

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION REGISTRY

CAUSE NO: 90146 OF 2015

BETWEEN:

MILLRED CHAMBERS

PLAINTIFF

AND:

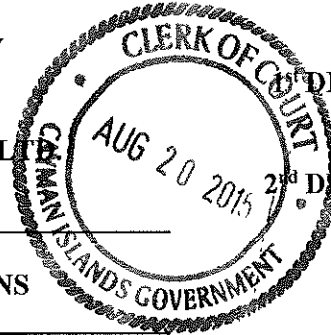
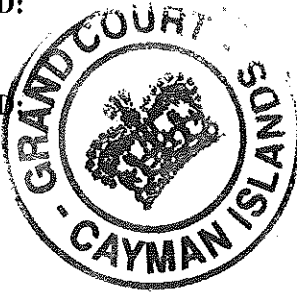
LEOPOLD BARTLEY

DEFENDANT

AND:

KELLY'S BUS SERVICE LTD

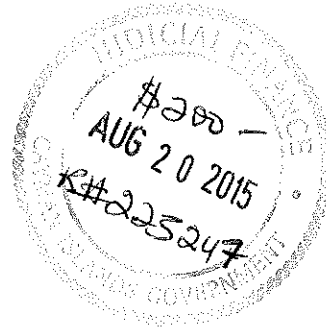
DEFENDANT



WRIT OF SUMMONS

TO: LEOPOLD BARTLEY
Grand Cayman

AND TO: KELLY'S BUS SERVICE LTD.
P.O. Box 312
Powell Smith Drive, West Bay
Grand Cayman KY1-1301



Name and address of Defendants' motor vehicle insurer:

Saxon Motor & General Insurance Ltd.
14 Saturn Close, Eastern Avenue
P.O. Box 1094, Grand Cayman KY1-1102

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff, of 187 Rosette Close, Mount Pleasant, West Bay, Grand Cayman in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands 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 therein any 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 20th day of August, 2015.

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 original issuance unless renewed by order of the Court.

IMPORTANT

Directions for the Acknowledgement of service are given with the accompanying form.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 146 OF 2015

BETWEEN:

MILLRED CHAMBERS

PLAINTIFF

AND:

LEOPOLD BARTLEY

1st DEFENDANT

AND:

KELLY'S BUS SERVICE LTD.

2nd DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff is a domestic worker, resident in the Cayman Islands. She was born 25 August 1960 and resides at 187 Rosette Close, Mount Pleasant, West Bay, Grand Cayman.
2. The 1st Defendant resides in Grand Cayman, and was at all material times the driver of a bus motor vehicle, bearing registration number 90170, owned and operated by the 2nd Defendant (hereinafter referred to as the "Defendants' vehicle") and duly licensed for the provision of public transportation.
3. The 1st Defendant was an employee of the 2nd Defendant and was driving the Defendants' vehicle in the course of his employment.
4. The Plaintiff's claim arises from the use of a motor vehicle upon a road by the Defendants, required to be insured pursuant to the Motor Vehicle Insurance (Third Party Risks) Law (2012 Revision). The insurer of the Defendants' motor vehicle at all material times was Saxon Motor & General Insurance Ltd. and notice of these proceedings will be given to the said insurer in accordance with the provisions of the said Law.
5. On 22 August 2012 at or about 7:00 a.m. the Plaintiff was a passenger, seated near the rear of Defendants' vehicle, which Defendants' vehicle was being driven by the 1st Defendant along Mount Pleasant Road, West Bay in a generally southbound direction, when suddenly and without warning the 1st Defendant caused the Defendants' vehicle to collide violently with the rear of another bus which was travelling in front of it, resulting in the Plaintiff being slammed forward, her chest and knees impacting the rear of the passenger seat in front of her.

