

IN THE GRAND COURT OF THE CAYMAN ISLANDS



531

CAUSE NO. of 2002
Legal Aid Certificate No. 74/00

BETWEEN:

MARCIA LEE

Plaintiff

AND



CLIVE SMITH



Defendant

WRIT OF SUMMONS

TO: CLIVE SMITH
Belford Estates
Grand Cayman
Cayman Islands

**Indorsement as to insurers of motor vehicles
pursuant to GCR O.6, r.4:**

This Writ includes a claim for damages arising out of the use of a motor vehicle which is insured by **Motor & General Insurance Company of PO Box 1094 GT, 320 Shedden Road, George Town, 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 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 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 16th day of July, 2002

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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 Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is a Domestic Helper and resides at 111 Reverend Blackman Road, West Bay, Grand Cayman, Cayman Islands.
2. At all material times, the Plaintiff was the driver of a Toyota vehicle, registration number 65 619.
3. At all material times, the Defendant was the driver of a white Ford truck, registration number 62 424.
4. On or about 17th July 1999 at approximately 2.42 pm, the Plaintiff was travelling west on Shedden Road, approaching the traffic lights at Eastern Avenue and intending to turn right onto Eastern Avenue. The traffic light was red and the Plaintiff had almost reached a complete stop when the Defendant turned right onto Sound Way from Shedden Road in the path of a motor vehicle driven by a third party. The third vehicle was forced to swerve to the right and collided with the Plaintiff's vehicle.
5. The said collision was caused by the negligence of the Defendant.

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PARTICULARS

- (a) Failing to keep a proper, or any, lookout;
- (b) Failing to exercise care and attention when using a road;
- (c) Failing to drive in such a manner as to have full control of his vehicle at all times;
- (d) Failing to keep a watch on the road in front of his vehicle;
- (e) Failing to manage the vehicle as to be able to stop within the limit of vision at any given time;
- (f) Failing to take all steps to avoid the collision when it was, or ought to have been, obvious that the collision was imminent;
- (g) Driving a motor vehicle on a road dangerously or recklessly, or at a speed or in a manner or in a condition which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the roadway or place and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road;
- (h) Driving a motor vehicle on a road without due care and attention or without reasonable consideration for other persons; and

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- (i) Driving on a road at a speed that was excessive in the circumstances.
- 6.** As a result of the said collision and the negligence of the Defendant, the Plaintiff has suffered injury, loss and damage and loss of amenity.

PARTICULARS

- (a) Soft tissue injury to the neck;
- (b) Soft tissue injury to right shoulder;
- (c) Soft tissue injury to right wrist;
- (d) Soft tissue injury to chest; and
- (e) Bony fracture of right hand;

The Plaintiff will refer at the trial of this matter to the medical records of George Town Hospital, the medical records and reports dated 30th April 2000 and 12th August 2001 of Dr. R. John Addleson, the medical report of Dr. Charles Edward Parry-Jones dated 29th May 2001, and the medical report of Dr. R.B. Conolly dated 16th January 2001, served herewith and further and/or updated records and reports at the time of trial.

PARTICULARS OF SPECIAL DAMAGES

- (a) Medical expenses; and
- (b) Lost wages.

A full Schedule of Special Damages will be filed prior to trial.

- 7.** The Plaintiff claims interest pursuant to s. 34(1) of the Judicature Law (1995 Revision) at the prescribed rate and for such periods as the Court thinks fit.

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AND THE PLAINTIFF CLAIMS:

- (i) Damages.
- (ii) Interest as aforesaid.
- (iii) Costs and Court fees.

Dated this 16th day of July, 2002.

Boxalls

BOXALLS

Attorneys for the Plaintiff

This WRIT OF SUMMONS AND STATEMENT OF CLAIM was issued by BOXALLS, Attorneys at Law for the Plaintiff, whose address for service is: PO Box 1234GT, 3rd Floor, Queensgate House, South Church Street, George Town, Grand Cayman, British West Indies [Ref: 1813-0002/EDS].

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2002
Legal Aid Certificate No. 74/00

BETWEEN:

MARCIA LEE

Plaintiff

- and -

CLIVE SMITH

Defendant

ACKNOWLEDGMENT 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 judgment 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 of Summons is being acknowledged.

CLIVE SMITH

-
2. State whether the Defendant intends to contest or otherwise participate in 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 judgment entered by the Plaintiff (*tick box*).

yes

Service of the Writ of Summons is acknowledged accordingly.

Attorney for the Defendant
Address for service:

Notes on address for service:

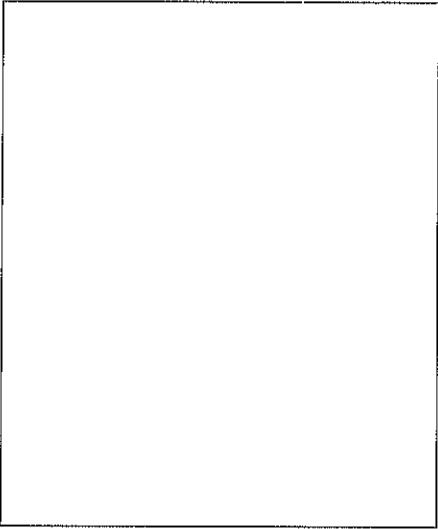
Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

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 is suing in person) of his name, address and reference, if any, in the box below.

Boxalls
Attorneys-at-Law
PO Box 1234GT
George Town
Grand Cayman, Cayman
Islands
British West Indies
(Reference: 1813-
0001/EDS)

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

A large, empty rectangular box with a thin black border, intended for the indorsement by the defendant's attorney or the defendant.

**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, P.O. Box 495GT, George Town, Grand Cayman, Cayman Islands.

2. A Defendant who states in his Acknowledgment 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 indorsed 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 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 Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, 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 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 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 of 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 his 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.