEWART FIRST DEFENDANT
AND: ALESA MCKENZIE SECOND DEFENDANT
AND: KEITH STEWART THIRD DEFENDANT



AMENDED WRIT OF SUMMONS

TO: BILLY STEWART (First Defendant)
95, Breezy Way
George Town
Grand Cayman

TO: ALESA MCKENZIE
20, Old Robin Road
Northside
Grand Cayman

TO: KEITH STEWART
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 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 7th day of June 2011

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.

ENDORSEMENT OF INSURER

The Plaintiff's claim arises from a road traffic accident on 3rd November 2009. The Plaintiff suffered personal injuries, loss and damage. The insurer of the first, second and third Defendants named herein is the Insurance Company of the West Indies (ICWI).

~~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.~~

BETWEEN: CARMEN JACK PLAINTIFF
 AND: BILLY STEWART FIRST DEFENDANT
 AND: ALESA McKENZIE SECOND DEFENDANT
 AND: KEITH STEWART THIRD DEFENDANT

ACKNOWLEDGMENT OF SERVICE OF
 AMENDED 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 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(s) for the 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.

<p>STENNING & ASSOCIATES Unit 8, P & J Building 58, Mary Street George Town Grand Cayman</p> <p>Ref: JS/1109/001</p>

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.

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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 495G, 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 instalments 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: G0137 OF 2010

BETWEEN:

CARMEN JACK

PLAINTIFF

-and-

BILLY STEWART

1st DEFENDANT

-and-

ALESA McKENZIE

2nd DEFENDANT

-and-

KEITH STEWART

3rd DEFENDANT

AMENDED STATEMENT OF CLAIM

1. At all material times, the Plaintiff was a front seat passenger in a motor vehicle, registration number 66 356 ("the Vehicle"), which was being driven by the second Defendant.

~~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, KYI 1202, Cayman Islands. At all material times she was a front seat a passenger in motor vehicle registration 66 356.~~

2. On 3rd November 2009, at about 9.30pm, the second Defendant was driving the said vehicle in the vicinity of Ocean Club when suddenly, and without warning, she negligently drove off the road and collided with a light pole. In so doing, the accident caused personal injury, loss and damage to the Plaintiff.

~~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. ~~In or around April 2010, the second Defendant was convicted of careless driving in the Summary Court of the Cayman Islands and the Plaintiff relies on the same to the issue of negligence.~~

~~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 first Defendant was, at all material times, the registered owner of the vehicle for which he had a valid policy of insurance with The Insurance Company of the West Indies ("ICWI").~~

~~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 first Defendant gave permission to the third Defendant to use the vehicle. In such circumstances, the third Defendant was entitled and therefore insured, to drive the first Defendant's vehicle as a person set out in section 5(b) of the material Certificate of Insurance.~~

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

6. ~~The third Defendant, in turn, lent the vehicle to his girlfriend, Alesa McKenzie, the second Defendant.~~
7. ~~By correspondence dated 6th May 2010, the insurer of the first Defendant indicated, *inter alia*, that their insured had not given permission to the second Defendant to drive his vehicle and therefore the second Defendant was not covered under the first Defendant's insurance policy.~~

8. By reason of the Particulars set out below, the Defendants were negligent and/or in breach of their statutory duty thereby causing personal injuries to the Plaintiff for which damages is hereby sought.

PARTICULARS OF NEGLIGENCE AND/OR BREACH OF STATUTORY

DUTY IN RESPECT OF THE FIRST DEFENDANT

9. If, which it is denied, the first Defendant failed to give permission to the second Defendant to drive his vehicle, the First Defendant was negligent and/or in breach of his statutory duty in that:
 - 9.1.1 he failed to give instruction, warning, order or otherwise to the third Defendant that the use of the vehicle was strictly for his sole use and purpose and that the use of said vehicle by any other persons or user was expressly prohibited;
 - 9.1.2 he failed to instruct, warn or otherwise to the third Defendant that any use of the vehicle outside of his own express permission for such use would be contrary to the persons or classes of persons entitled to drive the vehicle under his own insurance policy and therefore such persons would not be insured to drive the vehicle;
 - 9.1.3 he failed to exercise any sufficient care, take adequate precaution or make such reasonable enquiries so as to satisfy himself of the nature of the intended use and user of the vehicle and in so doing, failed to adequately discharge his responsibility and obligations as the insured owner in respect of third party risks;
 - 9.1.4 By reason of the matters aforesaid, the first Defendant failed to discharge his duty to ensure that the third Defendant used and/or assigned the use of his vehicle with such policy of insurance to cover third party risks in breach of Section 3(1) of the Motor Vehicles Insurance (Third Party Risks) Law (2007 Revision);
 - 9.1.5 Further, that the first Defendant knew or ought to have known that the second Defendant - who was in co-habitation with the third Defendant - was likely to

drive the vehicle and with such knowledge, acquiesced in the conduct of the second Defendant thereby impliedly giving her permission to drive the said vehicle;

