

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: *88* OF 2019

BETWEEN:

AND:



HELEN ANGHARAD PARKES

JALINA LIZZETH JACKSON



PLAINTIFF

DEFENDANT

WRIT OF SUMMONS

TO: JALINA LIZZETH JACKSON

C/o The Insurance Company of The West Indies (Cayman) Limited
150 Smith Road
George Town
P.O. Box 461
Grand Cayman
KY1-1106
Cayman Islands



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 495, 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 *30th* day of *May* 2019

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's date of birth is the 24 September 1984 and she is currently 34 years old.
2. On the 2 June 2016, the Plaintiff was walking her dog along the side shoulder of Shamrock Road, Grand Cayman, heading East.
3. At all material times the Defendant was the driver of a Hyundai Accent, vehicle registration 166595 and insured to drive her vehicle under an insurance policy issued by The Insurance Company of The West Indies (Cayman) Limited.
4. The Defendant was travelling along Shamrock Road in the direction of George Town when her vehicle pulled to the left and onto the soft shoulder striking the Plaintiff who at that time was with her dog on the side shoulder of the road near the Ocean Club entrance.
5. The impact caused the Plaintiff to sustain serious physical and psychological injuries.
6. The accident was caused by the negligence of the Defendant.

Particulars of Negligence

7. 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 whilst driving her vehicle;
 - c) failed to adequately control her vehicle whilst travelling past the Plaintiff;
 - d) failed to see the Plaintiff in time or at all;
 - e) failed to apply her brakes whether in time or at all prior to colliding with the Plaintiff;
 - f) failed to steer or control her vehicle so as to avoid the said collision;
 - g) *res ipsa loquitur*
8. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage

9. The Royal Cayman Islands Police Service attended the scene immediately following the accident and found the Plaintiff lying on the road way, at the entrance of Ocean Club, with blood on her face. She was not alert and breathing very lightly.
10. The Plaintiff was taken to George Town Hospital by ambulance immediately and underwent CT scans of her brain, cervical spine, chest and abdomen and pelvis along with x-rays of her left femur, elbow and forearm.
11. As a result of the accident the Plaintiff sustained the following injuries:
 - a) Concussion;
 - b) Deep wound to the left temporal area of her scalp;
 - c) Lacerations and contusions to the left thigh;
 - d) Disabling injury to left knee;
 - e) Soft tissue injuries affecting her neck, head and jaw, left shoulder girdle, left flank, left lower rib cage and costochondral joints, left low back and iliotibial band, left anterior thigh and left wrist;
 - f) Extensive bruising to the left shoulder and upper arm.
12. The Plaintiff later underwent an x-ray of her knee and was diagnosed with chondromalacia: small tears in the left anterior cruciate ligament and meniscus. She subsequently underwent knee surgery in Health City by Dr. Alwin Santiago in July 2017 as a result of injuries sustained in this accident.
13. The Plaintiff was referred to Health City for an MRI scan due to ongoing cervicalgia and lumbar back pain.
14. The Plaintiff was referred to and attended physiotherapy at Back to Health Physiotherapy Clinic in Grand Cayman for medial left knee pain and lower back pain and also left hip pain, head, neck, and shoulder pain.

15. The Plaintiff has continued to receive medical treatment from Dr. Denise Osterloh of the Cayman Clinic.
16. The Plaintiff was referred to a Nerve and Rehabilitation Specialist, Dr. Quartly due to ongoing pain and dysfunction that have significantly altered her life.
17. The Plaintiff was referred to Cayman Orthopaedic Clinic in relation to the injury to her knee, shoulder and wrist where she underwent x-rays and an MRI scan.
18. The Plaintiff was referred to Dr. Rivas-Vazquez, Clinical Neuropsychologist at First Choice Neurology in Miami, Florida.
19. The Plaintiff underwent a course of trigger point steroid injections to treat the ongoing pain in her neck, shoulder, back and jaw.
20. The Plaintiff underwent an MRI scan of her wrist which indicated she had sustained a partial scapholunate ligament tear.
21. Specific and further medical treatment has been provided by Dr. Badia of the Hand to Shoulder Center in Miami. The Plaintiff underwent surgery to her wrist on 14th August 2018 following which she was referred to and attended physiotherapy for her wrist.
22. The Plaintiff relies on medical reports and records documenting her symptoms and treatment.
23. The Plaintiff's occupation is a music teacher of both strings and piano. She was unable to work for the remainder of June 2016 and did not resume her work until the next term commenced in September 2016. Since returning to work her ability to work has been heavily compromised as a result of the injuries sustained in the accident. Since September 2016 she has struggled to continue working and experiences considerable pain as a result of the injuries sustained in this accident.
24. The Plaintiff can no longer play instruments at the level she did prior to the accident. She has only been able to play for short periods of time and has needed to take pain relieving medication prior to playing to enable her to do so.
25. At 3 years post-accident the Plaintiff continues to suffer pain in her wrist, knee, neck, shoulder, back, jaw, thigh and hip.

26. The Plaintiff has been receiving treatment from mental health counsellor Ms. Paquin for Post-Traumatic Stress Disorder and experiencing symptoms of a major depressive disorder as a result of this accident.
27. Prior to the accident the Plaintiff enjoyed skiing and swimming and participated in a 5 Kilometre sea swim in Grand Cayman. Since the accident the Plaintiff has no longer been able to engage in these hobbies.
28. In addition to Pain, Suffering and Loss of Amenity, the Plaintiff also pursues claims for Medical Treatment Costs, Care and Assistance, Future Medical Treatment, Future Medication Costs, Travel Expenses and Loss of Earnings and Future Loss of Earnings which will be particularized in due course.

Particulars of Special Damage

29. The Plaintiff continues to require treatment for her injuries and full particulars of future damages are not known at this time and will be provided in due course.
30. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (as Revised) from 2nd June 2016 in accordance with the rate prescribed by the Judgment Debts (Rates of interest) Rules (as amended).

AND THE PLAINTIFF claims:

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

McGrath Tonner

McGrath Tonner

Attorneys for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO: OF 2019

BETWEEN:

HELEN ANGHARAD PARKES

PLAINTIFF

AND:

JALINA LIZZETH JACKSON

DEFENDANT

SCHEDULE OF SPECIAL DAMAGES

The Plaintiff will provide a full Schedule of Loss to particularise all special damages to the date of trial in due course.

The Plaintiff will pursue future claims for Medical Treatment Costs, Care and Assistance, Future Medical Treatment, Future Medication Costs, Travel Expenses and Loss of Earnings and Future Loss of Earnings.

**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

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: OF 2019

BETWEEN:

HELEN ANGHARAD PARKES

PLAINTIFF

AND:

JALINA LIZZETH JACKSON

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).....

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.

McGrath Tonner
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman
Attn: Laurence Aiolfi

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]