

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 53 OF 2006
LEGAL AID CERTIFICATE NO. 72 OF 2005

BETWEEN:

MARY SUSAN BLAKEMAN

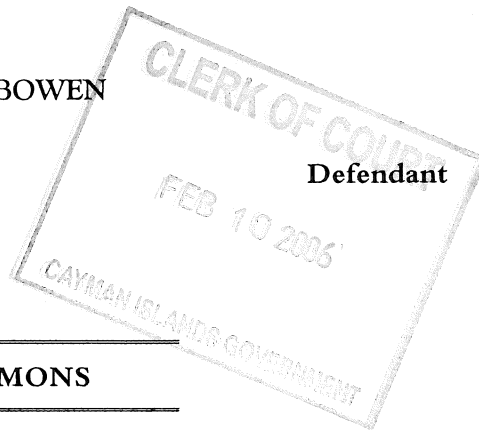
Plaintiff

AND

TODD OMAR BOWEN

Defendant

WRIT OF SUMMONS



TO: Mr. Todd Omar Bowen
C/O Quin & Hampson
3rd Floor Harbour Centre
North Church Street
PO Box 1348
George Town
Grand Cayman, 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, 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 day of February 2006

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 named herein is British Caymanian Insurance Co. Ltd.. The address for service is PO Box 74GT, BritCay House 236 Eastern Avenue, Grand Cayman, Cayman Islands.

STATEMENT OF CLAIM

- 1) The Plaintiff is an American citizen who at the time of the accident on the morning of 15 February 2003 was 44 years of age. The Plaintiff had recently moved to Grand Cayman, Cayman Islands to take up employment and at all times material to the accident was a resident of the Cayman Islands. The Plaintiff is currently resident in the United States of America and her address is 8 Rowell Road, Billerica, Massachusetts, USA 01862. Her address for service is in care of her attorneys, Appleby Spurling Hunter, P.O. Box 190 GT, George Town, Grand Cayman, Cayman Islands.

- 2) The Defendant is an individual who all materials times was resident in the Cayman Islands. His address for service is care of his attorneys Quin & Hampson. At times relevant to this proceeding the Defendant was the operator of a Black Honda Civic bearing vehicle registration No. 93083 which was owned by the Defendant's father.

- 3) On or about 15 February 2003 an accident occurred involving the Plaintiff and the Defendant the details of which are as set out below:
 - a) From approximately 12:00 a.m. to 1:00 a.m. the Plaintiff was walking northbound on West Bay Road along the westerly sidewalk. The Plaintiff walked northbound from the area of Coconut Joe's restaurant on West Bay Road to approximately the driveway of The Anchorage condominiums on West Bay Road and at all times used the sidewalk, where available, on the west side of West Bay Road;

- b) At approximately 1:00 a.m. the Plaintiff arrived at or about the driveway to The Anchorage condominiums on the west side of West Bay Road and intended to cross West Bay Road to make her way home to her residence on Marsh Road, which road intersects West Bay Road on the east side of West Bay Road;
- c) At approximately 1:00 a.m. the traffic on West Bay Road was light, it was a full moon with little to no clouds in the sky and there was good visibility at the relevant portion of West Bay Road;
- d) The Plaintiff was wearing light coloured clothing and was visible at all times material to the accident;
- e) At approximately 1:00 a.m. the Plaintiff was waiting at the westerly edge of West Bay Road and a Black Honda Civic vehicle driven by the Defendant was heading south along West Bay Road and crossed over the centre line of the road. The Defendant's vehicle struck the Plaintiff knocking her into the windscreen, shattering it and throwing or carrying the Plaintiff on the windscreen for some distance and then throwing her into the air and leaving her on the road;
- f) In the alternative to paragraph 3 e) above, the Plaintiff had left the westerly edge of the edge of West Bay Road and crossed the road to the point of the centre line only when the Black Honda Civic vehicle driven by the Defendant, which was heading south along West Bay Road, crossed over the centre line of the road and struck the Plaintiff;
- g) The Defendant did not swerve to avoid hitting the Plaintiff with his vehicle nor did he slow down to avoid hitting the Plaintiff;
- h) After striking the Plaintiff with his vehicle, the Defendant did not slow down or stop his vehicle at all to see if the Plaintiff was alive, did not check on the condition of the Plaintiff and did not offer assistance or call for help. Rather, the Defendant continued on his course

southerly along West Bay Road towards George Town and left the Plaintiff on the road for dead or with severe and life threatening injuries;

