

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**LEGAL AID #51/00**  
**CAUSE NO. 90 OF 2002**

**BETWEEN**

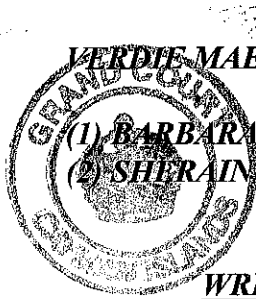
**VERDIE MAE MCLEAN**

**PLAINTIFF**

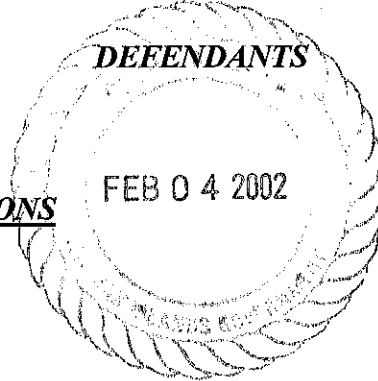
**AND**

**(1) BARBARA MASCAL**  
**(2) SHERAIN MASCAL**

**DEFENDANTS**



**WRIT OF SUMMONS**



**TO: BARBARA MASCAL**  
**GEORGE TOWN HOSPITAL**  
**MENTAL HEALTH DEPARTMENT**

**AND TO: SHERAIN MASCAL**  
**GEORGE TOWN**  
**GRAND CAYMAN**

**AND TO: BRITAM INSURANCE BROKERS & AGENTS**  
**P.O. Box 2174 George Town**

**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 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 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 31 day of *JANUARY* 2002

**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 Acknowledgement of Service are given with the accompanying form.

### **STATEMENT OF CLAIM**

1. The Plaintiff was at all times a passenger in a 1990 white Toyota Corolla motor vehicle, registration #71 633. The First Defendant was at all material times the driver of a 1988 Nissan Sunny Registration # 30798. The Second Defendant is the registered owner of the vehicle driven by the First Defendant.
2. On or about October 4<sup>th</sup> 1999, whilst the Plaintiff was on Crewe Road, the Defendant drove and/or operated her motor vehicle in such a negligent manner that she collided with the vehicle in which the Plaintiff was a passenger.

### **PARTICULARS OF NEGLIGENCE**

- a) Failing to keep any or proper lookout or to have sufficient regard for other users of the road.
  - b) Failing to see the Plaintiff's motor vehicle in sufficient time to avoid colliding therewith.
  - c) Failing to stop, to slow down, to swerve or in any other way so to manage or control the said motor vehicle as to avoid the collision.
  - d) Failing to heed the presence of the Plaintiff's motor vehicle in the road.
  - e) Failing to give adequate warning of her approach.
  - f) Failing to defer to the Plaintiff's right of way
3. As a result of the said accident the Plaintiff suffered injury and sustained loss and damage, and was unable to attend work for an extended period of time.

### **PARTICULARS OF INJURIES**

- a) Fracture of the upper third left humerus.

The Plaintiff was born 12 May 1935 and was 64 years of age at the date of the accident. She was brought in by ambulance to the Emergency Room of the George Town Hospital on the same day, and received X-rays of the left shoulder, which showed a fracture to the upper third of the humerus. She was put in a 'u' slab/humerus brace. She has subsequently consulted Dr. Gnanavolivu on numerous occasions for treatment. She returned to work for a short period, however had to stop working as she developed acute pain and inflammation due to the injury sustained from the accident.

**PARTICULARS OF SPECIAL DAMAGES**

a) Medical Services	\$ 85.00
b) Services of a nurse/helper, 47weeks @ \$150 per week	\$7,050.00
c) Lost Wages	<u>\$12,460.80</u>
	<u>\$19,595.80</u>

4. Further the Plaintiff claims pre and post judgment interest pursuant to section 34 of the Judicature Law (1995 Revision) and the Judgment Debts.

STATEMENT REGARDING INTEREST

- a) The prescribed rate of interest from 5<sup>th</sup> October 1999 up to 31 March 2000 was 7% per annum
- b) The prescribed rate of interest from 1<sup>st</sup> April 2000 up to 31<sup>st</sup> May 2001 was 8% per annum
- c) The Prescribed rate of interest from 1<sup>st</sup> June 2001 up to 30<sup>th</sup> November 2001 was 6 ¼ % per annum
- d) The prescribed rate of interest from 1<sup>st</sup> December 2001 up to 23<sup>rd</sup> January 2002 was 4 ½ per annum
- e) The date from which interest accrues is from the date of the accident, i.e. 4<sup>th</sup> October 1999.
- f) The total interest claimed as at the date of the issue of this Writ of Summons is CI\$3,135.18
- g) The amount of interest accruing each day is CI\$2.54

SCHEDULE OF INTEREST CALCULATED

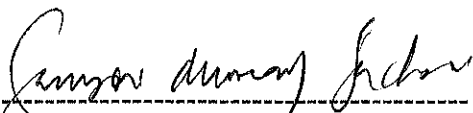
1. Interest from 05/10/99 to 31/03/00 = \$19,595.80 x .07000 x 178/365 = \$668.94
2. Interest from 01/04/00 to 31/05/01 = 19,595.80 x .08000 x 396/365 = \$1700.80
3. Interest from 01/06/01 to 30/11/01 = \$19,595.80 x .06250 x 183/365 = \$614.04
4. Interest from 01/12/01 to 23/01/01 = \$19,595.80 x .045000 x 63/365 = \$152.20

TOTAL = CI\$3,135.18

**AND THE PLAINTIFF CLAIMS:**

1. Damages
2. Interest upon the said damages pursuant to the Judicature Law and the Judgement Debts (Rates of Interest) Rules at the prescribed rate of 7 % or at such other rate as may be prescribed or as this Honourable Court deems just from the date of issuance of these proceedings.
3. Costs
4. Such further and other relief as the Honourable Court deems just.

Dated this 31 day of *January* 2002

  
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SAMSON MURRAY JACKSON  
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Courts

AND TO: Barbara Mascal

AND TO: Sherain Mascal

THIS WRIT OF SUMMONS was issued by Samson Murray Jackson, Attorneys-at-Law, for and on behalf of the Plaintiff herein whose service is the Sigma Building, Ground Floor, Hospital/Smith Roads, George Town, Grand Cayman.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**LEGAL AID #51/00  
CAUSE NO. OF 2002**

**BETWEEN VERDIE MAE MCLEAN PLAINTIFF  
AND (1) BARBARA MASCAL DEFENDANTS  
(2) SHERAIN MASCAL**

**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.**

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1. State the name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

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

yes

no

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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

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Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service:

*Notes on address for service*

*Please complete overleaf*

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 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 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:*

Samson Murray Jackson  
The Sigma Building, Ground Floor  
Hospital/Smith Roads  
George Town  
PO Box 10067 APO  
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:*

**DIRECTIONS FOR ACKNOWLEDGMENT 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 or sent by post to the Law Courts, P.O. Box 495GT, 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 acknowledging service of the Writ, unless in the meantime a summons for judgement is served on the Defendant.

If the defendant fails to serve his defence within 9the appropriate time, the Plaintiff may enter judgement 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 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 instalments 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 Acknowledgement 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 a ( )” 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.