

IN THE GRAND COURT OF THE CAYMAN ISLANDS

528  
CAUSE NO: OF 2002

BETWEEN:

DANIEL BURKE

PLAINTIFF

AND:

NICOLE HERSANT

DEFENDANT

JUL 15 2002

WRIT OF SUMMONS

TO: NICOLA HERSANT, P.O. Box 265GT, 49 Calico Quay, Canal Point, West Bay Road, 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 herein.

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 495GT, 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 15th day of JULY 2002.

NOTE - This Writ may not be served later than 4 calendar 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. At all material times, the Plaintiff, being the son of the owner of motor vehicle Mercedes 230 SLK, which bears Registration No. 81008 and with mileage of 6,668 miles. ("the Mercedes") was duly authorised to drive the Mercedes. The Plaintiff was born on 26 February 1981.
2. On Friday, 16<sup>th</sup> day of March 2001, at approximately 1:55p.m. the Plaintiff drove the Mercedes out of the exit/entrance opening of the Hyatt hotel onto the West Bay Road in the district of George Town and was slowly entering the middle or filter lane turning in a westerly direction towards West Bay, when another motor vehicle, a Toyota Prada with registration no. 71094, negligently driven by the Defendant and travelling in the opposite direction, collided with and severely damaged the Mercedes causing injury to the Plaintiff as set out below.
3. The aforesaid collision was caused solely by the negligence and/or breach of statutory duty of the Defendant.

### Particulars of Negligence

- 3.1 Driving at too fast a rate of speed in the circumstances.
- 3.2 Driving in the wrong lane of traffic.
- 3.3 Failing to stop or slow down in order to avoid the collision.
- 3.4 Failing to notice that traffic travelling in the lane in which she was wrongly overtaking had stopped to let the driver of the Plaintiff's car emerge from the exit/entrance opening of the Hyatt hotel.
- 3.5 Failing to have any or any sufficient regard for traffic that was or might reasonably be expected to emerge from the well known exit from the Hyatt hotel.
- 3.6 Failing to keep any or any proper lookout.
- 3.7 Failing to see the Plaintiff's car in time or at all.
- 3.8 Failing adequately or at all to observe or heed the presence of the Plaintiff's car.
- 3.9 Failing to steer or control her motor vehicle or to apply her brakes adequately or at all so as to avoid colliding with the Plaintiff's car.
- 3.10 Overtaking an entire line of traffic by driving in the filter lane.

### Particulars of Breach of Statutory Duty

- 3.11 Driving at a speed in excess of 40 miles per hour, which is the speed limit set forth in the Traffic Law.
4. By reason of the negligence and/or breach of Statutory Duty of the Defendant, the Plaintiff has suffered severe injury, loss and damage.

Particulars of Injuries

- 4.1 Whiplash giving rise to bilateral subscapular pain, discomfort in low lumbar area radiating caudally to the coccyx over the sacrum and recurrent neck stiffness all of which symptoms have been experienced ever since the accident on March 16<sup>th</sup> 2001 and are still continuing and are related to chronic recurrent musculoligamentous sprain of the cervical, thoracic and lumbar segments of the spine.

Particulars of Special Damages

- 4.2 Medical and other expenses incurred to date as a result of the accident on March 16<sup>th</sup> 2001 as per the attached schedule and continuing to be incurred.
5. The Plaintiff claims interest upon the damages claimed herein pursuant to Section 34 of the Judicature Law (1995 Revision) at the rate of 8% per annum, from 16 March 2001 to date or for such other period and at such other rates as the Court deems just and further interest pursuant to the said Law at the said rate to the date of judgment or sooner payment.

AND THE PLAINTIFF claims:

1. Special damages to the amount of CI\$9,947.51 to date and continuing.
2. Damages to be assessed.
3. Interest to be assessed pursuant to paragraph 5 hereof and continuing at the rate of 8% per annum from the date of issue of the Writ herein until payment or judgment whichever is earlier, or for such other period and at such other rates as the Court deems just.
4. Costs.
5. **Further and/or other relief.**

**Dated this 15th day of July 2002**

*Solomon Harris*  
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**SOLOMON HARRIS**  
**Emil George, Q.C.**

This WRIT OF SUMMONS and STATEMENT OF CLAIM were issued by Solomon Harris, Attorneys-at-Law, whose address for service is: P.O. Box 1990, 2<sup>nd</sup> Floor, Barclays House, George Town, Grand Cayman, Cayman Islands, British West Indies. (Ref: LH/ECG)