

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 29th day of September, 1995.

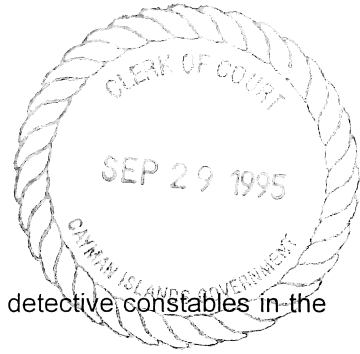
NOTE - This Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

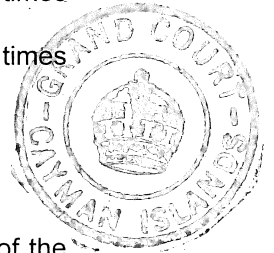
Directions for Acknowledgment of Service are given with the accompanying form.



STATEMENT OF CLAIM



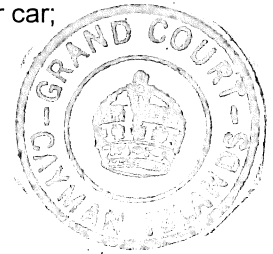
1. The Plaintiff and the First Defendant were at all material times detective constables in the Royal Cayman Islands Police Force.
2. The Plaintiff and the First Defendant were at all material times acting under the command, superintendence and direction of the Third Defendant. The Plaintiff was at all material times acting in the performance of her functions. The First Defendant was at all material times acting in the performance or purported performance of his functions.
3. The Plaintiff and the First Defendant were at all material times officers and servants of the Crown. The Plaintiff was at all material times acting in her capacity thereas. The First Defendant was at all material times acting or purporting to act in his capacity thereas.
4. On or about 1st October 1992, at about 8.10 p.m., an accident occurred off West Bay Road, Grand Cayman, at or near the entrance to Governor's Harbour. An unmarked police vehicle driven by the First Defendant, namely a Nissan Sunny motor car registration number 44 175, was heading South towards George Town in pursuit of a Mazda motor car number 46 1237, driven by the Second Defendant. The Second Defendant's vehicle spun round in the path of the First Defendant's vehicle. The First Defendant took evasive action to avoid a collision, whereupon his vehicle skidded and collided with a lamp-post. The Plaintiff was a passenger in the motor car driven by the First Defendant at the time of the accident.
5. The accident was caused or contributed to by the negligence of the First Defendant. The Third and/or Fourth Defendants are vicariously liable for his negligence.



PARTICULARS OF NEGLIGENCE

The First Defendant was negligent in that he:-

- (a) Drove into a lamp-post;
- (b) Drove too fast;
- (c) Failed to keep a safe distance between his vehicle and the said Mazda motor car;
- (d) Failed to heed adequately or at all the Plaintiff's warning to "slow down";
- (e) Failed to keep any or any proper look-out;
- (f) Failed to stop, slow down, swerve, or so to manage or control his vehicle as to avoid the collision;
- (g) Failed to steer a safe course;
- (h) Failed to maintain proper control of his motor vehicle;
- (i) The Plaintiff will further rely on the conviction of the First Defendant on appeal by way of case stated for the offence of careless driving contrary to Section 66 of the Traffic Law (Revised) at the Grand Court on 2nd September 1994 as evidence of his negligence, the said conviction having arisen out of the matters referred to in paragraph 4 herein and being relevant to the issues in this action;



(j) The Plaintiff will rely on the principle of *res ipsa loquitur*.

6. The accident was caused or contributed to by the negligence of the Second Defendant.

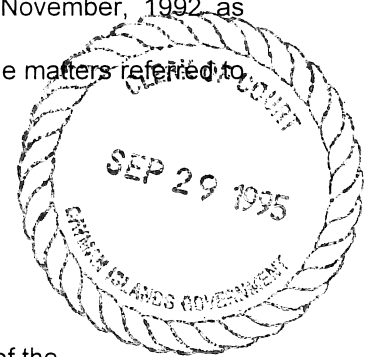
PARTICULARS OF NEGLIGENCE

The Second Defendant was negligent in that he:-

- (a) Allowed his vehicle to spin round in the path of the First Defendant's vehicle, thereby requiring the First Defendant to take evasive action to avoid a collision;
- (b) Drove too fast;
- (c) Failed to keep any or any proper look-out;
- (d) Failed to observe or heed in time, adequately or at all, or deliberately chose to ignore, the presence, position and direction of travel of the First Defendant's vehicle;
- (e) Failed to warn the First Defendant in time, adequately or at all, of the movement of the Second Defendant's vehicle;
- (f) Failed so to control or manage his vehicle that the First Defendant was not required to take evasive action to avoid a collision;
- (g) Failed to steer a safe course;
- (h) Failed to maintain proper control of his vehicle;



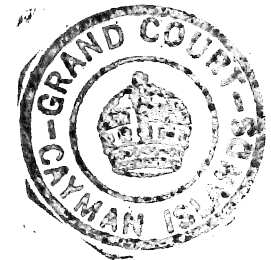
(i) The Plaintiff will further rely on the conviction of the Second Defendant on charges of consumption and possession of ganja for which he received a sentence of 3 months and 6 months imprisonment respectively in the Summary Court on 23rd November, 1992 as evidence of his negligence; the said convictions having arisen out of the matters referred to in paragraph 4 herein and being relevant to the issues in this action;



(j) The Plaintiff will rely on the principle of *res ipsa loquitur*.

