

IN THE GRAND COURT OF THE CAYMAN ISLANDS

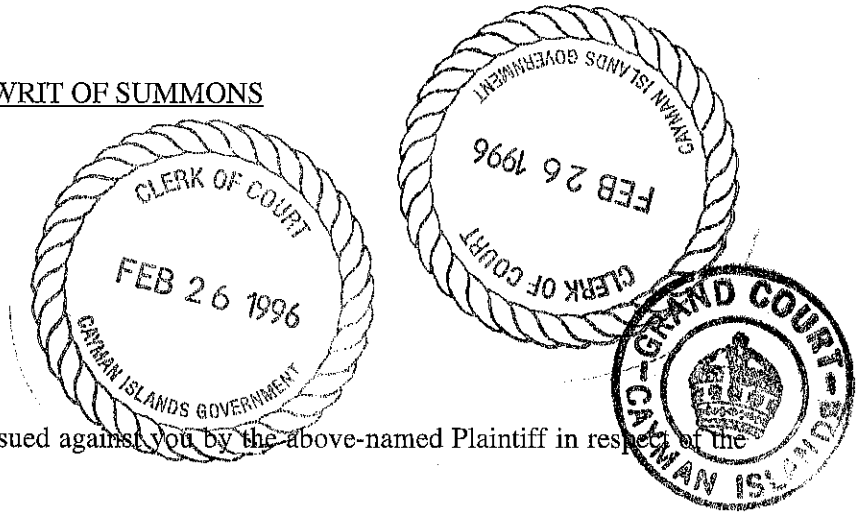
CAUSE NO. 80 OF 1996

BETWEEN: BRITISH CAYMANIAN INSURANCE COMPANY LIMITED PLAINTIFF

AND: ANNE BRENDA DAWSON DEFENDANT

WRIT OF SUMMONS

TO: Anne Brenda Dawson
Newlands
Savannah
Grand Cayman



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.

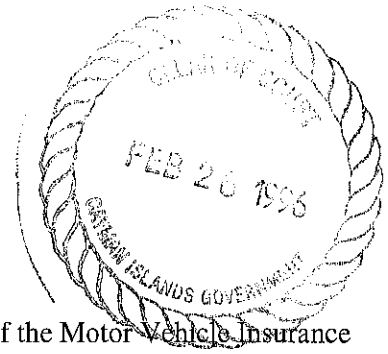
Issued this ^{26th} day of February, 1996

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

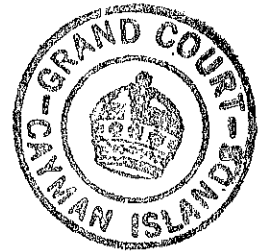


1. The Plaintiffs are insurers within the meaning of Sections 2 and 15 of the Motor Vehicle Insurance (Third Party Risks) Law, 1990 ("the Law).

2. On 18th July, 1994 the Plaintiffs, in consideration of the payment of a premium of CI\$350.00, issued to the Defendant a Policy of Insurance by which they agreed that for the period of 12 months from 13h July, 1994 to 12th July, 1995 they would indemnify the Defendant against legal liability arising out of an accident in connection with the Defendant's Monte Carlo motor vehicle registration number 13365 for:-

(a) an unlimited amount in respect of death or bodily injury to any persons;

(b) an amount of up to CI\$250,000.00 in respect of damaged property.



The Plaintiffs also agreed, pursuant to the said Policy of Insurance, to indemnify any person permitted by the Defendant to drive or use the vehicle as if they were the Defendant provided that the person was specifically permitted to drive by the terms of a current Certificate of Motor Insurance issued in connection with the Policy.

The foregoing liability is such liability as is required to be covered by a Policy of Insurance under Section 4(1) of the Law.

3. On 13th July, 1994 the Plaintiffs delivered to the Defendant a temporary cover note for a thirty day period pending registration and transfer of title of the Monte Carlo into the Defendant's name. Thereafter on 18th July, 1994 the Plaintiff delivered to the Defendant a Certificate of Insurance in respect of the period of the Policy. Both the cover note and the Certificate of Insurance were issued in accordance with the provisions of Section 3 of the Motor Vehicle (Third Party Risks) Regulations, 1991.

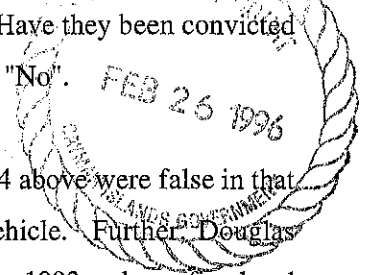
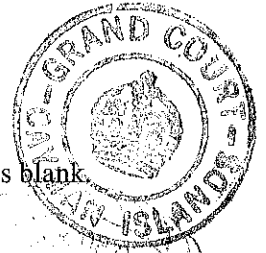
4. The Plaintiffs made the contract of insurance on the basis of and in reliance upon the truth of a proposal form and declaration completed by the Defendant and dated 13th July, 1994. In the proposal form the following information is requested in the section headed "OTHER DRIVERS":-

"Give full names and ages of any other drivers who regularly use your car"

A space is provided for the relevant details and such space was not completed and is blank.

The Defendant also answered the question in relation to other drivers "1. Have they been convicted of any traffic offences in the last five years?" by ticking the box marked "No".