Particulars of negligence

6. The Plaintiff states that the aforesaid accident occurred as the result of the negligence of the 1st Defendant in the operation of the Defendants' vehicle, for which negligence the 2nd Defendant as his employer is vicariously liable, the particulars of which negligence are as follows:

- (a) He was operating his motor vehicle in a careless manner;
 - (b) He failed to keep a proper or any look out or to take sufficient or any precautions to avoid colliding with the rear of another road user's vehicle;
 - (c) He failed to apply his brakes promptly, in time or at all;
 - (d) He was operating the Defendants' vehicle at an excessive rate of speed in the circumstances;
7. In the circumstances where the Defendants' vehicle came into collision with the rear of another vehicle, the Plaintiff pleads and relies on the doctrine of *res ipsa loquitur* as to the negligence of the 1st Defendant in the operation of the Defendants' vehicle.

Particulars of injury

8. The Plaintiff states that as the result of the negligence of the 1st Defendant as aforesaid the Plaintiff sustained serious personal injuries. As a result of the force of the collision and the impact with the rear of the passenger seat in front of her, she experienced pain in her chest, lower back and knees and had to be taken to the Emergency Room of the George Town Hospital for examination and treatment. X-rays were taken of her spine and she was prescribed pain medication and given 5 days off work.
9. The Plaintiff continued to experience pain in her lower back and neck radiating down into her shoulders requiring her to return to the Emergency Room for treatment. She was prescribed further pain medication and advised to stay off work for a further week.
10. The Plaintiff developed paresthesia in her hands and pain and weakness in her knees, and was referred by Dr. Hesham Sida for an MRI scan. The Plaintiff underwent an MRI scan on 26 October 2012, the results of which pointed to loss of normal cervical lordosis resulting from muscle spasm.
11. On 10 December 2012 the Plaintiff was referred by Dr Kadiyala Sekhar for physiotherapy treatment, which commenced on 10 January 2013 at the George Town Hospital.
12. On 22 July 2013 the Plaintiff consulted with Dr. Matthias Herzig, orthopaedic surgeon, for treatment of continuing severe pain in her knees, neck and shoulder. Dr Herzig ordered x-rays and referred her for further physiotherapy treatment at the George Town Hospital.
13. The Plaintiff continued consulting with Dr Herzig for treatment of the severe pain which she was experiencing. Dr Herzig performed steroid injections into the Plaintiff's neck and knees in September and November 2013 and again in March 2014.
14. Following further x-rays on 27 May 2014 ordered by Dr Herzig, on 2 July 2014 the Plaintiff again underwent a steroid injection into the AC joint of her right shoulder performed by Dr Herzig. These injections provided only temporary relief and on 10 July 2014 Dr Herzig prescribed Arcoxia and referred the Plaintiff for a further 4 to 6 weeks of physiotherapy which she commenced at RVC Rehab Services, Chrissie Tomlinson Memorial Hospital on 11 July 2014.
15. The Plaintiff has received intensive physiotherapy treatment from July 2014 to the present, and continues with physiotherapy treatment twice a week.

16. Despite extensive treatment over the past three years, including extended physiotherapy treatment, she suffers from chronic pain in her neck and shoulders with radiation of pain and numbness into her right arm which has left her unable to work and severely limits her activities and her enjoyment of life.
17. At the present time the Plaintiff continues to have pain in her neck and shoulder radiating down into her right arm, with tingling and numbness in her wrist and hand. She is also suffering severe pain in the right side of her head and Dr Herzig has recommended that this be investigated by a neurologist.
18. The Plaintiff is no longer able to carry out the essential duties required of a domestic helper, such as sweeping and mopping, and is disabled from full time employment and is forced to rely on assistance from her adult children in order to meet her basic needs.

Special damages

19. The Plaintiff was unable to continue in her employment and her duties as a domestic helper by reason of her injuries. Her gross income at the time of the subject accident was CI\$250.00 per week. The Plaintiff was on unpaid sick leave from 22 August 2012 until 31 March 2013. She attempted to return to work on 1 April 2013 but struggled to work a full day. As a result of her disability her hours and wages were reduced to CI\$100.00 per week.
20. As of November 2013 the Plaintiff was unable to work because of her physical limitations resulting from her injuries, but since February 2015 she has managed to return to work three days, at CI\$50.00 per day, instructing her employer's replacement helper and assisting with very light housework such as folding laundry.
21. The Plaintiff is unable by reason of her on-going neck and shoulder pain to work at the present time in any event. The Plaintiff had intended to continue working to age 65 but for this accident.
22. The Plaintiff has sustained special damages, including the following:

Cayman Islands Health Services Authority:	2,592.85	
Chrissie Tomlinson Memorial Hospital:	1,597.09	
RVC Rehab Services:	12,547.94	
Professional Pharmacy:	100.28	
Strand Pharmacy:	5.75	
Apex X-Ray & Ultrasound Services	51.08	
		16,894.99
Loss of income:		
\$250.00/week x 31 (22 Aug 12 to 31 Mar 13):	7,750.00	
\$150.00/week x 31 (1 Apr 13 to 31 Oct 13):	4,650.00	
\$250.00/week x 42 (1 Nov 13 to 21 Aug 15):	<u>10,500.00</u>	
		<u>22,900.00</u>
Total:		<u>\$39,794.99</u>

Further and full particulars of the Plaintiff's special damages will be provided to the Defendants prior to trial.

23. The Plaintiff claims a future loss of income which is calculated as follows:

Ogden Tables (7th Edition) calculations

Plaintiff's age at trial (January 2016):	55
Retirement age:	65
Discount rate (<i>Simon v Helmot</i> [2012] UKPC 5):	0.5%
Ogden Table 10 multiplier:	9.55
Multiplicand:	\$13,000.00
Future loss of income to retirement at 65	
9.55 x \$13,000.00	<u>\$124,150.00</u>

Interest

24. The Plaintiff pleads and relies on s.34 of the Judicature Law (2007 Revision) and Rules 4 and 5 of the Judgment Debts (Rates of Interest) Rules 1995 as varied by the Judgment Debts (Rates of Interest) Rules 2006 and 2008, promulgated by the Rules Committee pursuant to s.34 of the said Law, and claims interest on her general and special damages and costs as follows:

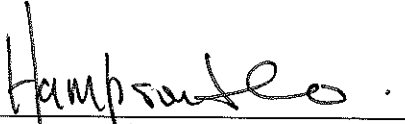
- (a) Pre-judgment interest on her general and special damages awarded, from:
 - (i) 22 August 2012 to the date of trial at the rate of 2½% per annum or such other rate as may be fixed pursuant to the Judgment Debts (Rates of Interest) Rules 1995;
- (b) Post-judgment interest upon the principal amount of the judgment with effect from the date of service of the judgment at the rate of 2½% per annum or such other rate then prevailing in accordance with s.34 of the Judicature Law and the Judgment Debts (Rates of Interest) Rules; and
- (c) Interest on all fixed or assessed costs and orders running from the date of service of the orders or certificates of taxation respectively and at the rate of 2½% per annum or such other rate prevailing in accordance with s.34 of the Judicature Law and the Judgment Debts (Rates of Interest);

THE PLAINTIFF THEREFORE CLAIMS:

- (a) General damages for pain and suffering and loss of amenities to be assessed;
- (b) Special damages as pleaded above;
- (c) Pre-judgment and post-judgment interest as more specifically pleaded above;
- (d) Her costs of this action; and

(e) Such further and other relief as to this Honourable may seem just.

DATED at Grand Cayman this 20th day of August 2015.

A handwritten signature in cursive script, appearing to read "Hampson and Company", written over a horizontal line.

Hampson and Company
Attorneys for the Plaintiff

THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM are filed by Hampson and Company, attorneys for the Plaintiff, whose address for service is that of her said attorneys, at Citrus Grove, 5th Floor, Goring Avenue, George Town, P.O. Box 698, Grand Cayman KY1-1107, Cayman Islands.

BETWEEN:

MILLRED CHAMBERS

PLAINTIFF

AND:

LEOPOLD BARTLEY

1st DEFENDANT

AND:

KELLY'S BUS SERVICE LTD.

2nd 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 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

No

Service of the Writ is acknowledged accordingly

Signed
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 of his name, address and reference, if any, in the box below.

Hampson and Company
Attorneys-at-Law
5th Floor, Citrus Grove
Goring Avenue
PO Box 698
Grand Cayman KY1-1107
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.