



## STATEMENT OF CLAIM

1. The plaintiff is a Caymanian who resides in Spotts, island of Grand Cayman. She was born on 23rd January, 1959.
2. The defendant is a Caymanian who resides in George Town, island of Grand Cayman.
3. The plaintiff was, on 28th December, 1996 at approximately 4:00 p.m., a passenger on a motorcycle driven by Donald L. Frazier ("the motorcycle") when that vehicle was struck by an automobile driven by the defendant at, or in the immediate vicinity of, the four-way junction of Bobby Thompson Way and Smith Road, in George Town, Grand Cayman. The motorcycle was driven in a westerly direction on Smith Road at the time of the accident and the defendant was driving his vehicle out of the cricket pitch, at the north side of the said junction, onto Smith Road.
4. The accident resulted from the defendant's negligence.

PARTICULARS OF NEGLIGENCE

- (a) The defendant failed in his duty to give way to all vehicles travelling on Smith Road, including to motorcycle, before entering the said road from private property.
- (b) The defendant failed in his duty to bring his vehicle to a complete halt before entering Smith Road.
- (c) The defendant failed in his duty to carefully ascertain whether he could enter Smith Road from private property without endangering the lives, health and property of motorists travelling on the said road and those of their passengers before doing so.
- (d) The defendant failed in his duty to pay due care and attention to all traffic travelling in a westerly direction on Smith Road while exiting onto the said road.
5. The defendant was convicted by the Summary Court of the offence of careless driving at the time of the accident on 18th March, 1998, at which time he was fined C1\$200.00 or one months imprisonment in default of payment. In addition,

his license was endorsed. The defendant was also convicted of driving with expired registration for which he was fined C\$125.00 or two weeks imprisonment in default of payment and driving without a certificate of road worthiness for which he was fined C\$120.00 or two weeks imprisonment in default of payment.

6. The plaintiff sustained serious injuries as a result of the collision described in paragraph 3 hereof ("the accident" or "the collision").

#### PARTICULARS OF INJURIES

The plaintiff was thrown off the motorcycle when it was hit by the defendant's automobile. She landed on her head and her helmet came off. She flipped over onto her back and ended up sitting upright on the ground. She sustained injuries to her head and her neck. She also sustained injuries in the coccygeal area and to her left greater trochanter and sustained soft tissue injuries there and on other parts of her body. The plaintiff was taken to the George Town hospital where she was treated. She was put in a neck brace. She suffered pain in all the areas where she was injured for a long time and still feels pain in some of them.

The plaintiff sustained nerve damage on the left scalp lobe of her skull. The plaintiff's neck injury caused pain to her right scapular region and still does.

The plaintiff had sustained a fracture to her left clavicle a few months before the accident. It was refractured as a result of the collision. The clavicle went on to unite, although with a significant deformity which is cosmetically unpleasing. It may well be necessary for the plaintiff to undergo a bumpectomy in the not-too-distant future.

The plaintiff's injuries to her cervical spine were serious and have had, and will have, long-lasting consequences. Her arm is now weak and she cannot use it as she did prior to the accident. In addition, the plaintiff's cervical injury may well result in early degenerative changes within the next twenty years. This may result in the necessity of therapeutic intervention later. The future of the plaintiff's lower back injury is uncertain.

The plaintiff also suffers from severe headaches as a result of her neck injury and from occipital bouts of neuralgia. The plaintiff also suffers from continuing tenderness from the clavicle refracture and has a number of trigger points from the scapular muscles. The plaintiff's range of flexion is now limited.

The plaintiff has been left severely incapacitated by the accident, both in her work and in her life. She will most likely have to undergo treatment and/or surgery in the future. The plaintiff regularly engaged in physical labour and activities prior to the accident and her capacity to work and to engage in extra-curricular activities has been severely limited.

7. The plaintiff has sustained loss and damage as a result of her injuries. Such loss and damage are the direct result of the defendant's negligence as aforesaid.

PARTICULARS OF SPECIAL DAMAGES

(a)	Medical expenses	CI\$ 1,863.60
(b)	Police report	75.00
(c)	Past loss of income (1997 and 1998).	<u>19,174.00</u>

CI\$21,112.60

8. The plaintiff is not expected to fully recover from the injuries which she sustained as a result of the accident. She will therefore continue to suffer loss and damage

as a result therefrom, for which the defendant is liable. The plaintiff accordingly claims damages for future loss of income (from 1st January, 1999) and future medical expenses.

9. The plaintiff has suffered much pain, suffering and loss of amenities as a result of the injuries which she sustained in the accident.

10. The defendant has refused to pay any compensation to the plaintiff for her injuries and, as a result of such refusal, the plaintiff has been unable to obtain proper medical treatment. The plaintiff accordingly claims pre-judgment interest from the defendant.

AND THE PLAINTIFF CLAIMS FROM THE DEFENDANT:

- (A) SPECIAL damages.
- (B) GENERAL damages.
- (C) PRE-JUDGMENT interest in accordance with The Judicature Law (1995 Revision).

(D) POST-JUDGMENT interest in accordance with The Judicature Law (1995 Revision);

(E) FURTHER and/or other relief.

(F) COSTS.

Dated this 18<sup>th</sup> day of April, 1999

Brooks & Brooks  
Attorneys-at-law for the plaintiff

TO: The Clerk of the Court

AND TO: The defendant

INDORSEMENT AS TO INSURER

The defendant's insurer is British American Insurance Co Ltd, of P.O. Box 10389 APO, Grand Cayman, Cayman Islands, B.W.I.

THIS WRIT OF SUMMONS was issued by Brooks & Brooks, the attorneys-at-law for the plaintiff, whose address for service is Artillery Court, P.O. Box 1355, George Town, Grand Cayman, Cayman Islands, B.W.I.

**DIRECTIONS FOR ACKNOWLEDGEMENT 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 495, 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 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 Acknowledgement 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 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.



(Attorney) for

(Defendant in Person)

Address for service:

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 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 the Plaintiff's Attorney (or by the plaintiff if suing in person) of his name, address and residence, if any in the box below

**Brooks & Brooks  
Attorneys At Law  
P O Box 1355 GT  
GRAND CAYMAN**

**(One, Artillery Court, George Town, Grand Cayman)**

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