7. The accident was further caused or contributed to by the negligence of the Third and/or Fourth Defendants.

PARTICULARS OF NEGLIGENCE



The Third and/or Fourth Defendants were negligent in that one or both of them:-

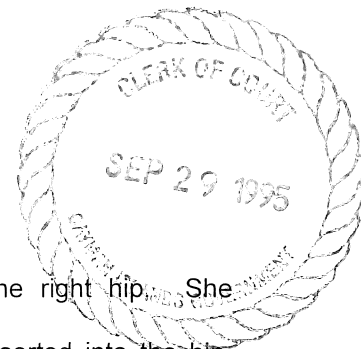
(a) Failed to provide a passenger seatbelt in the vehicle driven by the First Defendant.

(b) Failed to provide a vehicle which was reasonably safe in the circumstances for use by the Plaintiff in the course of her duties;

(c) The Plaintiff will rely on the principle of *res ipsa loquitur*.

8. By reason of the negligence of the First and/or Second and/or Third and/or Fourth Defendants, the Plaintiff, who was born on 8th November 1961, and who was aged 30 years at the date of the accident, has suffered injury, loss and damage.

PARTICULARS OF PERSONAL INJURIES



(a) The Plaintiff sustained a comminuted intertrochanteric fracture of the right hip. She underwent surgery under general anaesthetic in which a plate was inserted into the hip. Post operation recovery was satisfactory, save that she was restless and hallucinating, and at times felt suicidal due to the pain. She underwent physiotherapy. She was discharged from hospital on 16th October 1992.

(b) The Plaintiff suffered subsequent weight loss and was treated for depression. Her sex-life was adversely affected and her marriage was put under considerable strain.



(c) The Plaintiff was on sick leave for 3 months, returning to work on 11th January 1993. She was assigned to a desk-job with restricted activities. The restrictions to the desk-job were removed on 6th April, 1993. However the Plaintiff has been unable to resume the more active duties to which she was assigned prior to the accident, and as a result her pleasure in her work has been greatly reduced.

(d) The Plaintiff's injury has largely resolved. However she is left with a mild limp on the right side. Further surgery is anticipated to remove the plate from her hip. She is likely to develop traumatic arthritis of the right hip and there is a risk that she will develop arthritis in the lumbar spine.

There is no claim for special damages. However by reason of her injury the Plaintiff is handicapped in the labour market.

9. Further, the Plaintiff claims interest pursuant to section 34 of the Judicature Law (1995 Revision).

- (a) Interest on general damages found to be due to her from the date of issue of the Summons to the date of judgment or earlier payment at such rate and for such period as the Court thinks fit.
- (b) Interest on special damages at the full rate of 8-3/8% in the special circumstances that the Plaintiff has incurred expenses which will be irrecoverable from the Defendants until the trial herein.

AND THE PLAINTIFF CLAIMS:

1. Damages.
2. Interest pursuant to Section 34 of the Judicature Law as aforesaid.
3. Costs.



Quin & Hampson
QUIN & HAMPSON
Attorneys-at-Law for and on behalf of
the Plaintiff

THIS WRIT was issued by Quin & Hampson, Attorneys-at-Law for the Plaintiff, whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman, B.W.I.

**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 the Statement of Claim is not endorsed 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.

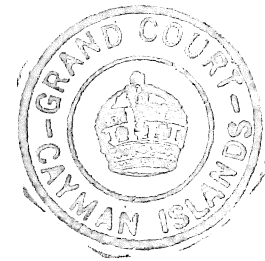
If a Statement of Claim is endorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

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 installments 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 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 named 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 person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 1995

BETWEEN: BARBARA PLATHE Plaintiff

AND: (1) JOHN KIM DALE EVANS
(2) CARLYLE McALLEN DIXON
(3) THE COMMISSIONER OF POLICE
(4) THE ATTORNEY GENERAL Defendants



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

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

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 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.

**Quin & Hampson
Attorneys-at-Law
Harbour Centre, Third Floor
P.O. Box 1348
George Town,
Grand Cayman,
Cayman Islands, B.W.I.**

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