

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: <sup>G0163</sup> OF 2015  
LACV 0330 of 2014

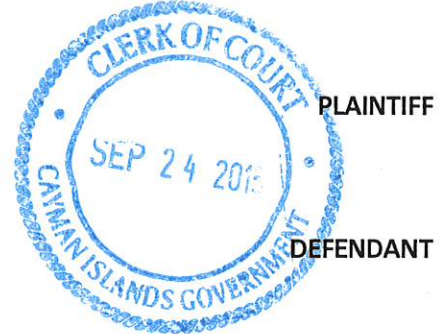
BETWEEN:



DARLENE MCKENZIE

AND:

LORI KATHRYN BUSH-BRYAN



WRIT OF SUMMONS

TO: Lori Kathryn Bush- Bryan

**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 <sup>h</sup>24 day of September, 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 issue unless renewed by order of the Court.

**IMPORTANT**

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

And as a Noticed Party to:  
Cayman First Insurance Company Limited  
3<sup>rd</sup> Floor, Harbour Place  
103 South Church Street  
P.O. Box 2171  
Grand Cayman KY1-1105

## STATEMENT OF CLAIM

1. At all material times the Plaintiff was the owner and driver of a Honda Odyssey and the Defendant was the driver of a Honda CRV.
2. On the 12<sup>th</sup> October 2012 the Plaintiff, accompanied by her cousin and infant niece was stationary indicating right on Powell Smith Road, West Bay, Grand Cayman. Suddenly and without warning the Defendant drove into the rear of the Plaintiff's stationary vehicle.
3. At all material times the Defendant was insured to drive the Honda CRV with Cayman First Insurance Company Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).
4. The accident was caused by the negligence of the Defendant.

### Particulars of negligence

The Defendant was negligent in that she:

- a) drove too fast in all of the circumstances;
  - b) failed to keep any or any proper look out;
  - c) failed to adequately control her vehicle;
  - d) failed to see the Plaintiff's vehicle whether in time or at all;
  - e) failed to apply her brakes whether in time or at all;
  - f) *res ipsa loquitur*
5. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

### Particulars of General Damage

6. The Plaintiff's date of birth is the 31<sup>st</sup> December 1974 and she is currently 40 years old.
7. Approximately four days after the accident the Plaintiff attended with her GP Dr Shillingford with pain in her neck, back and right side and was prescribed anti-inflammatory medicine and given a sick note.
8. On the 20<sup>th</sup> October 2012 she attended the Emergency department of George Town Hospital with continued pain in her back. She was examined and prescribed pain relieving medication.
9. She re-attended A&E and also her GP on numerous occasions over the next year with continued neck and back pain. She was referred to an orthopedic surgeon and her sick note extended.
10. She underwent a number of tests including an MRI and different medications prescribed.
11. She had chiropractic treatment at Cayman Chiropractic and physiotherapy at the Health services Authority Physiotherapy department.
12. She was subsequently referred to a pain specialist and neurosurgeon who diagnosed her as suffering from sacroiliitis.

13. She has had steroid and nerve root injections to try and assist her hip and back pain in June 2013, July 2013, May 2014 and October 2014
14. She is employed by the Department of Environmental Health as a Security Officer. She was signed off work from the date of the accident until April 2014.
15. She remains symptomatic and has recently been referred to Mount Sinai Hospital in Miami to have a specialist MRI scan.
16. She remains under the care of Dr Wong and is having a course of therapy at George Town Hospital, involving 2-3 sessions per week.
17. The plaintiff was involved in a further motor vehicle accident on the 6<sup>th</sup> August 2013.
18. The Plaintiff will rely on expert evidence in support of her injuries.
19. In addition to Pain Suffering and Loss of Amenity, the Plaintiff also pursues claims for Future Care, Future cost of medication and Future Loss of Earnings which will be particularized in due course.

**Particulars of Special Damage**

20. As the Plaintiff is a Government Employee, she has 100% coverage with CINICO for her medical treatment.
21. The Plaintiff was absent from work for a significant period and was not paid in full during this time.
22. Initially post-accident, the Plaintiff relied on family members for help to do tasks such as mopping /sweeping/washing/gardening.
23. The Plaintiff's claim for special damages will be particularized prior to Trial.
24. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2013 Revision);

**AND THE PLAINTIFF claims:**

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2013 Revision)
3. Costs

*Samson & McGrath*

**Samson & McGrath**  
**Attorneys 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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: *G0163* OF 2015

BETWEEN:

DARLENE MCKENZIE

PLAINTIFF

AND:

LORI KATHRYN BUSH-BRYAN

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 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

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Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

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.

Samson & McGrath  
Attorneys at Law  
5<sup>th</sup> Floor Genesis Building  
Genesis Close  
PO Box 446  
George Town  
Grand Cayman KGR/

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]