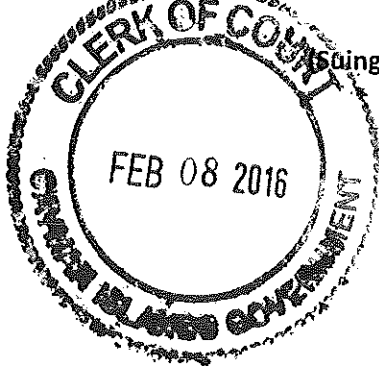


IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO: *GP20* OF 2016

BETWEEN

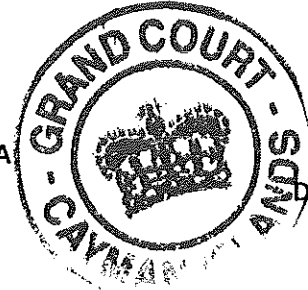


REBECCA NELSON

(Suing by her mother and next friend, Margaret Nelson)

AND:

JOHN FREDDY MOJICA HERRERA



PLAINTIFF

DEFENDANT

WRIT OF SUMMONS

TO:

John Freddy Mojica Herrera

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 day of February 2016.

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:

Saxon MG
14 Saturn Close
Eastern Avenue
PO Box 1094
KY1-1102

STATEMENT OF CLAIM

1. The plaintiff is a patient suing by her mother and next friend, Margaret Nelson.
2. On the 1st July 2013 the Plaintiff pedestrian was walking in a southerly direction along North Church Street, George Town, Grand Cayman, in the vicinity of Dolce Vita Restaurant, when she was struck, knocked down and injured by a Dodge caravan motor vehicle registration number 111468 being driven in a northerly direction by the Defendant.
3. At all material times the Defendant was insured to drive the Dodge Caravan motor vehicle registration number 111468 with Saxon MG who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law)(2012 revision).
4. The accident was caused by the negligence of the Defendant.

Particulars of negligence

The Defendant was negligent in that he:

- a) drove too fast in all of the circumstances;
- b) failed to keep any or any proper look out;
- c) failed to see the Plaintiff in time or at all;
- d) failed to maintain lane discipline;
- e) failed to apply his brakes in time or at all;
- f) failed to stop, to slow down, to swerve or otherwise so to manage or control his vehicle as to avoid the aforesaid collision;
- g) struck, knocked down and injured the Plaintiff;
- h) exposed the Plaintiff to a foreseeable risk of injury;
- i) failed to take any or any adequate care for the safety of the Plaintiff.
- j) drove his vehicle while impaired by alcohol
- k) failed to stop at the scene of the accident

5. As a result the Plaintiff who is now aged 30 years, having been born on 18th August 1985 suffered pain, injury, loss and damage.

Particulars of general damage

6. The plaintiff was knocked to the ground by the impact with the vehicle and was taken to George Town hospital by ambulance shortly thereafter.
7. The plaintiff sustained a number of injuries including a severe traumatic brain injury, facial fractures and a broken hip/crushed pelvis.
8. The Plaintiff remained in a coma for five weeks post-accident and has undergone multiple surgeries.
9. She was transferred to Jacksonville Memorial Hospital by air ambulance on the 4th July 2013.
10. The initial prognosis was that the Plaintiff was unlikely to gain consciousness. She underwent a tracheotomy to assist her breathing and a feeding tube was placed in her stomach.

11. Reconstructive surgery was performed to repair the crushed pelvis and two spinal taps were inserted to relieve fluid accumulation on her brain.
12. On the 15th August 2013 she was transferred to the Rehabilitation Institute in Chicago for further treatment.
13. A rehabilitation schedule was put in place including physical, occupational and speech therapy.
14. She was discharged home to live with her parents on the 15th December 2013 but requires full time care and continued medical treatment/therapy.
15. The Plaintiff suffered a severe traumatic brain injury and continues to suffer from an underactive thyroid, deficiency of adrenal hormone, loss of menstrual periods, low sodium levels and difficulty falling or staying asleep.
16. Her continued care takes place with Northwestern memorial healthcare. In addition to her primary physician, the Plaintiff continues to see her Neurologist, Endocrinologist, Psychiatrist, Optometrist and a neurologist specializing in sleep disorders.
17. The Plaintiff takes daily medication for her thyroid, a mood stabilizing drug and anticonvulsants.
18. The Plaintiff has been registered as disabled in the State of Illinois and by the Federal Government of the United States.
19. The Plaintiff claims interest pursuant to section 34 of the Judicature Law (2013 Revision) on the amount found to be due to the Plaintiff at such rate and for such periods as the court thinks fit.

