

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 605 OF 2001

BETWEEN:

LISA ROWSON

PLAINTIFF

- and -

ROBERT ANTHONY WHITTAKER

1<sup>ST</sup> DEFENDANT

- and -

DOMONIC GOURZONG

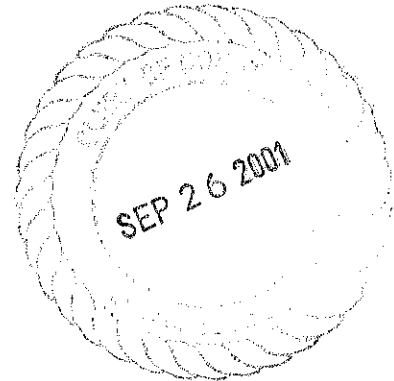
2<sup>ND</sup> DEFENDANT

WRIT OF SUMMONS

TO: Robert Anthony Whittaker  
Pease Bay  
Grand Cayman, Cayman Islands

AND TO: Domonic Gourzong  
Apt 2 Church Street West Bay  
PO Box 2724 GT  
Grand Cayman, Cayman Islands

AND TO: Motor & General Insurance Co. Ltd.  
320 Shedden Road  
PO Box 1094 GT  
Grand Cayman, Cayman Islands



**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 fourteen (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, PO Box 495 GT, Grand Cayman, Cayman Islands, 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 Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this 25th day of September, 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 the date of issued unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgement of Services are given with the accompanying form.

## **STATEMENT OF CLAIM**

1. The Plaintiff is an individual who was at all material times residing in the Cayman Islands and a passenger of a Suzuki Alto Reg. No. 66377 (hereinafter referred to as the "Suzuki") owned by Shruty Nahkwa.
2. On January 17, 2000 the Plaintiff was involved in a motor vehicle accident while being a passenger in the "Suzuki". The Plaintiff was travelling Westbound on Shamrock Road towards George Town at or about 11:00 pm.
3. At or about 11:00 pm 1st Defendant, driver of the Toyota Carolla motor vehicle Reg. No. 72829 (hereinafter referred to as the "Toyota"), was travelling Eastbound on Shamrock Road towards Bodden Town.
4. At or about the same time 1st Defendant lost control of his vehicle, which spun and collided with the vehicle in which the Plaintiff was a passenger, then further collided with a wooden fence and came to rest in a pasture.
5. At or about 11:00 pm 2nd Defendant, driver of the Chevrolet Truck motor vehicle Reg. No. 54460 (hereinafter referred to as the "Chevrolet") was travelling Westbound on Shamrock Road towards George Town.
6. At or about the same time 2nd Defendant, while driving his vehicle, collided with the left front fender of the "Suzuki", the vehicle in which the Plaintiff was a passenger and which was already stationary due to the previous collision.
7. The 1st Defendant was arrested for Driving Whilst Intoxicated and blood tests were conducted whereby he was later charged with Careless Driving.
8. The 2nd Defendant was arrested for Driving Whilst Intoxicated and blood tests were conducted whereby he was later charged with Driving Whilst Intoxicated.
9. The said collisions were caused by the negligence of both 1st Defendant and 2nd Defendant.

## **PARTICULARS OF NEGLIGENCE**

10. The 1st Defendant and 2nd Defendant:
  - c. failed to keep proper lookout;
  - d. failed to keep their motor vehicles under proper control;
  - e. failed to take reasonable care to avoid a motor vehicle accident;
  - f. failed to exercise due care and skill in the management of their motor vehicles;
  - g. failed to observe the rules of the road as required by The Traffic Law (1991); and
  - h. attempted to operate their respective motor vehicles while their abilities to do so were impaired by alcohol, drugs, stress or fatigue, or a combination thereof.

11. By reason of the said negligence of 1st Defendant and 2nd Defendant and the resulting collisions, the Plaintiff has and continues to have and is expected to continue to have severe personal injuries and, accordingly, has suffered injury, loss and damage.

### **PARTICULARS OF INJURIES**

12. The Plaintiff has suffered as a result of the accident:
  - a. broken lower fibula;
  - b. face lacerations and scarring;
  - c. damage to her teeth consisting of looseness and increased sensitivity to temperature; and
  - d. general bruising and pain.

### **PARTICULARS OF SPECIAL DAMAGES**

21. The Plaintiff has incurred:
  - a. Food and beverage costs.  
The Plaintiff was an employee of The Brasserie and in relation to her employment was entitled to receive meals at work. Due to extended absence of three (3) months from employment she incurred expenses for food and beverages that otherwise she would have received at work.
  - b. Medication and treatment costs.
  - c. Dental repair costs.
  - d. Car Rental costs.  
The Plaintiff had to rent an automatic transmission vehicle shortly following the accident. The Plaintiff was unable to operate her standard transmission vehicle due to the condition of her ankle.
  - e. Loss of Income.
  - f. Loss of Pension benefits.

### **AND THE PLAINTIFF claims:**

1. General Damages.
2. Special Damages.
3. Interest on the said damages pursuant to the Judicature Law (1995 Revision) and the Judgement Debts (Rates of Interest) Rules 1996 at the rate as prescribed of 7 3/8% or at such other rate as may be prescribed or as this Honorable Court deems just from the date of issuance of this proceeding.
4. Costs.
5. Such further and other relief as this Honorable Court deems just.

Dated: September 25, 2001

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**BROADHURST DaCOSTA**  
Attorneys-at-Law for the Plaintiff

**TO:** The Clerk of the Courts

**AND TO:** Robert Anthony Whittaker  
Pease Bay  
Grand Cayman, Cayman Islands

**AND TO:** Domonic Gourzong  
Apt 2 Church Street West Bay  
PO Box 2724 GT  
Grand Cayman, Cayman Islands

**AND TO:** Motor & General Insurance Co. Ltd.  
320 Shedden Road  
PO Box 1094 GT  
Grand Cayman, Cayman Islands

This Writ of Summons and Statement of Claim was issued by Broadhurst DaCosta, the Attorneys-at-Law for the Plaintiff, whose address for service is PO Box 2503 GT, Grand Cayman, Cayman Islands, British West Indies.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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 to the Law Courts, PO Box 495, 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 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 fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 judgement 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 fourteen (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 requires to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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 is 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 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 authorized to act on behalf of the Company, but the Company can take no further steps in proceedings *without an Attorney acting on its behalf.*
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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.

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- and -

ROBERT ANTHONY WHITTAKER

1<sup>ST</sup> DEFENDANT

- and -

DOMONIC GOURZONG

2<sup>ND</sup> DEFENDANT

ACKNOWLEDGEMENT 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 judgement 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 judgement entered by the Plaintiff (*tick box*)
- Yes [ ]
- 

Service of the Writ is acknowledged accordingly

(signed) \_\_\_\_\_  
[Attorney] for  
[Defendant in Person]  
Address for service:

*Please see 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 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.

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

BROADHURST DACOSTA  
ATTORNEYS-AT-LAW  
40 LINWOOD STREET  
PO BOX 2503 GT  
GEORGE TOWN, GRAND CAYMAN  
CAYMAN ISLANDS, BRITISH WEST INDIES

*Endorsement 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 endorsement]