

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 429 OF 2001

**BETWEEN:**

(1) SUSAN BROWNRIGG

(2) DARRELL BROWNRIGG (A MINOR, BY SUSAN BROWNRIGG, HIS MOTHER AND NEXT FRIEND)

**PLAINTIFFS**

**AND:**

(1) FRANCIS DAWSON

(2) VIOLET GAYLE DAWSON **DEFENDANTS**

WRIT OF SUMMONS

**TO:** Francis Dawson and Violet Gayle Dawson, both of Newlands, Savannah, Grand Cayman, Cayman Islands.

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff in respect of the claims set out on the following pages.

Within [14 days] after 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 any 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 13<sup>th</sup> day of July, 2001.

**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 that date 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 of P.O. Box 31296 SMB, reside at Silver Oaks, Old Crewe Road, in George Town, Grand Cayman.
2. The Defendants of P.O. Box 101 Savannah, reside at 76 Democracy Drive, Newlands, Savannah, Grand Cayman, Cayman Islands.
3. On Saturday, July 17<sup>th</sup>, 1999 at approximately 9:00 p.m., the First Plaintiff was driving her motor vehicle, an Accent Hyundai, bearing licence number 71738 ("the Plaintiff's Vehicle"), her property, from Beach Bay Road to George Town when on Shamrock Road, in the vicinity of Lancelot Drive in Savannah, Grand Cayman, a motor vehicle driven by the First Defendant, a Ford Econoline, bearing licence number 44933 ("the Defendant's vehicle"), coming from the opposite direction, struck the Plaintiff's Vehicle in a head-on collision. The collision occurred because the Defendant's vehicle was in the wrong lane while overtaking a Ford Explorer, registration number 64316.
4. The Defendant's Vehicle was owned by the Second Defendant, who is the wife of the First Defendant.
5. The Second Plaintiff, the First Plaintiff's son, was a passenger in the front seat at the time of the collision.
6. The Plaintiff's Vehicle was heavily damaged as a result of the collision described in paragraph 3 hereof ("the collision").
7. The First and Second Plaintiff, both of whom were wearing seatbelts, sustained injuries as a result of the collision.

8. The First Defendant was wholly responsible for the collision and was subsequently charged and convicted of driving while intoxicated and with careless driving. The First Defendant has multiple convictions for driving while intoxicated.
9. The damages to the Plaintiff's Vehicle and the injuries to the First and Second Plaintiffs were caused by the First Defendant's negligence, as agent for the Second Defendant.

### **PARTICULARS OF NEGLIGENCE**

- (a) Attempting to overtake a vehicle when it was unsafe to do so and/or without regard for oncoming traffic.
  - (b) Failing to keep a proper lookout, or any lookout at all.
  - (c) Driving too fast.
  - (d) Failing to give right of way to oncoming traffic, failed to observe or heed the presence or approach of the First Plaintiff.
  - (e) Failing to apply his brakes in time or at all and to steer or control his vehicle to avoid the collision.
  - (f) Driving while unfit to do so and while intoxicated.
10. By reason of the First Defendant's said negligence, the First and Second Plaintiffs have sustained severe personal injuries and have suffered loss and damage.

**PARTICULARS OF INJURIES**

11. The First Plaintiff who was born on August 17<sup>th</sup>, 1952 and was age 46 years at the time of the accident suffered as a result of the collision, a broken nose, a cut to the knuckle of the left toe and the right side of her nose, severe bruising to the upper body and injuries to the big toe of the left foot and the right ankle. She suffered after the collision as a result thereof considerable pain and discomfort and underwent physiotherapy for six months, had nose and foot surgery, was unfit for work from July 17<sup>th</sup>, 1999 to September 27<sup>th</sup>, 1999 and had to work part-time from September 27<sup>th</sup>, 1999 to October 27<sup>th</sup>, 1999. The First Plaintiff was mostly immobile from July 17<sup>th</sup>, 1999 to September 27<sup>th</sup>, 1999, was on pain medications from the date of the accident until April 2000. Despite three operations to the First Plaintiff's left foot she is still encountering considerable discomfort, cannot walk any distance and further surgery is probable.
  
