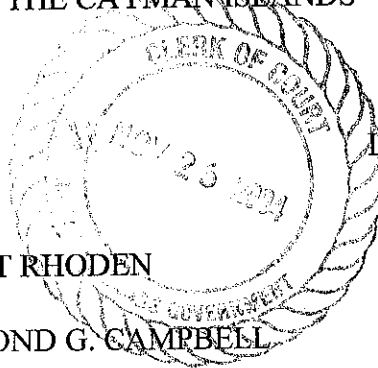


IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO. <sup>465</sup> OF 2004  
LEGAL AID NO. 83 OF 2004

BETWEEN: VIOLET RHODEN PLAINTIFF  
AND: DESMOND G. CAMPBELL FIRST DEFENDANT  
AND: LLOYD GLADSTON CAMPBELL SECOND DEFENDANT

**WRIT OF SUMMONS**

TO: Desmond G. Campbell Lloyd G. Campbell  
c/o 23 Boxelder Road c/o 23B Boxelder Road  
Batabano, West Bay Batabano, West Bay  
GRAND CAYMAN 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 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, P.O. Box 495GT, 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 judgment may be entered against you forthwith without further notice.

Issued this this 26<sup>th</sup> of November, 2004

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 First Defendant was at all material times the driver of a blue Dai Hatsu motor car, licence number 68223.
2. The Second Defendant was at all material time the registered owner of the said blue Dai Hatsu motor car referred to in 1 above.
3. On 8<sup>th</sup> January 2004 at about 4:30 p.m. the Plaintiff was riding her mountain bike along Smith Road in the vicinity of the junction of Anthony Drive. She was riding west towards the George Town Hospital when the First Defendant approaching from Anthony Drive made a right turn onto Smith Road and collided with the Plaintiff, causing her to fall off her bike onto the ground whereby she sustained injuries.
4. The said accident was caused by the negligence of the First and Second Defendants.

**PARTICULARS OF NEGLIGENCE**

- (a) The First Defendant was negligent in that:
  - (i) he failed to keep any or any proper look out for other users of the road;
  - (ii) he drove too fast in all the circumstances without due care and attention;
  - (iii) failed to give any or sufficient warning of his approach;
  - (iv) failed to stop, slow down, steer or otherwise control his motorcar so as to avoid hitting the Plaintiff;

- (v) failed to steer or control the vehicle or to apply his brakes adequately or at all so as to avoid colliding with the Plaintiff;
  - (vi) failed to take any or any adequate care for the safety of the Plaintiff;
  - (vii) drove the said vehicle knowing or ought to have know that he was not permitted to lawfully do so;
  - (viii) failed to take necessary steps to ascertain whether he could lawfully drive the said vehicle.
- (b) The Second Defendant was negligent in that:
- (a) he allowed or permitted the First Defendant to drive the said vehicle knowing or ought to have know that the insurance coverage on the said vehicle did not permit the First Defendant to lawfully drive it;
  - (b) failed to keep the said vehicle in a roadworthy condition.
5. As a result of the said accident the Plaintiff suffered pain and injury and sustained loss and damage.

### **PARTICULARS OF INJURY**

Severe pain in neck, upper back and crepitus clicking in right shoulder.

Bruising and abrasions

The Plaintiff was born on 1<sup>st</sup> August, 1974 and was 29 years old at the date of the accident. Initially she attended the Chrissie Tomlinson Memorial Hospital where she was x-rayed and treated for pain and discomfort in her right shoulder. She had difficulty lifting her right arm and so she received prescription for analgesics and physiotherapy. She later attended the Cayman Islands Health Services Authority where she is currently under-going further treatment and physiotherapy.

The fracture has not healed completely. She continues to be symptomatic in spite of treatment with anti-inflammatories and local steroid injections. She is unable to go about her normal life without experiencing pain and cracking in her right shoulder. Her shoulder is likely to develop osteoarthritis in the future.

Prior to the accident, the Plaintiff enjoyed a fairly healthy life style. She enjoyed dancing. She is a child care/domestic helper, single and has four children. The children ages range from 17 to 11 years old. She is not able to pick up and play with her children as she did before the accident. She is the sole provider of your family. She can no longer pick up and attend to the baby on her job as she did before the accident due to the restriction of movements in her shoulder.

She is unable to lift, push or pull without experiencing pain and discomfort. She is restricted in her daily activities. She is no longer able to sweep, mop and clean generally without pain. Her life will never be the same again and she is partially handicapped on the job market. After the said accident, the Plaintiff was unable to return to work for a total of six days.

The injured shoulder is likely to develop osteoarthritis in the future and future surgery cannot be ruled out. At trial, the Plaintiff will rely on the medical report from the Cayman Islands Health Services Authority, in particular, that of Dr. K.C. Sekhar.

#### **PARTICULARS OF SPECIAL DAMAGES**

16 Jan 04	Receipt - G.T. Hospital	CI\$ 63.50
16 Jan 04	Receipt – Health Care Pharmacy	14.30
	Receipt - Health Care Pharmacy	23.00
4 Feb 04	Statement #13380 G.T. Hospital	334.70
18 Feb 04	Photocopy charges G.T. Hospital	120.00
5 Mar 04	Statement #20513 G.T. Hospital Physio	205.00
23 Mar 04	Statement #25055 G.T. Hospital Physio	165.00


23 Mar 04	Statement #25054 G.T. Hospital x-ray/clinic	270.00
4 Mar 04	Receipt – RCIP Accident Report	<u>CIS\$75.00</u>
		<u>CIS\$1,270.50</u>

6. Further the Plaintiff claims interest upon any such damages as may be awarded to her pursuant to the Judicature Law.
7. The Plaintiff claims interests pursuant to the Judicature Law on the amount found to be owed to the Plaintiff at such rate and for such period as the Court deems fit.

And the Plaintiff Claims:

1. Special, general and provisional damages
2. Pre-judgment interest
3. Post-judgment interest
4. Costs

Dated this 26<sup>th</sup> November, 2004

  
\_\_\_\_\_  
Facey-Clarke & Associates  
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court  
AND TO: The First Defendant  
AND TO: The Second Defendant

This Writ was issued 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, Grand Cayman

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.

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BETWEEN: VIOLET RHODEN PLAINTIFF  
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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.

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  2. State whether the Defendant intends to contest the proceedings (tick 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 judgment entered by the Plaintiff (tick box)  
 yes       no

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Service of the Writ is acknowledged accordingly

Dated: .....

(Signed).....

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, Unit 119, Elizabethan Square  
Grand Cayman, Cayman Islands, B.W.I.  
Tel: 946-8111 / Fax: 946-8141  
Email: mclarke@candw.ky

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

