



## STATEMENT OF CLAIM

1 The Plaintiff is an individual who is resident in the Cayman Islands and at the material time was a customer of the Defendant.

2 The Defendant is a limited liability company which is duly incorporated under the Laws of the Cayman Islands to carry on business in and from the Cayman Islands. The Defendant inter alia provides shipping services to and from the Cayman Islands of various goods and at the material time they agreed to and provided the service of shipment of a motor vehicle from Miami Florida to the Cayman Islands of a new vehicle which the Plaintiff had purchased in Miami.

3 On or about 23rd February, 2005 the Plaintiff purchased a new Mitsubishi vehicle from Miami Lakes Mitsubishi Serial No. JA4LX31F05U019509 for a total amount of US\$19,155.45.

4 In order to have the said vehicle transported to the Cayman Islands the Plaintiff entered into a verbal agreement with the Defendant to have the Defendant transport the vehicle from Miami to the Cayman Islands. At all material times the Plaintiff was assured by the Defendant that the vehicle had been insured through their normal insurers for its voyage and delivery to the Cayman Islands. At the time, although the Defendant did not provide the name of the Insurers to the Defendant, they did assure her that her vehicle was insured with "their normal insurers" and on that basis the Plaintiff allowed the Defendant to take charge of and ship the said vehicle to the Cayman Islands.

5 In furtherance of the verbal agreement the Plaintiff completed all paperwork provided to her by the Defendant and she also paid all sums requested of her by the Defendant to be paid. Throughout the transaction the Plaintiff dealt with a Mr DeCampo, an employee and/or agent of the Defendant, who held himself out as duly authorised to deal with and carry out the transaction on behalf of the Defendant. The Plaintiff will rely on the representations made by the Defendant's agent and/or employee, Mr DeCampo, on their behalf, some of which representations were reduced to writing to have her vehicle shipped to the Cayman Islands. The Plaintiff also relied on the expressed and implied terms of the documentation supplied to her by and on behalf of the Defendant that her vehicle would be delivered to her in a good, safe and satisfactory condition in the Cayman Islands without any damage to it at all.

6 Further and in the alternative, the Plaintiff relied on the express and/or implied assurances and representations made by the Defendant, its servant, employee or agent, Mr DeCampo that in the event that there was any damage to the vehicle that it would be satisfactorily taken care of by the Defendants and/or their servants or agents.

7 The Plaintiff will rely at the Hearing of this matter, on the documentation which she was required to complete for the Defendant, together with the representations made to her for their full terms and legal effects.

8 In breach of the said expressed and/or implied agreement that the vehicle would be delivered in the same and/or as good a condition as when it was purchased in Miami, and delivered to the Defendants, upon arrival of the vehicle in the Cayman Islands, and whilst the said vehicle was still in the container provided by the Defendant, it was discovered that the vehicle had been severely damaged.

The Defendants and/or their agents have stated that it appeared that the container in which the vehicle was stored was "dropped" at some stage and it is this that has caused the damage to the vehicle.

9 Upon discovery of the said damage, the Defendant purported to claim that the Plaintiff's vehicle was not insured. However, consequently the insurance situation was sorted out by the Defendants and the Plaintiff was advised to and did make a claim to the Defendants for compensation for the damage to the said vehicle.

10 Since the date of the discovery of the damage to the said vehicle the Plaintiff has attempted to settle the matter amicably but all attempts at this have failed. As a result of the negligence of the Defendant, its servants and/or agents the Plaintiff has suffered loss and damage. And the Plaintiff says 'res ipsa loquiter'

### **PARTICULARS OF NEGLIGENCE**

The Defendant was negligent in that it:

- (a) Failed to take any or any adequate precaution for the protection of the Plaintiff's vehicle so as to avoid it being damaged.
- (b) Exposed the Plaintiff's vehicle to risk of damage of which the Defendant, its servants or agents knew or ought to have known;
- (c) Caused or permitted the Plaintiff's vehicle to be in and/or remain in an unsatisfactory condition which resulted in its being damaged;
- (e) In the circumstances failed to take any or any proper care of the Plaintiff's vehicle thus allowing it to be damaged.

And the Plaintiff says 'res ipsa loquiter'

11 By reason of the matters aforesaid the Plaintiff has suffered loss and damage.

12 As a result of the matters aforesaid the Plaintiff has been without any transport since in or about March, 2005 and continues to be without transport, the Defendants having not provided any alternative transport for her

### **WHEREFORE THE PLAINTIFF CLAIMS**

(a) Cost of the Damaged vehicle	US\$19,155.45
(b) Cost to take vehicle to Port in Miami	US\$279.00
(c) Freight and other charges	US\$1,235.00
(d) Cost of towing vehicle for estimate	US\$147.00
(e) Cost of trucking and cargo charges	US\$69.89
(f) Compensation for inconvenience of no transport etc	US\$6,000.00 (US\$1,000.00 per month) and continuing

**Total** US\$26,886.34

(g) Costs

(h) Interest

(i) Damages

Dated this 22<sup>nd</sup> day of September, 2005

Brooks & Brooks  
**BROOKS & BROOKS**  
Attorneys At Law for the Plaintiff

To: The Clerk of the Courts

And To: The Defendant  
Thompson Shipping Ltd

**THIS WRIT OF SUMMONS** was filed by Brooks & Brooks Attorneys At Law for and on behalf of the Plaintiff herein whose address for service is that of his said Attorneys At Law One, Artillery Court , P O Box 1355GT GRAND CAYMAN

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 441 of 2005

BETWEEN: YVETTE McFIELD PLAINTIFF

AND; THOMPSON SHIPPING CO. LTD DEFENDANT

ACKNOWLEDGEMENT 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 judgement 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

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 judgement entered by the Plaintiff( Please tick box)

Yes

No

Service of Writ is acknowledged accordingly

Signed \_\_\_\_\_

Please complete overleaf

(Attorney) for

(Defendant in Person)

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 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.

Endorsement by the Plaintiff's Attorney (or by the plaintiff if suing in person) of his name, address and residence, if any in the box below

**Brooks & Brooks  
Attorneys At Law  
P O Box 1355 GT  
GRAND CAYMAN**

**(One, Artillery Court, George Town, Grand Cayman)**

Endorsement by the defendant's attorney (or by the defendant if suing in person) of his name, address and residence, if any in the box below