

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ³²⁸~~178~~ OF 199⁷

BETWEEN

JOE CHIAZZA

PLAINTIFF

AND

KATHRYN MARIE MADDEN

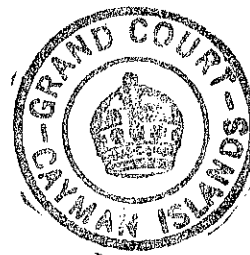
DEFENDANT



WRIT OF SUMMONS

TO:

Kathryn Marie Madden
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 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 Acknowledgement 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 26th day of May 1997.

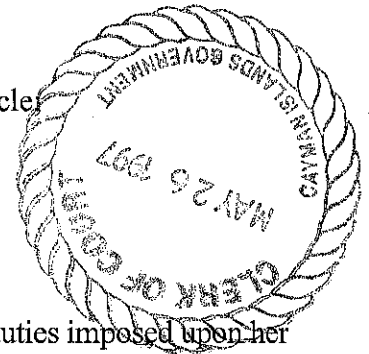
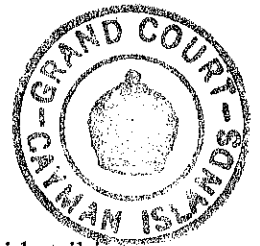
NOTE - This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is a male who was born on 30th August 1969.
2. On or around 24th January 1997 the Plaintiff was travelling from North Sound Road along Eastern Avenue in the direction of Shedden Road in his Oldsmobile Cutlass motor vehicle, registration number 43322 when the Defendant, travelling in a Honda Accura motor car registration number 44200 pulled out into the path of the Plaintiff causing her vehicle to collide with the Plaintiff's vehicle.
3. The said collision was caused by the negligence of the Defendant in that she:
 - (a) failed to keep any or any proper lookout;
 - (b) failed to stop, steer, slow down or manage her motor vehicle so as to avoid striking the Plaintiff's vehicle;
 - (c) failed to observe or heed the presence of the Plaintiff's vehicle;
 - (d) failed to give the Plaintiff's vehicle right of way.
4. The said collision was also caused by the Defendant's breach of the duties imposed upon her by sections 59 and 60 of The Traffic Law 1991 (Law 16 of 1991).



PARTICULARS OF BREACH OF STATUTORY DUTY

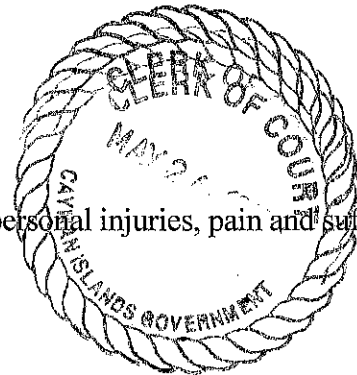
The Defendant failed:

- (a) to exercise care and attention when using the road and to have due regard to the safety and comfort of other road users and the preservation and protection of public and private property;
- (b) to drive in such a manner as to have full control of her vehicle at all times;

- (c) to keep to the left hand of the road;
- (d) to give right of way to approaching vehicles;
- (e) to comply with all traffic signs and signals;
- (f) 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;
- (g) to keep a watch on the road behind her as well as in front of her vehicle;
- (h) to give prior warning of any intended manoeuvre by means of the prescribed hand or traffic indicator signals;
- (i) so to manage the vehicle as to be able to stop within the limit of vision available at any given time;
- (j) to drive in such a way as to avoid the possibility of collision with any other road user at a road junction;
- (k) to comply with the Road Code.



5. As a result of the said collision the Plaintiff has suffered personal injuries, pain and suffering and loss of amenities.



PARTICULARS OF PERSONAL INJURIES AND LOSS OF AMENITIES

- (a) The impact of the collision caused the Plaintiff's car to overturn and come to rest on its roof in the middle of the road. The Plaintiff suffered an injury to his back and ankle as a result of the collision. Further, the Plaintiff was unable to exit the vehicle for some time as the driver's door had jammed. The Plaintiff suffered shock and distress. The Plaintiff was taken to George Town Hospital where he was examined and his neck and back were x-rayed.

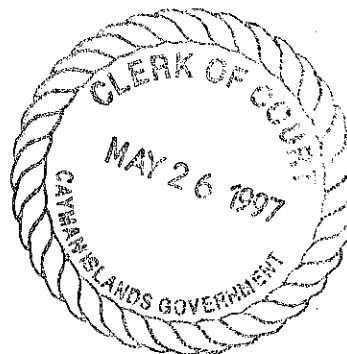
- (b) Immediately after the accident, the Plaintiff suffered acute back pain and headaches. The Plaintiff has been undergoing chiropractic treatment since the accident and although the back pains and headaches are now subsiding, he continues to suffer these ailments. His general prognosis is not yet known.
- (c) The accident has had a profound effect upon the Plaintiff's life. Prior to the accident the Plaintiff was a regular soccer player but has been unable to play since sustaining his injuries. Prior to the accident the Plaintiff played tennis at least once or twice a week but has been unable to do so since the accident. Prior to the accident the Plaintiff would keep fit by jogging but has been unable to do so since the accident. The Plaintiff is a certified open water diver and prior to the accident dove approximately once every two weeks. Since the accident he has only been able to dive once and on that occasion had to put his equipment on in the water due to the weight of the tank on his back. This proved to be extremely awkward and the Plaintiff does not consider it appropriate for him to dive again until his back is fully recovered. It was the Plaintiff's intention to commence water ski-ing lessons in February 1997 but these have had to be postponed due to his back injury. The injury has affected the Plaintiff's sleeping patterns and the resulting lack of sleep has affected the Plaintiff's ability to concentrate and perform his job properly. The Plaintiff has gained weight since the accident due to his inability to exercise. The Plaintiff now has to exercise with caution whilst walking, driving, lifting objects and during sexual activity.

6. As a result of the said collision the Plaintiff has also suffered pecuniary loss and damage.

PARTICULARS OF SPECIAL DAMAGE

(a) Losses to May 27, 1997

(1)	Motor Vehicle 1988 Oldsmobile Cutlass less salvage value	7,315.00 (1,000.00)
(2)	Fees paid to George Town Hospital	180.00
(3)	Car rental costs	702.60



(4)	Vehicle assessment valuations	25.00
(5)	Road traffic accident report	25.00
(6)	Chiropractic treatment (up to 13th May 1997)	555.00
(7)	Other medical (GP and Physiotherapy)	140.00
(8)	Additional fuel and other expenditure involving in searching for a replacement vehicle	<u>75.00</u>

TOTAL CIS\$8,017.60

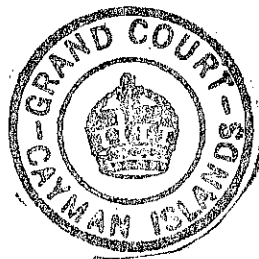
(b) Future Losses Anticipated

(1)	Future chiropractic treatment	CIS\$10,465.00
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7. The Plaintiff claims interest at such rate and for such periods on both general and special damages as may to the Court seem just pursuant to Section 34 of The Judicature Law.

AND THE PLAINTIFF CLAIMS:-

1. Damages.
2. Interest thereon pursuant to Section 34 of The Judicature Law.
3. Costs.



Bruce Campbell + Co
 Bruce Campbell & Co.
 Attorneys-at-Law for the Plaintiff

FILED by Bruce Campbell & Co., Attorneys-at-Law for the Plaintiff herein, whose address for service is 4th Floor, Bank of Nova Scotia Building, George Town, Grand Cayman.