

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: **G0173**  
OF 2016

BETWEEN:

LEONIE FRAZER

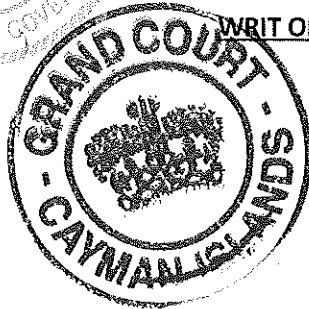
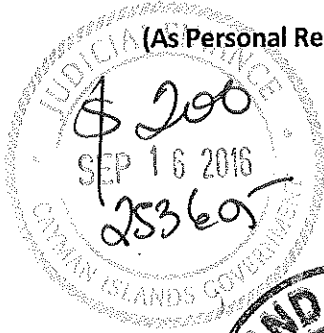
(As Personal Representative of the Estate of Jessie Perry, Deceased)

PLAINTIFF

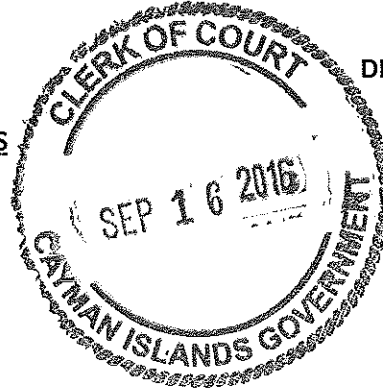
AND:

CONROY NAIRNE

DEFENDANT



WRIT OF SUMMONS



TO: Conroy Nairne  
Oatmill Drive  
George Town  
Grand Cayman  
Cayman Islands

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of 63 Fig Drive, Northward, Grand Cayman 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 September 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:  
Cayman First Insurance Company  
Harbour Place  
3<sup>rd</sup> Floor  
103 South Church Street  
PO Box 2171  
KY1-1105

This Writ and Statement of Claim is issued by Samson & McGrath, Attorneys at Law whose address for service is 5<sup>th</sup> Floor, Genesis Building, George Town, Grand Cayman. P.O. Box 446 GT, KY1-1106. Fraser v Nairne.

## STATEMENT OF CLAIM

1. The plaintiff is the mother of Jessie Perry, deceased ("the Deceased") and is the personal representative of her estate, having been granted limited administration ad colligenda bona by the Probate Registry of the Grand Court on 15<sup>th</sup> September 2016. She brings this action on behalf of the estate of the Deceased and on behalf of the Dependents of the Deceased named in paragraph 16 below pursuant to the Torts (Reform) Law (1996 Revision).
2. At all material times, the Deceased was a front seat passenger in a car being driven by the defendant.
3. On the 14<sup>th</sup> September 2015 at approximately 1.30am, the Defendants vehicle was travelling in a northerly direction on West Bay Road, Grand Cayman. In the vicinity of Public Beach, the Defendant failed to negotiate the bend in the road and hit the curb causing the vehicle to flip over and ignite.
4. As a result of the accident the Deceased sustained injuries from which she died on 21<sup>st</sup> September 2015.
5. At all material times the Defendant was insured to drive the Audi with Cayman First who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).
6. The accident and the Deceased's fatal injuries sustained therein were caused by the negligence of the Defendant.

### Particulars of negligence

The Defendant was negligent in that he;

- 6.1 drove too fast in all of the circumstances;
  - 6.2 failed to keep any or any proper look out;
  - 6.3 failed to adequately control his vehicle;
  - 6.4 failed to apply his brakes whether in time or at all;
  - 6.5 *res ipsa loquitur*
7. By reason of the aforesaid, the Deceased who was born on 13<sup>th</sup> September 1994 and was aged 21 suffered personal injury leading to fatal injury and her estate and her dependents have suffered loss and damage.

### Particulars of General Damage

8. The Deceased's date of birth was the 13<sup>th</sup> September 1994 and at the date of the accident and her subsequent death she was 21 years old.
9. Following the accident the Deceased was taken to George Town hospital by ambulance.
10. She sustained severe injuries. She was conscious for a period of time before she was placed in a coma.

11. On the 17<sup>th</sup> September 2015 she was flown by air ambulance to the University of the West Indies in Kingston, Jamaica.
12. She underwent further treatment but subsequently died on the 21<sup>st</sup> September 2015.
13. The causes of death were found to be: -
  - (1) 80% 3<sup>rd</sup> degree flame burns
  - (2) Acute lung injury
  - (3) Left pulmonary thromboembolism.

