

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 137 OF 2012

BETWEEN:

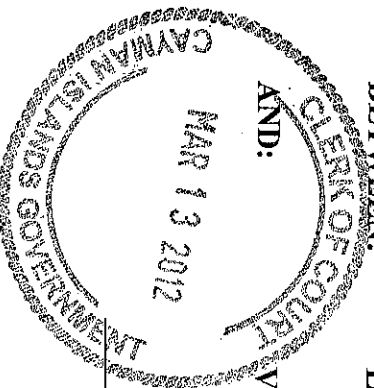
LORNA L. CARTER CHAMBERLAIN

PLAINTIFF

AND:

VINCENT L. RANKINE

DEFENDANT



WRIT OF SUMMONS

TO: VINCENT L. RANKINE
SEAVIEW ROAD
EAST END
GRAND CAYMAN
CAYMAN ISLANDS

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.

DATED this ____ day of March, 2012

ISSUED this 13th day of March, 2012

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. The Plaintiff was lawfully resident in the Cayman Islands on a work permit, residing at 236 Mahogany Way, Prospect, Grand Cayman, Cayman Islands and was at all material times the driver and operator of a Kia Sportage motor vehicle license plate number 133984.
2. The Defendant is a resident of 2439 Seaview Road, East End, Grand Cayman, Cayman Islands, and was at all material times the owner and operator of a Ford Ram motor vehicle license plate number 137674.
3. On the 7th day of September 2011, the Plaintiff, then aged 46, was driving along the main road on Mahogany way in a southerly direction when she was struck on the left side of her vehicle by the Defendant's vehicle which was travelling west on Orange drive Prospect, and which failed to stop at the junction of Mahogany drive and Prospect drive. The Defendant collided into the left side of the Plaintiff's vehicle, causing the Plaintiff's vehicle to careen off the road and collide with a chain link fence at house 206, thereby causing serious and permanent personal injuries as hereinafter described.
4. The Plaintiff's vehicle was irreparably damaged and the Defendant admitted liability for the accident to the Police Officer on the scene.
5. The Plaintiff claim that the aforementioned collision was caused as a result of the negligence of the Defendant, and/or breach of his statutory duty by virtue of the Traffic Law (2003 Revision) under sections 59 and 60.

PARTICULARS OF NEGLIGENCE

- (a) Failing to drive in such a manner as to have full control of the vehicle at all times;
- (b) Failing to exercise due care and attention when using the road and to have regard to the safety and comfort of other road users and the preservation and protection of public and private property.
- (c) Failing to drive at such a speed and in such a manner and at such a distance from other vehicles as to be able to stop in an emergency without being involved in a collision;
- (d) Driving too fast or failing to slow down or stop or turn sufficiently so as to avoid colliding with the Plaintiff's vehicle.
- (e) Failing to keep any or any proper look out;
- (f) Failing to yield the right of way to the Plaintiff, to which she was entitled to under the circumstances;
- (g) Travelling at an excessive rate of speed considering the circumstances and as such he could not control his motor vehicle;
- (h) Failing to have the brakes on his motor vehicle in proper working condition or, in the alternative, he failed to apply them properly or at all;
- (i) Failing to take reasonable care to avoid an accident which he saw or should have seen likely to occur;
- (j) Failing to exercise due care and skill in the management of a motor vehicle;
- (k) Failing to observe the rules of the road as required by Part VI of the Traffic Law (2003 Revision), as amended.

6. By reason of the Defendant's negligence and breach of duty the Plaintiff has suffered loss and damage including severe personal injuries pain and suffering.

PARTICULARS OF INJURIES

7. By reason of the collision, the Plaintiff, a 46 year old female, sustained serious and permanent personal injuries including:
 - i. Injury to her neck, shoulder, arms, back and legs;
 - ii. Left sciatica;
 - iii. Whiplash injury;
 - iv. Lumbar scoliosis;
 - v. L3-4 and L4-5 disc prolapsed;
 - vi. Difficulty walking, and pain and weakness in her back and legs;
 - vii. Pain in both knees;
 - viii. Muscle spasm;
 - ix. Bruising and tenderness;
 - x. Weakness in left leg;
 - xi. Altered sensation in the gluteal regions;
 - xii. Stiffness in both shoulders.
- 8.
9. As a result of her injuries the plaintiff was transported to the Cayman Islands Hospital where she was treated and thereafter referred to physiotherapy.
10. The Plaintiff was off on sick leave for a period of 8 days.
11. On her return to work however, the Plaintiff was in constant pain and was unable to resume her normal duties as a Nanny/Domestic. The Plaintiff thereafter underwent a course of physiotherapy treatment, however, this was not sufficient to fully alleviate her symptoms, as such she was dismissed from her employment in December 2011 due to inability to carry out her duties as the debilitating symptoms of her injuries are ongoing.

