

IN THE GRAND COURT OF THE CAYMAN ISLANDS

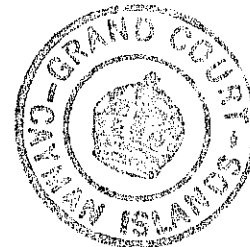
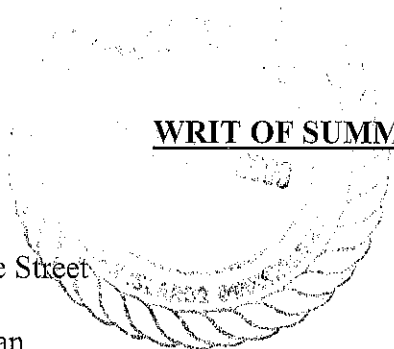
CAUSE NO. 787 OF 2000

BETWEEN: MILLICENT CALDER PLAINTIFF

AND: RUPERT COLE DEFENDANT

WRIT OF SUMMONS

To: Rupert Cole
Yellow Stone Street
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 495, George Town, Grand Cayman, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 19th day of October 2000.

NOTE – This Writ may not be served later than 4 calendar months (of, 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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. On or about 21st February 2000 at approximately 1:40 pm the Plaintiff was driving her Nissan Bluebird motor vehicle registration number 67485 in a westerly direction along Hurst Road, at Tall Tree, Savannah, towards George Town. Upon reaching the junction of Shamrock Road and Hurst Road, a Toyota Corolla motor vehicle registration number 56207 being driven by one Pauline Strachen entered the intersection into the path of the Plaintiff's vehicle causing a collision.

2. The said collision was caused by the said Pauline Strachen's negligence and or breach of statutory duty under Sections 59 and 60 of the Traffic Law (Revised). She was negligent by:-
 - (a) Failing to drive in such a manner as to have full control of her vehicle at all times;
 - (b) Failing to keep any or a proper look out or to heed the presence of the Plaintiff;
 - (c) Failing to apply her brakes in time or at all or to steer or control her vehicle to avoid the said collision;
 - (d) Failing to exercise any or any proper care and attention when using the road and/ or have any regard for the safety of other road users.

3. On 23rd March 2000 the said Pauline Strachen was convicted in the Magistrate Court, George Town of the offences of driving without being licensed, driving without insurance and careless driving contrary to Sections 22 and 69 of the Traffic Law (Revised) and Section 3 of the Motor Vehicle Insurance (Third Party Risks) Law (Revised).
4. By reason of the said Pauline Strachen's negligence and or breach of duty the Plaintiff has suffered loss and damage.

PARTICULARS OF SPECIAL DAMAGES

Damage to Vehicle	CI\$4,025.00
Towing of Vehicle	75.00
Loss Adjustors Report	125.00
Police Report	<u>75.00</u>
TOTAL	<u>4,300.00</u>

5. The said Pauline Strachen was employed as a Domestic Helper and is no longer resident in the Cayman Islands. Her current whereabouts are unknown and it is believed she was not and is not possessed of any means by which to pay any sum in respect of the loss and damage sustained by the Plaintiff.
6. At the time of the said accident, the Defendant was the owner of the motor vehicle being driven by the said Pauline Strachen and in breach of his statutory duties under Section 21(2) of the Traffic Law (Revised) and Section 31 of the Motor Vehicle Insurance (Third Party Risks) Law (Revised) the Defendant caused or permitted the said Pauline Strachen to use his motor vehicle without being licensed and without insurance.

7. The Plaintiff intends to rely herein upon the fact on the 29th day of May 2000 at the Magistrates Court, George Town, the Defendant was convicted of the offences of permitting the said Pauline Strachen to drive without being licensed and to use his motor vehicle on the road without insurance against third party risks.

8. In the premises the Defendant became and is liable to pay to the Plaintiff damages in respect of her loss and damage arising out of said accident together with interest pursuant to Section 34 (1) of the Judicature Law (Revised) at the prescribed rate and for such periods as the Court thinks fit.

AND THE PLAINTIFF CLAIMS

- (i) Damages of CI\$4,300.00;
- (ii) Interest pursuant to Section 34 of the Judicature Law (Revised);
- (iii) Costs.

Dated this 19th day of October 2000.



C.S. GILL & CO.
Attorneys-at-Law for the Plaintiff

This Writ of Summons was filed by C.S. Gill & Co., Attorneys-at-Law for the Plaintiff herein whose address for service is 4th Floor Genesis Building, PO Box 945 GT, Grand Cayman, Cayman Islands, BWI.

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.

C.S. GILL & CO.
4th Floor Genesis Building
PO Box 945
George Town
Grand Cayman

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]

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, PO Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 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 the 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 Acknowledgement, 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.

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 of 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.