Particulars of special damage

20. See attached Schedule of Special Damage. The plaintiff continues to receive treatment for her injuries and full particulars of future damages are not known at this time and will be provided in due course.
21. 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
Attorneys for the Plaintiff**

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 2016

BETWEEN:

REBECCA NELSON
(Suing by her mother and next friend Margaret Nelson)

PLAINTIFF

AND:

JOHN FREDDY MOJICA HERRERA

DEFENDANT

SCHEDULE OF SPECIAL DAMAGES

1. Loss of Earnings to date

Prior to the accident the Plaintiff was a pre-school teacher for Bright Start. She was due to commence a new role the week after the accident for the Oxford Learning Academy working 40 hours a week and earning \$9 per hour, equating to a weekly salary of CI\$360.00. She has been unable to work at all since the accident.

2nd July 2013 – 12th January 2016 = 132 weeks

132 x 360 = CI\$47,520.00

2. Future Loss of Earnings:

The plaintiff's on-going medical issues are such that she is unlikely to be capable of returning to gainful employment.

3. Past expenses

Item	Date	Cost US\$
Airfares for family to Grand Cayman	1 Jul 2013 – 4 Jul 2013	2,400.00
Rent on Plaintiff's Apartment	1 Jul 2013 – 4 Jul 2013	900.00
Airfares for Family Grand Cayman to Miami	5 Jul 2013 – 14 Aug 2013	4,300.00
Accommodation in Miami	5 Jul 2013 – 14 Aug 2013	840.00
Sustenance for Family in Miami 39 days x \$50 per day	5 Jul 2013 – 14 Aug 2013	1,950.00
Loss of Earnings – Margaret Nelson	5 Jul 2013 – 14 Aug 2013	7,376.16

Attorney's Fees for Guardianship	5 Jul 2013 – 14 Aug 2013	2,500.00
Lear Jet – Medical Transport to Chicago	15 Aug 2013	15,950.00
Travel 120 miles round trip per day	15 Aug 2013 – 18 Dec 2013	2,520.00
Toll Fees \$3.00 per day	15 Aug 2013 – 18 Dec 2013	378.00
Parking \$10.00 per day	15 Aug 2013 – 18 Dec 2013	1,260.00
Sustenance 126 x \$25 per day	15 Aug 2013 – 18 Dec 2013	3,150.00
Loss of earnings – Margaret Nelson	15 Aug 2013 – 18 Dec 2013	19,669.76
Home instead – in home care	19 Dec 2013 – 30 Jun 2014	532.00
Care Giver	19 Dec 2013 – 30 Jun 2014	800.00
Loss of earnings – Margaret Nelson	19 Dec 2013 – 30 Jun 2014	31,962.64
Caregivers @ \$100 per weekday 100 x 337	1 Jul 2014 – 31 Oct 2015	33,700.00
Prescriptions/Medications	Various	500.00
Optometrist Fees	Sep 2015	600.00
TOTAL		97,588.56

4. Past Cost of Care

From the date of the accident until 30 June 2014 the Plaintiff was cared for by her family members.

The Plaintiff's parents both work full time and as such they employed a full time caregiver at a cost of \$100 per day through the week as she cannot be left unattended.

1st July 2014 – 15th December 2015 = 76 weeks

76 weeks x US\$100 = US\$76,000.00

The family continue to provide gratuitous care on evenings and weekends.

The claim for gratuitous care will be particularized further in due course.

5. Future Cost of Care and Treatment

The plaintiff is likely to require further operations, treatment, therapy and care to assist with her recover from her injuries. The nature, extent and cost of the said treatment are unknown at this time as her prognosis remains guarded.

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.

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
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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