12. The Second Plaintiff who was born on November 3<sup>rd</sup>, 1990 and was age 8 years at the time of the accident, suffered abrasions and bruising as a result of the accident and also acute Post Traumatic Stress Disorder, characterised by changes in his cognition, effect and behaviour. The Second Plaintiff suffered from re-experiencing the trauma, agitated behaviour, irritability, hypervigilance, whining, clinging, sleep disturbances and terrors. The Second Defendant was seen on 5 occasions between August 18<sup>th</sup>, 1999 and October 11<sup>th</sup>, 2000 by Ms. Ann Morris, psychiatric social worker, by which time there was improvement with his sleep problems and most of the symptoms had subsided. The long term effects of Post Traumatic Stress Disorder are difficult to predict and the Second Defendant may have a resumption of some of the symptoms at some stage in his life which may require treatment.
  
13. The First Plaintiff is an Analyst Programmer, employed by the Government of the Cayman Islands. The First Plaintiff was off work from July 17<sup>th</sup>, 2001 to September 27<sup>th</sup>, 1999. She worked for reduced hours (4 hours a day) for a month from September 27<sup>th</sup>, 1999 to October



27<sup>th</sup>, 1999. In addition, the First Plaintiff was off work for two days on October 27<sup>th</sup> and 28<sup>th</sup>, 1999 for a foot operation and from November 8<sup>th</sup>, 1999 to November 22<sup>nd</sup>, 1999 for her nose operation. The First Plaintiff was also off work from March 21<sup>st</sup>, 2000 to March 23<sup>rd</sup>, 2000 when her infected toe was operated upon.

14. The First Plaintiff's Vehicle was written-off and she received from her own insurers the insured value, but incurred at her own cost, car rental expenses for which she has not been reimbursed between the period of August 4<sup>th</sup>, 1999 and August 25<sup>th</sup>, 1999.
15. By reason of the damage to the Plaintiff's Vehicle and to the First and Second Plaintiff's injuries, the Plaintiffs have sustained loss and damage.

#### **PARTICULARS OF SPECIAL DAMAGES**

(i)	July, 1999, electricity used while off work in July	CI\$ 20.00
(ii)	August 2 <sup>nd</sup> , 1999, taxi to hospital and return home	CI\$ 20.00
(iii)	August 4 <sup>th</sup> , 1999 to August 25 <sup>th</sup> , 1999, car rental	CI\$ 861.71
(iv)	August 18 <sup>th</sup> , 1999, walking stick	CI\$ 12.65
(v)	August 26 <sup>th</sup> , 1999, consultation with Dr. Carlson	CI\$ 25.00
(vi)	August, 1999, electricity used while off work for August	CI\$ 47.53
(vii)	October 27 <sup>th</sup> , 1999, use of surgical centre at Cayman Medical Ltd.	CI\$1,375.00

(viii)	October 27 <sup>th</sup> , 1999, Dr. Cramer-visits and left foot operation	CI\$2,300.00
(ix)	October 27 <sup>th</sup> , 1999, Vicoprofen – for after operation	CI\$ 44.47
(x)	October 30 <sup>th</sup> , 1999, Cleocin HCL 150 mg	CI\$ 30.22
(xi)	October 30 <sup>th</sup> , 1999, Voltaren SR 75 mg	CI\$ 17.65
(xii)	November 6 <sup>th</sup> , 1999, Cleocin HCL 150 mg	CI\$ 17.27
(xiii)	November 8 <sup>th</sup> , 1999, cost of nose operation	CI\$3,280.00
(xiv)	November 11 <sup>th</sup> , 1999, taxi to see Dr. Carlson	CI\$ 16.00
(xv)	November 16 <sup>th</sup> , 1999, Biofreeze-Dr. Cramer	CI\$ 10.00
(xvi)	November 16 <sup>th</sup> , 1999, bandages for foot dressing	CI\$ 7.18
(xvii)	November 20 <sup>th</sup> , 1999, bandages for foot	CI\$ 10.06
(xviii)	November 22 <sup>nd</sup> , 1999, bandages for foot	CI\$ 6.30
(xix)	November 29 <sup>th</sup> , 1999, Claritine 10 mg-Dr. Cramer	CI\$ 23.95
(xx)	January 15 <sup>th</sup> , 2000, Daflon-Dr. Cramer	CI\$ 26.25
(xxi)	February 22 <sup>nd</sup> , 2000, Daflon-Dr. Cramer	CI\$ 26.25

