

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN**

CAUSE NO. 313 of 2011

BETWEEN LEOLIN PATRICIA ESPEUT PLAINTIFF

AND LEVI ALLEN 1ST DEFENDANT

**AND THE ATTORNEY GENERAL 2ND DEFENDANT
OF THE CAYMAN ISLANDS**

WRIT OF SUMMONS

To: The Attorney General of the Cayman Islands
The Attorney General's Chambers
Portfolio of Legal Affairs
George Town
Grand Cayman

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out as follows:-

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 court office, P.O Box 495 GT, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

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

Issued this day of , 2011.



ENDORSEMENT

The Plaintiff's claim is for compensation for personal injury, loss, damages and expenses sustained by the Plaintiff in a motor vehicle accident while lawfully driving motor vehicle registration No. 112 188 along Dorcy Drive, George Town, Grand Cayman and caused by the negligent driving of an employee and / or agent of the Government of the Cayman Islands, on or about the 28th August, 2008.

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 Acknowledgement of Service are given with the accompanying form.

This writ is filed by Brooks & Brooks, attorneys for the Plaintiff, whose address for service is Two Artillery Court, Shedden Road, George Town, Grand Cayman

STATEMENT OF CLAIM

1. At all material times, the Plaintiff was the driver of motor vehicle 2005 Daihatsu Sirion, registered to the Government of the Cayman Islands, Cayman Islands Public Works Department, registration number 112 188.
2. That at the material time, the Plaintiff was driving the said motor vehicle during the course of her employment with the Public Works Department, Cayman Islands Government, during the course of transferring the said vehicle to a secure location for storage before an impending hurricane.
3. That at all material times, the 1st Defendant was the driver of motor vehicle 2005 H – 100 Hyundai Motor Van registration no. 107-931, registered to the Government of the Cayman Islands, Cayman Islands Public Works Department.
4. That at all material times, the Defendant was driving the said motor vehicle during the course of his employment with the Public Works Department, Cayman Islands Government during the course of transferring the said motor vehicle to a secure location for storage before an impending hurricane.
5. That the 2nd Defendant is added as a Defendant to the matter as the representative of the Government of the Cayman Islands under the Crown Proceedings Law.
6. That on 28th August 2008, as part of the hurricane preparedness emergency procedure at the Public Works Department (PWD), Cayman Islands Government, the Plaintiff as, well as several of her fellow employees at the PWD, including the 1st Defendant, were instructed to transfer vehicles from the PWD offices on North Sound Road, to George Hicks High School playing field, George Town.
7. That at or about 4 pm on the said 28th August 2008, the Plaintiff was driving the said Daihatsu Sirion motor vehicle on Dorcy Drive, George Town, Grand Cayman when she put on her right indicator indicating her intention to turn right onto Portland Road. Traffic was at a standstill along Dorcy Drive, so at the material time, the Plaintiff had brought the motor vehicle that she was driving, to a complete stop near the entrance to Alexander Place on Dorcy Drive.
8. That at the material time, the 1st Defendant was driving the said Hyundai H- 100 motor van behind the Plaintiff.
9. That the vehicle being driven by the 1st Defendant collided with the rear of that vehicle being driven by the Plaintiff.

10. That the accident was caused by the negligence of the 2nd Defendant's said servant and or agent Levi Allen, the 1st Defendant herein.

PARTICULARS OF NEGLIGENCE

Levi Allen was negligent in that he: -

- a. Drove and or operated motor vehicle number 107-931 such that it collided with the motor vehicle being driven by the Plaintiff.
- b. Drove too fast
- c. Failed to keep any or any proper lookout.
- d. Failed to see and / or to heed that the Plaintiff had brought her vehicle to a complete stop
- e. Failed to see and / or heed that the Plaintiff had put on her right indicator.
- f. Failed to stop, slow down, to swerve or in any other way to so control motor vehicle number 107 931 as to avoid colliding with the Plaintiff's car.
- g. By reason of the matters aforesaid, the Plaintiff suffered injury, loss and damage and has been put to expense.

PARTICULARS OF INJURY

- Chronic cervical whiplash type injury
- mild chronic lumber strain
- significantly reduced cervical and lumber range of motion
- significantly reduced range at left and right hips, left and right shoulders
- exquisite tenderness on palpitation
- constant neck pain radiating to shoulders
- chronic daily pain
- right arm pain
- headaches
- elevation of CPK
- upper back pain
- mid-back pain
- low back pain
- buttock pain
- left hip pain
- fibromyalgia

- knee pain
- lower leg pain
- loss of tooth filling
- recommended course of analgesics and anti-inflammatories
- treatment with laser, acupuncture, heat and TENS
- side effects of pain medication, including weight gain
- bulging of discs at C 4-5 and C 5-6
- strain on musculo- skeletal system
- congenital anomaly of the oesophagus
- depression
- anhedonia
- loss of libido
- sleep deprivation / excessive sleep
- short term memory loss
- personal loss of control and independence
- loss of ability to partake in and enjoy social activities
- regional myofascial pain syndrome
- fatigue
- lack of energy
- degenerative changes at a number of places
- general muscular weakness
- difficulty sitting, standing or lying down
- scoliosis with left thoracolumbar convexity
- sprain of the cervical spine with whiplash associated disorder
- strain of the lumbar spine
- chronic pain syndrome
- driving phobia / anxiety
- recommendation of a multi-disciplinary approach to treatment
- recommendation for a home/ care giver
- inability to move about without severe exacerbation of her symptoms
- inability to maintain concentration and focus for any sustained period
- inability to cope with or perform even a part-time job
- PPD of 6 % of the whole person

11. That as a result of the debilitating effects of the injuries sustained by the Plaintiff, the Plaintiff was intermittently placed on sick leave from her duties at the Public Works Department, George Town by her medical doctors, over a period of almost two years.

