

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. <sup>GOODS</sup> OF 2013

**BETWEEN: MARJORIE EBANKS**

**PLAINTIFF**

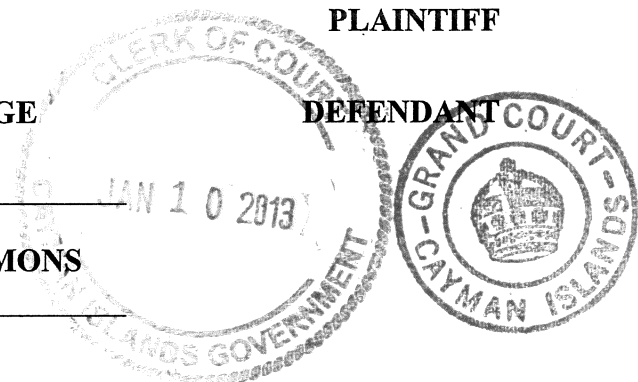
**AND: RICHARD ROLAND LANGE**

**DEFENDANT**

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**WRIT OF SUMMONS**

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To: Richard Roland Lange  
Suite 7  
300 East Park Avenue  
Charlotte  
North Carolina  
28203  
United States

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of c/o Campbells, 4<sup>th</sup> Floor, Willow House, Cricket Square, Elgin Avenue, George Town, Grand Cayman in respect of the claim set out in 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, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands, the accompanying Acknowledgement within the time stated, or if you return the Acknowledgement, 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                    day of January 2013

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 of Acknowledgment for Service are given with accompanying form.

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## STATEMENT OF CLAIM

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1. At all material times the Plaintiff was a resident of the Cayman Islands and the front seat passenger on the left hand side of Toyota Nadia motor vehicle registration number 127 601 (“the Plaintiff’s vehicle”) driven by her husband, Mr. John Ebanks (“the Plaintiff’s driver”).
2. At all material times the Defendant was the driver of a Jeep Wrangler motor vehicle registration number 108 477 (“the Defendant’s vehicle”).
3. On 13<sup>th</sup> February 2010 at approximately 11:46am the Plaintiff’s driver had proceed up Crewe Road, George Town, Grand Cayman towards the King’s Sports Centre Roundabout (“the roundabout”) and was negotiating the said roundabout on the inside lane with a view to exiting at the second available exit to him, namely Old Crewe Road.
4. Whilst the Plaintiff’s driver was negotiating the roundabout, the Defendant who had been travelling in a southerly direction on Shamrock Road failed to stop entered the roundabout and without warning collided with the front passenger side of the Plaintiff’s correctly proceeding vehicle and which had the right of way (“the collision”).
5. At the time of the collision it was night time, the roadway was lit, the weather clear and road dry.
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 drove without due care and attention with regard to all the circumstances;
- b) The Defendant failed to give way to the Petitioner’s correctly proceeding vehicle;
- c) The Defendant failed to retain control of his motor vehicle at all material times;
- d) The Defendant drove too fast in all the circumstances;
- e) The Defendant failed to apply his brakes in time or at all;
- f) The Defendant failed to keep any or any proper lookout;

- g) The Defendant failed to adequately or at all heed or act upon the presence or position of the Plaintiff's vehicle;
- h) The Defendant failed to stop, slow down, swerve or otherwise manage to control his vehicle as to avoid the collision;
- i) The Defendant failed to exercise the degree of skill and care to be expected of the average competent motorist in the circumstances;
- j) The Defendant failed to take adequate care for the safety of the Plaintiff; and
- k) The Defendant exposed the Plaintiff to the foreseeable risk of injury.

### **BREACH OF STATUTORY DUTY**

- l) Statutory breaches of the Traffic Law (2003 Revision) in particular sections 59 and 60 thereof.
7. By reasons of the Defendant's aforesaid negligence and breach of common law and statutory duty, the Plaintiff suffered personal injury, loss, damage and expenses.

### **PARTICULARS OF INJURY**

The Plaintiff, who was born on 14<sup>th</sup> February 1979 and was aged thirty (30) at the time of the accident.

The Plaintiff sustained soft tissue injuries to her cervical, thoracic and lumbar spine and pelvis. She also experienced headaches, psychological trauma and cuts to her head.

The Plaintiff reserves the right to obtain and serve updated medical evidence up until the time of the trial.

### **PARTICULARS OF LOSSES AND EXPENSES**


- 8. The Plaintiff's claim, includes, but is not limited to past and future medical expenses, loss of earnings and other miscellaneous expenses. Full particulars of which will be provided prior to trial.
- 9. The Plaintiff claims interest at the prevailing statutory rate.

**WHEREFORE THE PLAINTIFF** claims:

- a) Damages;

- b) Past and future losses and expenses;
- c) Pre-Judgment interest in accordance with section 34 of the Judicature Law (1995 Revision);
- d) Post-Judgment interest in accordance with section 34 of the Judicature law (1995 Revision);
- e) Further and/or other relief; and
- f) Costs.

Dated: 10 January 2013

  
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**CAMPBELLS**  
Attorneys for the Plaintiff

**ENDORSEMENT TO INSURER OF MOTOR VEHICLE**

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 **Cayman First formerly Sagikor General Insurance (Cayman) Limited**, P.O. Box 2171, Harbour Place, 3<sup>rd</sup> Floor, 103 South Church Street, George Town, Grand Cayman, KY1-1105, Cayman Islands.

**THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM** was filed by Campbells, Attorneys at Law for the Plaintiff, whose address for service is 4<sup>th</sup> floor, Willow House, Elgin Avenue, George Town, Grand Cayman, Cayman Islands Tel: 949 2648 Fax: 949 8613 (Ref. STM/gh/11517-17044)



**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.

**C ampbells  
4<sup>th</sup> Floor Willow House  
PO Box 884  
George Town  
Grand Cayman KY1-1103  
(Ref: STM/11517-17044)**

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

[Empty box for defendant's Attorney indorsement]

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**

**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.