#### **Particulars of Loss to the Deceased's Estate**

14. The Deceased's cell phone which had a value of \$275.00 was damaged beyond repair in the impact.
15. The Deceased's gold earrings and chain which were gifted to her by the Plaintiff which had a combined value of \$300 were lost in the accident and aftermath.

#### **Particulars of Dependency**

16. The claim under the Torts (Reform) Law (1996 Revision) is brought on behalf of the following dependents:
  - i. The Plaintiff, who was born on the 15<sup>th</sup> February 1974 and who was aged 41 at the date of the Deceased's death, the mother of the Deceased.
  - ii. Leon Jermaine Spence, who was born on the 29<sup>th</sup> February 2012 and was aged 3 at the date of the Deceased's death, the son of the Deceased.

#### **17. Pecuniary Dependency**

The Deceased left school at aged 17 and subsequently attended the Career Academy of Professional Studies where she was pursuing a course in Practical Nursing. She completed two terms successfully before relocating to Grand Cayman with her son, Leon to assist the Plaintiff in looking after her children.

At the time of the accident the Deceased was working as a live in domestic helper earning CI\$175 per week. She undertook this position so she could assist the Plaintiff and also be able to care for her son.

The Deceased's intention had been to return to nursing school in Jamaica and qualify as a Nurse. She had been successful in the course achieving the position of 4<sup>th</sup> out of 64 students in her tests.

In Grand Cayman she was registered in the CXC Education Programme at University College of the Cayman Islands and was committed to pursuing her education.

18. Non-Pecuniary Dependency

The Deceased was a loving and devoted mother. She spent all week and weekends with Leon and often the Plaintiff, undertaking family activities such as going to Camana Bay, parks, swimming and to the beach. She always placed Leon's needs before her own. Leon was only 3 at the date of her death and she would have supported him as his needs changed until he completed his education.

The Deceased and the Plaintiff had a very close mother/daughter relationship and they would spend a lot of time talking and planning their future. The Deceased provided substantial emotional support to the Plaintiff. In addition, the Deceased shared household chores and errands with the Plaintiff.

The Deceased's contribution to the lives of the Defendants is irreplaceable; the Deceased devoted at least 70 hours per week to the care of her son. The commercial cost of such services would be in the region of \$700 per week.

Further and in any event, the Plaintiff claims for the loss of intangible services rendered as either a daughter or mother to her Dependent.


19. The Treatment expenses are detailed in Schedule A annexed hereto.

20. The Funeral expenses are detailed in Schedule B annexed hereto.

21. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2013 Revision);

**AND THE PLAINTIFF claims:**

1. Damages on behalf of the Estate of the Deceased.
2. Damages pursuant to the Torts (reform) law (1996)
3. Interest pursuant to the Judicature Law and the Grand Court Rules
4. Costs

  
Samson & McGrath  
Attorneys for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: OF 2016

BETWEEN:

LEONIE FRAZER  
(As Personal Representative of the Estate of Jessie Perry, Deceased)

PLAINTIFF

AND:

CONROY NAIRNE

DEFENDANT

SCHEDULE A

EXPENSES

	<u>Date</u>	<u>Jamaican \$</u>	<u>United States \$</u>	<u>Cayman \$</u>
<u>CIHSA</u>				<u>400221.38</u>
<u>Prescription</u>	<u>18 September 2015</u>	<u>2,158.15</u>		
<u>Prescription</u>		<u>3,000.00</u>		
<u>Prescription</u>	<u>21 September 2015</u>	<u>3,391.65</u>		
<u>Birth Certificates</u>	<u>28 October 2015</u>	<u>4,500.00</u>		
<u>Death Certificates</u>	<u>28 October 2015</u>	<u>4,500.00</u>		
<u>University of the West Indies Hospital treatment</u>		<u>To be advised</u>		
<u>Air Ambulance</u>				<u>To be advised</u>
<u>Flights</u>				<u>To be advised</u>

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SCHEDULE B

FUNERAL EXPENSES

	Date	Jamaican \$	US\$	CI\$
Clothing	8 October 2015	4,000.00		
Marching Band	15 October 2015	18,000.00		
Shoes and Socks	12 October 2015	12,300.00		
Portable Toilet Rental (reception)	15 October 2015	7,580.00		
Portable Toilet Rental (church)	16 October 2015	7,500.00		
Rental Vehicle	20 October 2015	155,000.00		
Funeral Home	29 September 2015	280,000.00		
Funeral Service	17 October 2015	5,000.00		
Cemetery	28 September 2015	72,000.00		
Nigh Night Band	16 October 2015	26,000.00		
Flights			1,031.54	
Flowers		65,000.00		

**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.

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PLAINTIFF

AND:

CONROY NAIRNE

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.