12. That in or around April 2010, the Director of the Public Works Department requested the convening of a Medical Board pursuant to the Personnel Regulations.

13. That on 2010 July 19, the review of the Medical Board at the Cayman Islands Health Services Authority, Grand Cayman evaluated the Plaintiff's condition as follows: -

- Unable to sit or stand for prolonged periods
- Unable to move about without severe exacerbation of her symptoms
- Unable to maintain concentration and focus for any sustained period
- Unable to cope with or perform even a part-time job.

14. That at the trial of this matter, the Plaintiff shall refer to and rely upon the said letter from the Medical Board under the hand of Drs. Jefferson, Williams-Rodriguez and Sekhar recommending that the Plaintiff be retired early from service on medical grounds.

That the medical board comprising three medical physicians unanimously recommended that the Plaintiff be retired on medical grounds from her employment with the Government of the Cayman Islands.

15. That by way of letter dated 13th August, 2010 under the hand of the Director of the Public Works Department, the Plaintiff's employment was terminated on medical grounds pursuant to the Public Service Management law and the Personnel Regulations based on the findings of the Medical Board.

16. That the Plaintiff has remained unemployed since that time.

17. That by way of letter dated September 29, 2010 from the Public Service Pension Board, and under the hand of the Director, the Plaintiff was notified that in view of the termination of her employment with the Public Works Department, as described herein, that she was not eligible for post-employment medical coverage. The Plaintiff's medical coverage as an employee of the Government of the Cayman Islands, was terminated.

18. That to date, the Plaintiff has been unable to obtain medical health insurance coverage, and is forced to make full payment for all her ongoing medical costs and expenses out of pocket.

PARTICULARS OF SPECIAL DAMAGES

1. MEDICAL COSTS AND EXPENSES

That to date, the Plaintiff has been forced to seek medical attention in the Cayman Islands, The United States of America and Jamaica for her ongoing medical needs. Further, as a result of the termination of her employment and subsequent termination of medical insurance coverage, she has been forced to seek, obtain and maintain medical insurance coverage on her own and at her expense.

That to date, these medical costs, not including the cost of medical health insurance, but including the cost of doctors visits, prescription costs, and other related expenses total CI \$ 4214.91, JAM \$ 45,479.20 and USD \$ 10,440.04 and continuing.

2. LOSS OF EARNINGS

Loss of earnings from 31st August 2010 to the end of her expected natural working life, in the sum of CI \$ 688, 369.92, at a rate of loss of CI \$ 3313.10 per month, with an increase for inflation, over a working life expectancy of a minimum 16 years.

3. HOUSEHOLD HELP

Increased cost of domestic help that the Plaintiff is no longer able to conduct on her own, is being claimed in the sum of \$241,920 at a rate of \$ 1260 per month.

4. ADDITIONAL HOUSEHOLD EXPENSES

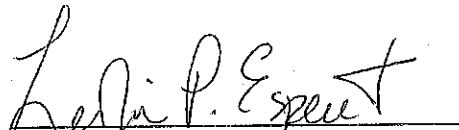
Further added costs of the Plaintiff's confinement to her home, in the sum of \$55,500, at a rate of \$ 250 per month.

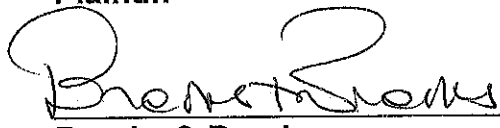
5. INTEREST

Pursuant to 2.34 of the Judicature Law, the Plaintiff is entitled to interest on any sums adjudged to be due and owing in these proceedings, at such rates and for such periods as the court thinks fit.

AND THE PLAINTIFF CLAIMS:

- a. General damages
- b. Coverage of the cost of her medical care for the injuries loss and damage suffered, for the remainder of her natural life.
- c. Special damages in the total sum of CI \$ 990,004.83, JAM \$ 45, 479.20 and USD \$ 10, 440.04 and continuing.
- d. Interest pursuant to the Judicature Law
- e. Costs
- f. Legal Fees


Leolin Patricia Espeut
Plaintiff


Brooks & Brooks
Attorneys at Law

This Statement of Claim is filed by Brooks & Brooks, of Two Artillery Court, Shedden Road, George Town, Grand Cayman, for the Plaintiff.

NOTES ON ADDRESS FOR SERVICE

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

Respondent in person: Where the Respondent 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.

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

Brooks & Brooks
Attorneys-at-Law
One Artillery Court
Shedden Road
George Town
Grand Cayman
British West Indies

Tel.: (345) 949 9377

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

[Empty box for indorsement]

Service of the Writ of Summons and Statement of Claim is acknowledged accordingly.

Attorney for the Defendant

Defendant

Dated the day of 2011.

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.