

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No. 184 of 2005

BETWEEN:

MARY PATRICIA McFIELD

Plaintiff

AND:

BRITISH CAYMANIAN INSURANCE
COMPANY LIMITED

Defendants

WRIT OF SUMMONS

TO: BRITISH CAYMANIAN INSURANCE
COMPANY LIMITED
PO Box 74GT
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, PO 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 14th day of April 2005

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

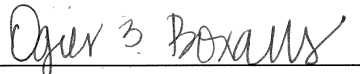
1. The Defendant is and was at all material times an insurance company operating in the Cayman Islands. The Plaintiff at all material times had the benefit of a motor vehicle insurance policy, number 00027875 (the “insurance policy”) issued by the Defendant for the period 16th December 2003 to 15 December 2004 in respect of her 2001 Ford Windstar public transport motor vehicle Registration Number 89-452 (“the van”).
2. Under the terms of the insurance policy the van was: -
 - (1) comprehensively covered against, inter alia, hurricane and flood damage;
 - (2) insured for use only as a “Contract Carriage” or “Hackney Carriage” in connection with the Plaintiff’s business; and
 - (3) insured up to its market value of CI\$18,720.
3. On or about 8th November 2004 the van’s engine stopped running and the van was towed to Vampt Motors Ltd. (“Vampt”) for investigation and repair.
4. Vampt’s Service Manager, Mr. Darrach, prepared an estimate (“the estimate”) for the Plaintiff and a mechanical evaluation report in relation to the said van (“the report”), which concluded that the failure of the van’s engine was the result of salt corrosion caused by Hurricane Ivan, that essential components of the van’s engine were likely to fail prematurely and that and the cost of the repairs necessary to put the van into good, long term repair would exceed the van’s replacement value. The Plaintiff will refer to the estimate and the report at the trial of the action.
5. On or about 12th November 2004, the Plaintiff submitted a claim to the Defendant under the insurance policy claiming the replacement cost of the van.
6. In breach of contract and wrongly, the Defendant has denied liability under the insurance policy and has rejected the Plaintiff’s claim..
7. In the premises the Plaintiff has suffered loss and damage: -

PARTICULARS OF LOSS AND DAMAGE

- (1) the replacement value of the van, being, CI\$18,720;
 - (2) the cost of towing the van to Vampt, being CI\$50; and
 - (3) damages for loss of use of the van from the date upon which the Plaintiff submitted her claim to the Defendant (or from such date as the Court may think just) until judgment herein (or until such date as the Court may think just) a date reasonable period thereafter) and the date of trial, such damages to be assessed.
8. Further, the Plaintiff claims interest on such sums as may be awarded to her pursuant to Section 34 of the Judicature Law (2004 Revision) at the prescribed Judgment Debt rate of 3% per annum from the date of issue hereof and continuing thereafter at the Judgment Debt rate in force from time to time until judgment herein or sooner payment in full.

AND THE PLAINTIFF CLAIMS:

- (1) under paragraph 7(1) hereof, the sum of CI\$18,720;
- (2) under paragraph 7(2) hereof, the sum of CI\$50;
- (3) under paragraph 7(3) hereof, damages;
- (4) under paragraph 8 hereof, interest on such sums as may be awarded to her pursuant to Section 34 of the Judicature Law (2004 Revision) at the prescribed Judgment Debt rate of 3% per annum from the date of issue hereof and continuing thereafter at the Judgment Debt rate in force from time to time until judgment herein or sooner payment in full; and
- (5) costs.



Ogier & Boxalls
Attorneys-at-Law
for the Plaintiff

This Writ of Summons and Statement of Claim was issued by Ogier & Boxalls, Attorneys 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 (Reference: 2785-0001/LAF)

**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.

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 (ie., 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 184 OF 2005

BETWEEN:

MARY PATRICIA McFIELD

PLAINTIFF

- and -

BRITISH CAYMANIAN INSURANCE
COMPANY LIMITED

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.

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.

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

OGIER & BOXALLS
Attorneys-at-Law
PO BOX 1234GT
Queensgate House
George Town, Grand Cayman
Cayman Islands
British West Indies
T: 345.949.9876
F: 345.949.1987

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 of the defendant's attorney or the defendant's name, address, and reference.