(xxii) March 21 <sup>st</sup> , 2000, Cayman Orthopaedic Group – operation to left toe (\$56.00 covered on medical insurance)	CIS\$ 14.00
(xxiii) March 21 <sup>st</sup> , 2000, Tylenol #3 with codeine-Dr. Gordon	CIS\$ 7.50
(xxiv) April 3 <sup>rd</sup> , 2000, Cayman Orthopaedic Group – custom orthotics	CIS\$ 300.00
(xxv) April 10 <sup>th</sup> , 2000, Cayman Islands Health Services – copies of records	CIS\$ 120.00
(xxvi) April 10 <sup>th</sup> , 2000, Cosmetic Surgery Hospital – preparation of medical report	CIS\$ 300.00
(xxvii) April, 2000, Cayman Orthopaedic Clinic – preparation of medical report	CIS\$ 450.00
Total	CIS\$9,368.99

16. The First Plaintiff will probably require further medical treatments for her left foot and the Second Plaintiff may require treatment in the future as a result of their injuries and of the Defendant's negligence as aforesaid.
17. The First and Second Plaintiffs have suffered damages for pain, suffering and loss of amenities, and the First Plaintiff will continue to do so, and the Second Plaintiff may, as a result of their injuries and of the First Defendant's negligence as aforesaid.
18. The Defendants are liable towards the Plaintiffs for the damages which they have suffered

and will continue to suffer as alleged in paragraphs 9, 10, 11, 12, 13, 14 and 15 hereof.

**AND THE PLAINTIFF CLAIMS FROM THE DEFENDANTS:**

- (a) SPECIAL damages in the amount of C\$9,368.99.
- (b) GENERAL damages.
- (c) PRE-JUDGMENT interest in accordance with Section 34 of *The Judicature Law* (1995 Revision).
- (d) POST-JUDGMENT interest in accordance with Section 34 of *The Judicature Law* (1995 Revision).
- (e) FURTHER and/or other relief.
- (f) COSTS.

DATED this 13<sup>th</sup> day of July, 2001.



NELSON & COMPANY  
Attorneys-at-Law for the First and  
Second Plaintiffs

TO: The Clerk of the Court

AND TO: The Defendants, Francis Dawson and Violet Gayle Dawson

**STATEMENT REGARDING INTEREST**

- (i) The prescribed rates of interest on the Plaintiffs' claim for special damages are 7 7/8% until May 31<sup>st</sup>, 2000, 8% from April 1<sup>st</sup>, 2000 to May 31<sup>st</sup>, 2001 and 6 ½% thereafter.
- (ii) Although the Plaintiffs' special damages were sustained between July 17<sup>th</sup>, 1999 and April 2000, the Plaintiffs have chosen a median date of November 8<sup>th</sup>, 1999 to calculate the interest thereon the entire amount thereof, a method which is more favourable to the Defendants than to them.
- (iii) The total amount of interest claimed on the Plaintiffs' special damages as at July 13<sup>th</sup>, 2001 is CI\$1,360.73.
- (iv) The amount of interest accruing each day on the Plaintiffs' claim for special damages thereafter is CI\$1.67.

**STATEMENT REGARDING INSURER**

The insurer of the vehicle driven by the First Defendant is Royal & Sun Alliance (Bahamas) Ltd., effected through Britam Insurance Brokers & Agents (Cayman) Ltd., P.O. Box 2174 G.T., Grand Cayman, Cayman Islands, B.W.I.

This Writ was issued by Messrs. Nelson & Company, Attorneys-At-Law for the Plaintiffs, whose address of service is P.O. Box 2075, 4th Floor, West Wind Building, George Town, Grand Cayman.

## **DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**

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 GT, Grand Cayman.

### Notes for Guidance

1. The Defendant is required to complete an Acknowledgment of Service and return it to the Court's Office.
2. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner), you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. For the purpose of calculating the period of 14 days for acknowledging service, an originating summons served on the Defendant personally is treated as having been served on the day it was delivered to him.
4. Where the Defendant issued 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 Originating Summons)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
9. A Defendant acting in person may obtain help in completing the form at the Court's Office.



**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 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.*

***Nelson & Company  
4<sup>th</sup> Floor, West Wind Building  
Harbour Drive  
P.O. Box 2075  
George Town  
Grand Cayman  
  
Phone: 949 9710***

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