

**Writ of Summons (O.6, r.1)**  
IN THE GRAND COURT OF THE CAYMAN ISLAND  
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

60255

CAUSE NO. OF 2012

BETWEEN

DIANA MCPHERSON

PLAINTIFF

AND:

WINSOME CHILSOLM  
PATRICK PEART

DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: THE DEFENDANTS:

1. WINSOME CHILSOLM 292 Palm Dale, Grand Cayman, Cayman Islands
2. PATRICK PEART, 83 Greenwood Drive, George Town, 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.

Issued this 22 day of May 2012.

NOTE - This Writ may not be served later than 4 calendar 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. On 15 January 2011, the Plaintiff was driving her motor vehicle a blue Honda CRV Registration 111561 along Crewe Road when she stopped at the entrance to building number 282 to permit a vehicle to exit the driveway before turning into it herself. Two vehicles registration numbers Q1938 and 129278 respectively slowed and stopped behind her.
2. The 1<sup>st</sup> Defendant permitted the 2<sup>nd</sup> Defendant to drive her motor vehicle a Gold Hyundai Terracan RAV-4 Toyota motor vehicle, registration number 102494. The 2<sup>nd</sup> Defendant so negligently drove along Crewe Road and behind the aforementioned vehicles and failed to pay attention to the traffic in front of him which resulted in him colliding with the rear of motor vehicle 129278 which in turn collided into motor vehicle Q1938 and it in turn into the Plaintiff's motor vehicle causing damage to the Plaintiff's motor vehicle and personal injuries to the Plaintiff.

### **PARTICULARS OF NEGLIGENCE**

- (a) Driving at a speed which was excessive in the circumstances.
  - (b) Failing to keep any or any proper lookout or to have any or any sufficient regard for any other traffic.
  - (c) Skidding and/or running into the rear of the motor vehicle 129278.
  - (d) Failing to stop, to slow down, to swerve, or in any other way so to manage or control the motor vehicle so as to avoid the collision.
3. Further, the 1<sup>st</sup> Defendant was charged in Criminal Case no: 02191/2011 and convicted on 9 May 2011 where he was convicted of the traffic offence of Careless Driving under Section 69 Traffic Law (2003 Revision) and was fined CI\$100 and had his driver's license endorsed. The said offence is relevant to the issue of negligence and the claimant intends to rely on it as evidence in this action.
  4. By reason of the matters aforesaid, the Plaintiff sustained personal injuries and has suffered loss and damage.

### **PARTICULARS OF INJURIES**

The Plaintiff's date of birth is 4 April 1974. At the time of the accident the Plaintiff was in considerable pain and discomfort and was complaining of neck, lower back pain that radiated to her lower left hip with no loss of consciousness. The Plaintiff will rely on the medico-legal report of Dr. Ambekar dated 8 June 2011 which particularises her injuries and thus her condition and prognosis.

### **PARTICULARS OF SPECIAL DAMAGE**

Date	Description	Costs (CI\$)
15 January 2011 to date	medical expenses	CI\$700.00
	Loss of income	CI\$2,900.00
	Traffic Report	CI\$75.00

Medical report	CI\$901.50.
Economy car rental	CI\$2,017.00
Helper/Home assistance (weekly CI\$198.00)	CI\$2,574.00
Medical expenses CI Imaging	CI\$5,116.20
HSA – Patient Financial Services	CI\$10,818.77
Insurance – car repair	CI\$3,842.36

**AND** the Plaintiff claims

- (i) Damages
- (ii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.
- (iii) Costs



CHAMBERS

THIS WRIT was issued by Clyde H. Allen of CHAMBERS on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 9, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

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PLAINTIFF

AND:

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PATRICK PEART

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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

yes

no

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3. If the claim against the Defendant is for a debt or a 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

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Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

*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.*

Clyde Allen  
**CHAMBERS,**  
Attorneys-At-Law  
PO Box 31076SMB  
Jack & Jill Bldg, KY1-1205  
Grand Cayman  
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.*