

IN THE GRAND COURT OF THE CAYMAN ISLANDS

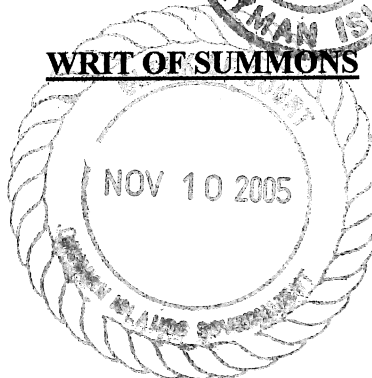
CAUSE NO: 519 OF 2005

BETWEEN: PRYSCA DOMAN PLAINTIFF  
AND: LILIAN BUSH FIRST DEFENDANT  
AND: GLORALYN STEPHENS SECOND DEFENDANT



**WRIT OF SUMMONS**

TO: LILIAN BUSH  
162 Butterfly Circle  
Newlands, Savannah  
Grand Cayman



GLORALYN STEPHENS  
Whittaker's Apartment  
Shamrock Road  
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 days (14) 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 10<sup>th</sup> day of November, 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 Plaintiff was at all material times the registered owner and driver of a 1991 Honda Civic motor vehicle, Registration No. 67914 ("the Honda Civic"). The First Defendant was the registered owner of a Honda Accord, Registration No. 84871 ("the Honda Accord"). The First Defendant gave permission to the Second Defendant to drive the Honda Accord and the Second Defendant was the lawful driver of the Honda Accord at the time of the accident.
  
2. On Monday, 11<sup>th</sup> November, 2002 at around 4:15a.m., the Plaintiff wearing seat belt, was driving her Honda Civic in the vicinity of Mangrove Avenue, George Town, Grand Cayman. She was heading towards George Town. Suddenly and without warning, the Second Defendant who was driving in the opposite direction towards Bodden Town apparently fell asleep, drifted into the path of the Plaintiff and collided with the Plaintiff's Honda Civic causing injuries to the Plaintiff. Upon impact the Plaintiff's vehicle spun around to a 180 degree and faced South. The Plaintiff's Honda Civic received major damages including a broken front windscreen and damages to the front end of her Honda Civic.
  
3. The said accident was caused by the negligence of the First and Second Defendants.

**PARTICULARS OF NEGLIGENCE**

4. The First Defendant was negligent in that she allowed the Second Defendant to drive her Honda Accord at 4:15 a.m., a time when she should reasonably realize that the Second Defendant would be sleepy and unable to properly operate any vehicle.

5. The Second Defendant was negligent in that:
- (i) she drove too fast in all the circumstances without due care and attention;
  - (ii) continued to drive the Honda Accord when she was feeling sleepy;
  - (iii) failed to keep any or any proper look out;
  - (iv) drove the Honda Accord on the wrong side of the road and into the path of the Plaintiff's Honda Civic;
  - (v) failed to stop, slow down, steer or otherwise control her motorcar so as to avoid hitting the Plaintiff's Honda Civic;
  - (vi) failed to steer or control the vehicle or to apply her brakes adequately or at all so as to avoid colliding with the Plaintiff's Honda Civic;
  - (vii) failed to take any or any adequate care for the safety of the Plaintiff;
6. As a result of the said accident the Plaintiff sustained pain and injuries and suffered loss and damage.

**PARTICULARS OF INJURY**

- a) soft tissue injuries
  - b) bruises and abrasions;
  - c) scaring;
  - d) pain and suffering.
7. The Plaintiff who was pregnant at the time of the accident was born on 20<sup>th</sup> December 1963 and was 38 years and 11 months old. She was taken to the Accident and Emergency Department of the George Town Hospital by ambulance where she was treated for chest pain, bruises and abrasions over her body including her left breast, abdomen and upper chest. The Plaintiff suffered a miscarriage a few months after the accident. The Plaintiff was grieved at the loss of her first unborn child after waiting over 38 years before she got pregnant.

8. Prior to the accident the Plaintiff enjoyed a fairly healthy life style. She suffered much pain and had many months of sleepless nights due to nightmares. She is still fearful of driving on the roads as she gets flash backs of the impact of the accident. The Plaintiff believes that her miscarriage was caused as a result of the accident.
9. The Plaintiff was a domestic helper and baby-sitter at the time of the accident. Her salary was CI\$400.00 per week. She suffered a lot of pain over her body for many months and was off work for 2 weeks due to severe pain. She was limited in her daily activities and was unable to return to her pre-accident employment until two weeks later. Her loss of wages being 2 weeks at CI\$400.00 per week is therefore CI\$800.00.
10. After returning to work she continued to experience a lot of pain and was not able to perform her duties as before the accident until several months later.
11. The Plaintiff received compensation from the First Defendant's insurance company for her wrecked Honda Civic and for some medical expenses but has not been compensated for her injuries, pain and suffering to date.
12. Further the Second Defendant was convicted of careless driving in the Summary Court at George Town.
13. The above conviction is relevant to the issue of negligence and the Plaintiff intends to rely upon it as evidence in this action.
14. Further the Plaintiff claims interest upon any such damages as may be awarded to her pursuant to the Judicature Law.


**Particulars of Special Damage**

- |                                 |            |
|---------------------------------|------------|
| a) Loss of earnings (2 weeks)   | CIS 800.00 |
| b) Medical expenses             |            |
| c) RCIP Traffic Accident Report | 75.00      |
15. The Plaintiff will rely on medical report from the Cayman Islands Health Services Authority (formerly George Town Hospital) at trial.
16. The Plaintiff claims interests pursuant to the Judicature Act 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 and General Damages
2. Pre-judgment interest
3. Post-Judgment interest
4. Costs

Dated this 10<sup>th</sup> day of November, 2005

  
\_\_\_\_\_  
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 495GT, 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.



; 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  
Attorneys-at-Law  
Ground Floor, Unit 119, Elizabethan Square  
Grand Cayman, Cayman Islands, B.W.I.  
Tel: 946-8111 / Fax: 946-8141  
Email: mclarke@candw.ky  
  
Attn: M. Facey-Clarke

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