

IN THE GRAND COURT OF THE CAYMAN ISLANDS

814
CAUSE NO: OF 2003

BETWEEN: DIANA FRANCIS PLAINTIFF
AND: LYNETTE WELDS DEFENDANT



WRIT OF SUMMONS



TO: Ms. Lynette Welds
c/o Deloitte & Touche
One Capital Place
Shedden Road
George Town, Grand Cayman

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 495G, 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 December 2003.

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 Defendant was at all material times the owner and driver of a Beige 2000 Honda Accord motor car and the Plaintiff was at all material times a front seat passenger in the Defendant's vehicle.
2. On 17th December, 2000 at around 2:00 p.m., the Defendant was driving along Rollins Road in West Bay, Grand Cayman when suddenly and without warning she drove her vehicle and crashed it into a car that was parked on the side of the road.
3. The said accident was caused by the negligence of the Defendant and the Defendant is liable to the Plaintiff in damages.

PARTICULARS OF NEGLIGENCE

The Defendant was negligent in that she:

- (a) drove too fast in all the circumstances;
 - (b) failed to heed the presence of the parked vehicle or keep a proper look-out;
 - (c) failed to stop, slow down, steer or otherwise control her motor car so as to avoid the accident;
 - (d) failed to apply or properly apply her brakes; and
 - (e) drove without due care and attention.
4. As a result of the said accident the Plaintiff suffered pain and injury and sustained loss and damage.

PARTICULARS OF INJURY

1. Severe pain and suffering;
2. Internal derangement and locking of left knee;
3. Blunt injury and joint osteoarthritis to her left knee;
4. Scar tissue thickness in left knee;
5. Grating in the patella femoral joint and lateral joint line of the left knee;
6. Damage to the cartilage in the lateral compartment of her left knee;
7. Injury to forehead leaving permanent scar;
8. Permanent scar on her left knee
9. Lower back pain;
10. Left knee giving out from time to time; and
11. Continuous sensation of pins and needles in left knee.

The Plaintiff was born on the 3rd day of May, 1968 and was 31 years of age at the date of the accident. She came to the Cayman Islands in November 1997 to take up employment. After the accident, she was taken to the Accident and Emergency Department at the George Town Hospital by ambulance. She was kept in the hospital under observations for approximately six hours after which time she was treated for cuts and abrasions to her forehead and knee. She was given pain killers and released. She was advised to commence physiotherapy on her left knee. Healing was complicated and the Plaintiff travelled to Jamaica where she sought further treatment. She attended at Dr. Harvey Heron's office and further x-rays of her left knee was carried out and treatment given. She later returned to the Cayman Islands and on 28th March, 2002, Dr. K. C. Sekhar performed a diagnostic arthroscopy operation under general anaesthesia and recommended an MRI of the left knee. The Plaintiff travelled again to the University Hospital of the West Indies in Kingston, Jamaica where she underwent an MRI operation. The Plaintiff underwent several sessions of physiotherapy and treatment is ongoing.

Prior to the accident the Plaintiff enjoyed a fairly healthy life style. She enjoyed dancing and walking. She did not have her own transportation and therefore was accustomed to standing and waiting at bus stops to get to and from work and get around generally.

The injury to her left knee has not healed satisfactorily and she is unable to stand for long periods or walk long distances without her knee locking. She is severely limited in her daily activities and is no longer able to dance. She was compelled to resign her job and her previous job as a customer service representative at Wendy's involved standing and moving about. She has been unable to find suitable employment since December, 2000. The Plaintiff is restricted to sedentary employment. The Plaintiff's disabilities are permanent and she may need multiple surgeries and possible knee replacement in the future. She also suffers from permanent scarring on her forehead and her left knee and would like to have plastic surgery done. She is handicapped on the labour market.

PARTICULARS OF SPECIAL DAMAGES

Loss of earnings from 17th December to 16th December, 2003	CI\$12,225.00
Medical expenses to date	5,554.49
Travelling expenses to and from doctors and Physiotherapists	1,395.68
Past nursing care	<u>400.00</u>
 Total special damages	 CI\$19,575.17

The Plaintiff will ask the Court to award her provisional damages on the assumption that she will need surgery on her left knee or possible knee replacement.

Further the Plaintiff claims interest pursuant to the Judicature Law

AND THE PLAINTIFF claims:

1. Damages
2. Pre and Post-Judgment Interest
3. Costs

Dated this 16th day of December, 2003

Facey-Clarke & Associates
FACEY-CLARKE & ASSOCIATES
Attorneys-at-Law for the Plaintiff

This Writ of Summons was filed by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiff herein whose address for service is that of the said Attorneys-at-Law, Ground Floor, Unit 119, Elizabethan Square, George Town, Grand Cayman (946-8111 or 917-6351)

Acknowledgement of service of writ of summons (0.12, r.3)

**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 495G, George Town, Grand Cayman.

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 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 (.....)" 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 814 OF 2003

BETWEEN: DIANA FRANCIS PLAINTIFF
AND: LYNETTE WELDS 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 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 judgment entered by the Plaintiff (tick box)
 yes no

Service of the Writ is acknowledged accordingly

Date:

(Signed).....
Attorney for

Please complete 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 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 or 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.

Facey-Clarke & Associates
P.O. Box 2545GT
Ground Floor, Elizabethan Square
Cayman Islands, B.W.I.
Tel: 946-8111 / Fax: 946-8141

Indorsement 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 indorsement]