5. The representation of facts contained in the answers set out in paragraph 4 above were false in that the Defendant's son, Douglas Anthony Dawson, regularly used the vehicle. Further, Douglas Anthony Dawson was convicted for driving whilst intoxicated on 13th July, 1993 and was fined and disqualified from driving for one year. Mr. Douglas Anthony Dawson would therefore have received return of his driving licence on 13th July, 1994 being the date on which his mother, the Defendant, completed the proposal form referred to at paragraph 4 above.
6. The representations were material in that they influenced the Plaintiffs and would have influenced the judgment of any prudent insurer in fixing the premium or determining whether to take the risk.
7. Further or alternatively, the Defendant was in breach of her duty to disclose all material facts in that she failed to disclose the particulars sought in the proposed form and referred to at paragraph 4 above.
8. On 23rd December, 1994 the Certificate of Insurance was cancelled and was returned to the Plaintiff by the Defendant. The Defendant advised the Plaintiff that she then wished to insure a Chevrolet Impala but that this vehicle was not, at that stage, registered in her name that the registration details would be supplied thereafter. On 23rd December, 1994 the Plaintiffs delivered to the Defendant a cover note in accordance with the provisions of Section 3 of the Motor Vehicle Insurance (Third



Party Risks) Regulations, 1991. Such cover note was issued for a period of 30 days from 23rd December, 1994 and bore the number 6781. The cover note was issued to allow the Defendant to register the Chevrolet Impala vehicle in her name. Cover note 6781 would therefore have expired on 21st January, 1995. On 3rd January, 1995 the Defendant advised the Plaintiff that cover note 6781 had been lost and, accordingly, as the vehicle had not, at that stage, been registered in her name a fresh cover note numbered 6793 was delivered to the Defendant on 3rd January, 1995 also issued in accordance with the provisions of Section 3 of the Motor Vehicle Insurance (Third Party Risks) Regulations, 1991. Such cover note was issued for a period of 20 days only and, accordingly, expired on 23rd January, 1995.

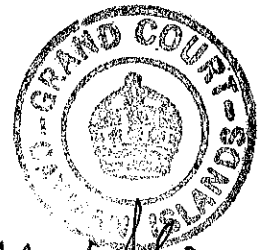
9. On 28th January, 1995 after the original Certificate of Insurance had been cancelled and the temporary cover notes had expired the Defendant's son, Douglas Anthony Dawson, whilst driving a Chevrolet Impala was involved in an accident in which Delmar Vendryse Carter, Carolyn Violet Carter's husband, was killed.
10. On 26th January, 1996 Carolyn Violet Carter, as Administratrix of the Estate of the late Delmar Vendryse Carter, issued a Writ and began an action in this honourable Court bearing case number 29 of 1996, against the Defendant, and her two sons, Douglas Anthony Dawson and Francis Michael Dawson, claiming damages on the ground that the injuries sustained by the deceased were caused by the Defendants' negligence. The claim is one in respect of a liability which would have been covered by the terms of the Policy. This action has not yet been tried.
11. The Plaintiff claims that the vehicle involved in the accident, being a Chevrolet Impala was not, at the material time, covered by the Policy of Insurance issued by the Plaintiff. There was at the material time no valid Certificate of Insurance as required by the Law nor a valid cover note in force. Further, as there was no "Current Certificate of Motor Insurance issued in connection with the policy", as required by the Policy and referred to at paragraph 2 above, the driver, Douglas Anthony Dawson, was not specifically permitted to drive. In addition, as the vehicle had not been registered in the Defendant's name she had no insurable interest in the vehicle concerned. In the alternative, if it is held that the vehicle was insured by virtue of the policy of insurance referred to at paragraph 2 above then the Plaintiff claims that they are and at all material times were entitled to avoid the

Policy pursuant to Section 15(3) of the Law on the grounds that it was obtained by the non-disclosure of material facts and by the false representation of facts referred to in paragraph 4 above.

AND the Plaintiffs seek declarations that neither the driver, Douglas Anthony Dawson, nor the vehicle, a Chevrolet Impala, involved in the accident were insured by the Plaintiff and there was no effective Policy of Insurance in force at the material time, that the Defendant did not have an insurable interest in the vehicle involved in the accident or, alternatively, that the Plaintiffs are and have at all material times been entitled to avoid the Policy of Insurance dated 18th July, 1994 on the grounds that:-

- (1) There was no valid Certificate of Insurance or cover note in force at the material time, and;
- (2) The Policy was obtained by non-disclosure of material facts and by representation of facts which were false in some material particulars.

DATED this *26th* day of February, 1996



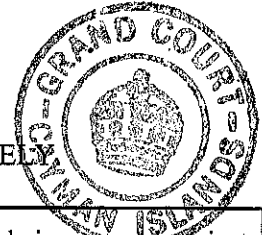
W.S. Walker & Co.

W.S. WALKER & COMPANY
Attorneys-at-Law for the Plaintiff

THIS WRIT was issued by W.S. Walker & Company, Attorneys-at-law for the Plaintiff whose address for service is Caledonian House, P.O. Box 265, Mary Street, George Town, Grand Cayman, Cayman Islands.

BETWEEN: BRITISH CAYMANIAN INSURANCE COMPANY LIMITED PLAINTIFF
AND: ANNE BRENDA DAWSON DEFENDANT

ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS



If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY

<p>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.</p>	<p>Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.</p>
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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.

2. State whether the Defendant intends to contest the proceedings (*tick where appropriate*)

_____ yes

_____ no

3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceeding, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick where appropriate*)

_____ yes

Service of the Writ is acknowledged accordingly

(Signed) _____

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 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 principal office.

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

Diarmad M. Murray
W.S. Walker & Company
P.O. Box 265
Caledonian House
Mary Street
Grand Cayman
Ref: DMM/B106-10298

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

**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.

Please turn over

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 Court's 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 item.
8. A Defendant acting in person may obtain help in completing the form at the Court's office.