

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *547* OF 2005

B E T W E E N:

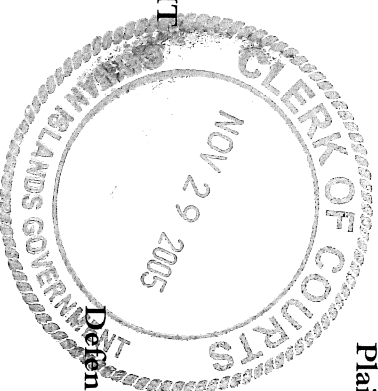
LAURA MONTESSA DIXON (A MINOR) BY HER NEXT
FRIENDS AND GUARDIANS AD LITEM NOEL WEBB

Plaintiff

AND

DARRY WRIGHT

Defendant



WRIT OF SUMMONS

TO: Darry Wright
PO Box 167GT
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 495 GT, George Town, Grand Cayman, 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 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 29th 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 Acknowledgement of Service are given with the accompanying form.

INDORSEMENT OF INSURER

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Defendant at the relevant time is the Insurance Company of the West Indies Limited. The insurer's address for service is 93 Hospital Road, P.O. Box 461GT, Grand Cayman, Cayman Islands.

STATEMENT OF CLAIM

1. The Plaintiff is a child born on 20 April 1988. These proceedings are brought at the suit of Laura Montessa Dixon (a Minor) by Noel and Carlene Webb, the Plaintiff's parents and her next friends and guardians ad litem, who were at all material times resident in the Cayman Islands. The address for service of the Plaintiff is in care of her attorneys Appleby Spurling Hunter, P.O. Box 190GT, Grand Cayman, Cayman Islands.
2. At all material times, the Plaintiff was a resident of the Cayman Islands. At the time of the accident, on the night of Saturday 21 December 2002 the Plaintiff was 14 years of age.
3. The Defendant was at all material times resident in the Cayman Islands and the Defendant was the driver of a Hyundai Elantra motor vehicle, registration no. 74722, at all material times (the "**Defendant's Vehicle**").
4. At approximately 9:00 p.m. on 21 December 2002, the Plaintiff was walking from the direction of Wendy's restaurant towards the Marquee Plaza. At that time, the traffic along the relevant portion of West Bay Road was moderate, the weather was clear and it was not raining. There was no lighting in the area apart from the moonlight, and the ambient light from the Marquee Plaza across the street. The Plaintiff was wearing bright coloured clothing and was visible at all times material to the accident.
5. The Plaintiff, whilst crossing the street, exercised all due care and caution required of a pedestrian. The Plaintiff looked both ways before crossing and only began to cross when the road was clear. As the Plaintiff crossed the right lane, the Defendant's Vehicle exited West Bay Road by turning right and accelerated along

Lawrence Blvd. towards the Harquail Bypass in the right inner lane. The Defendant's Vehicle then struck the Plaintiff, knocking her into the windshield, shattering it, and throwing the Plaintiff into the air.

6. The Plaintiff makes claim for injuries sustained and damages incurred as a result of the said accident pursuant to *The Torts (Reform) Law (1996 Revision)* and the common law. The Plaintiff states that the Defendant negligently operated his vehicle and as a result of such negligence caused the above-described accident and caused injuries to the Plaintiff for which the Defendant is responsible at law and in equity.

PARTICULARS OF NEGLIGENCE

7. The accident and the resulting injuries to the Plaintiff resulted solely from the negligence and/or recklessness of the Defendant in the operation of the Defendant's Vehicle, the particulars of which are as set out below:
- (a) driving without due care and attention;
 - (b) failing to observe or heed the presence of the Plaintiff crossing the road;
 - (c) failing to remain in proper control of the vehicle;
 - (d) failing to avoid the collision with the Plaintiff;
 - (e) driving at such a speed so as to be unable to stop in the event of an emergency;
 - (f) driving too fast in the circumstances;
 - (g) failing to keep any or any proper look out or to have any sufficient regard for pedestrians crossing the road;

- (h) failing to give any or any adequate warning to the Plaintiff of his approach and/or the collision by sounding his horn or otherwise.
8. The fact that the Defendant drove his vehicle into the pedestrian Plaintiff is evidence in itself of negligence and breach of the common law and statutory duties that the Defendant owed to the pedestrian Plaintiff. The Plaintiff pleads and relies on the doctrine of *res ipsa loquitur*.
9. By reason of the Defendant's negligence, the Plaintiff who was born on 20 April 1988 has suffered physical injuries and pain which the Defendant is responsible for at law and in equity.

PARTICULARS OF INJURIES

10. As a result of the accident, the Plaintiff has suffered the following injuries:
- a. Fracture of the clavicle;
 - b. Soft tissue injuries, contusions and lacerations to the shoulder;
 - c. Grossly comminuted fracture of the tibia and fibula.
11. At the time of the accident the Plaintiff was in perfect health and enjoyed an active social, family and sporting life.
12. Full and further particulars of the Plaintiff's injuries will be disclosed in advance of trial as part of the discovery process in this cause.
13. The Plaintiff will provide details of the claim for special damages in advance of the trial in this cause.
14. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF claims:

1. Special damages for medical care, losses for paid and unpaid assistance and other expenses arising from the accident and the Plaintiff's injuries and future medical expenses to be incurred;
2. General damages for pain, suffering, scarring and loss of amenity;
3. Such other losses as may later be claimed by the Plaintiff;
4. Pre-judgment and post-judgment interest in accordance with the Judicature Law (as amended);
5. Costs; and,
6. Such further and other relief as this Honourable Court deems appropriate.

Dated the 29th of November 2005.



Appleby Spurling Hunter

APPLEBY SPURLING HUNTER

THIS WRIT and STATEMENT OF CLAIM was issued by Appleby Spurling Hunter of Clifton House, 75 Fort Street, P.O. Box 190 GT, Grand Cayman, Cayman Islands, Attorneys-at Law for the Plaintiff, whose address for service is that of her said attorneys (Ref. MM/CSJ/10589.001).

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁵⁴ OF 2005

B E T W E E N:

LAURA MONTESSA DIXON (A MINOR) BY HER NEXT
FRIENDS AND GUARDIANS AD LITEM NOEL WEBB

Plaintiff

AND

DARRY WRIGHT

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

Signed _____

Attorneys for Defendant

Address for service:

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.

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

Appleby Spurling Hunter
Attorneys-at-Law
Cliffon House
75 Fort Street
P. O. Box 190 GT
George Town
Grand Cayman
Ref. MM/CSJ/10589.001

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

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DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE OF WRIT OF SUMMONS

1. The accompanying form of Acknowledgement 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 495 GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 of "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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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 Acknowledgement 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.