10. In the premises, the first Defendant caused and/or permitted his vehicle to be used without a policy of insurance in respect of third party risks and is thereby in breach of his statutory duty in accordance with Section 3(1) of the Motor Vehicles Insurance (Third Party Risks) Law (2007 Revision).

**PARTICULARS OF NEGLIGENCE IN RESPECT OF THE SECOND
DEFENDANT**

11. The second Defendant was negligent in that she:
 - 11.1 Lost control of the vehicle;
 - 11.2 Failed to stop, slow down, brake or otherwise take any evasive action;
 - 11.3 Failed to keep a proper lookout;
 - 11.4 Drove recklessly and carelessly;
 - 11.5 Failed to drive with due care and attention;
 - 11.6 Crashed off the road into a light pole;
 - 11.7 Drove at excessive speed; and,
 - 11.8 Failed to observe the speed limit in the circumstances.

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

12. If, which is denied, the second Defendant did not have permission to drive the vehicle from the first Defendant, the third Defendant was thereby negligent or in breach of Section 3(1) of the Motor Vehicles Insurance (Third Party Risks) Law (2007 Revision) in that:
 - 12.1 he failed to obtain authority or order from the first Defendant so as to allow the second Defendant to lawfully use the vehicle;

- 12.2 he gave permission to the second Defendant to use the vehicle so as to cause such use thereof without a policy of insurance in respect of third party risks;
- 12.3 he knew, or ought to have known, that by permitting the second Defendant the use of the vehicle, the second Defendant was not insured as against third party risks;
- 12.4 he failed to forbid, prohibit or stop the second Defendant from driving the vehicle when he was in such a position to do so.

PARTICULARS OF PERSONAL INJURY

13. The Plaintiff, who was born on 23rd March 1968 and is currently 43 years old, was in severe distress following the collision. She was transported to George Town hospital for medical treatment.
14. The Plaintiff suffered a 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 2009 for further treatment.
15. 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.
16. The fracture site was undisturbed. The Plaintiff was discharged home on 9th November 2009 for the removal of sutures. She remained non-weight bearing until radiographs were done at the six weeks stage.
17. The Plaintiff is under the care of Mr. Kenneth Vaughan, Consultant Orthopaedic Surgeon. Her condition is painful and on-going and any additional sequelae will be notified in due course.

DETAILS OF MEDICAL REPORTS

18. The Plaintiff relies on the attached medical reports of Dr. Ajit Ambekar dated 23rd December 2010 and Mr. Carlos Sedano dated 13th April 2011.

PARTICULARS OF SPECIAL DAMAGES

19. Hospital and medical fees.....to be vouched
Loss of earnings.....to be vouched
Miscellaneous expenses.....to be vouched
20. The Plaintiff reserves the right to update the Schedule as necessary.
21. **AND THE PLAINTIFF CLAIMS**
- 21.1 Damages;
- 21.2 Interest on General Damages at 2% from the date of Service;
- 21.3 Interest on Special Damages from the date of loss in accordance with the Judicature Law (as amended);
- 21.4 Costs.

Stemming

Dated this 7th day of June 2011



STENNING
& ASSOCIATES

ATTORNEYS-AT-LAW

Unit 8 P & J Building
58 Mary Street
George Town
Grand Cayman KY1-1103
(Attorneys for the Plaintiff)

TO: **The Clerk of the Court**

AND TO: **The First Defendant**
Billy Stewart
95, Breezy Way
GeorgeTown
Grand Cayman

AND TO: **The Second Defendant**
Alesa McKenzie
20 Old Robin Road,
Northside,
Grand Cayman

AND TO: **The Third Defendant**
Keith Stewart
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
KY11106
Cayman Islands