12. The Plaintiff is currently unemployed with no source of income as she is unable to work due to the severe and constant pain which restricts her activities and which requires ongoing medical care and pain management treatment.
13. The Plaintiff has been advised of the possibility of long-term ill effects of her injuries, the uncertainty as their duration.
14. Further and better particulars of the Plaintiff's injuries will be provided at trial.
15. The Plaintiff has suffered loss of amenity as follows:
 - i. Inability to stand, bend forward, ascend or descend stairs, walk or sit for extended periods of time without pain and discomfort.
 - ii. Unable to fully perform usual household chores such as mopping, sweeping and ironing.
 - iii. Incapable of lifting heavy items such as suitcases and grocery bags.
 - iv. Limited mobility. The Plaintiff walks with a slight antalgic gait and a pronated left foot.
 - v. General pain and suffering.
16. The Plaintiff has suffered handicap in the labour market as follows:
 - i. The Plaintiff current is currently unemployed and is currently residing in the Cayman Islands on a temporary visitor's visa which expires on 9th April. Unless, she is granted an additional extension, the Plaintiff will have to leave the Country unless she is able to secure other employment, which is uncertain due to the residual and limiting effects of her injury.
 - ii. The Plaintiff is unable to avail herself of the treatment she requires as she no longer has health insurance, or the funds to pay for medial and/or rehabilitative treatment. Without treatment, the Plaintiff is unlikely to be sufficiently recovered whereby she is

able to seek and undertake other employment before the expiration of her current visitor's visa.

PARTICULARS OF LOSS AND DAMAGE

17. The Plaintiff was born on 29th January 1965.
18. At the time of the injury the Plaintiff was aged 46.
19. At the time of issuing proceedings the Plaintiff is aged 47.
20. Co-pay cost of medical treatment to date. Full details cannot be ascertained but will be provided at trial.
21. Out of pockets expenses. Full details cannot be ascertained but will be provided at trial.
22. Loss of earnings. Full details cannot be ascertained but will be provided at trial.
23. Future cost of medical treatment. Full details cannot be ascertained but will be provided at trial.
24. The Plaintiff claims interest pursuant to section 34 of the Judicature Law (2007 Revision) on the amount found to be due to the Plaintiff at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:

- (a) Damages for Pain and Suffering. To be assessed.
- (b) Loss of Earnings. To be assessed.
- (c) Damages for Future Loss of Earnings. To be assessed.
- (d) Damages for Post and Future medical treatment and rehabilitation. To be assessed.
- (e) Damages for cost of engaging house help. To be assessed.
- (f) Provisional damages to be assessed.

- (g) Pre and Post-Judgment interest on the above damages in accordance with the Section 34 of the Judicature Law (2007 Revision)
- (h) Costs.
- (i) Such further and other relief as this Honourable Court deems just.

DATED this *24* day of March 2012



GOLDFIELD CAYMAN ATTORNEYS-AT-LAW
Attorneys-at-Law for the Plaintiff

**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 Plaintiffs (or on the Plaintiffs 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 Plaintiffs 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

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 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.

OF 2012

BETWEEN: LORNA L. CARTER CHAMBERLAIN

PLAINTIFF

AND: VINCENT I. RANKINE

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 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** she 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 the Defendant

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

Goldfield Cayman Attorneys-at-Law
Rankin's Plaza, 21 Eclipse Drive
P. O. Box 12212
Grand Cayman, KY1-1010
Cayman Islands

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

--

INDORSEMENT TO INSURER OF DEFENDANT'S MOTOR VEHICLE

Further to Order 6 Rule 4 of the Cayman Islands Grand Court Rules:

The Plaintiff's claim against the Defendant is premised on the Traffic Law (2003 Revision) and otherwise from the Defendant's negligent use of the public roadway. The insurer of the Defendant's vehicle is FIDELITY INSURANCE (CAYMAN) LIMITED WHOSE address is FINANCIAL CENTER 36A, DR. ROY'S DRIVE, P.O. BOX 914 GRAND CAYMAN KY1-1301 CAYMAN ISLANDS.