- i) The speed of the Defendant's vehicle on its impact with the Plaintiff was sufficient to knock the Plaintiff from her feet and throw or carry her approximately 100 feet from the initial point of impact;
 - j) The Plaintiff was utilising all due care and caution required of any pedestrian at the time of the accident and at all times was on the westerly side of West Bay Road and did not cross the centre line of the road, if at all, until left there by the Defendant after the accident; and,
 - k) The Defendant caused the accident and on or about 18 March 2004 was convicted of the criminal offence of leaving the scene of the accident.
- 4) 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 the Plaintiff's injuries and damage.

PARTICULARS OF NEGLIGENCE

- 5) The accident and the resulting injuries to the Plaintiff resulted from the Defendant's negligence in the operation of his motor vehicle, the particulars of which are as follows:
- a) The Defendant was travelling in excess of a safe speed given the road and visibility conditions on the night of the accident;
 - b) The Defendant was travelling in excess of the posted speed limit;

- c) The Defendant failed to keep his vehicle under proper control;
- d) The Defendant failed to exercise due care and skill or to keep a proper lookout in the operation of his vehicle;
- e) On the occasion in question the Defendant was an incompetent driver lacking any reasonable skill or self-command and ought not to have attempted to operate a vehicle;
- f) The Defendant failed to take reasonable care to avoid the accident, which he saw, or should have seen, was likely to happen;
- g) The Defendant failed to notice the pedestrian Plaintiff crossing the road;
- h) The Defendant failed to sound his horn or otherwise warn the Plaintiff of the approach of his vehicle;
- i) The Defendant failed to control his vehicle or attempt to swerve, brake, slow down or otherwise avoid striking the Plaintiff with his vehicle;
- j) The Defendant failed to stay in the southbound lane of West Bay Road and crossed over the centre line of the road to strike the Plaintiff;
- k) The Defendant failed to stop after the accident and determine the status of the Plaintiff's injuries or to report the accident to the Police at all; and,
- l) The Defendant was negligent in other ways as will be proven at the trial of this cause.

- 6) The fact 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*;
- 7) By reason of the Defendant's negligence the Plaintiff has suffered severe physical and psychological injuries and has suffered pain and suffering past and future losses and damages all of which the Defendant is responsible for at law and in equity.

PARTICULARS OF INJURIES

- 8) As a result of the accident, the Plaintiff suffered severe injuries which are summarised but not limited to as set out below:
 - a) Lacerations to the head, arms and chest;
 - b) Surgical fusion of her fractured neck;
 - c) Broken left leg and surgeries to repair same;
 - d) Fractured left ankle and surgeries to repair same;
 - e) Closed head injuries;
 - f) Severe headaches and dizziness;
 - g) Fracture of the left clavicle;
 - h) Strain/sprain of the cervical spine;
 - i) Two cracked ribs;
 - j) Difficulty sleeping;
 - k) Bladder dysfunction;
 - l) Fractured left knee with three surgeries and possible permanent internal derangement;
 - m) Nerve damage;
 - n) Lumbar and shoulder dysfunction;
 - o) Torn rotator cuff;
 - p) Aneurysm's in head and neck;
 - q) Left shoulder makes a "popping" sound;
 - r) Left pupil is larger than right pupil;

- s) Back Pain;
 - t) Limited ability to sit or stand for extended periods of time;
 - u) Numbness in pointer finger, thumb, left elbow, upper left thigh, left calf and left ankle;
 - v) Shooting pains in left elbow and left shoulder;
 - w) Sexual side effects; and,
 - x) Anxiety and depression.
- 9) Prior to the accident the Plaintiff was healthy with no history of significant or unmanageable injury, pain or suffering. As a result of the severe injuries sustained in the accident, the Plaintiff has undergone and will continue to undergo expensive, invasive and painful surgeries, treatment and rehabilitation.
- 10) The Plaintiff continues to suffer from the effects of the injuries sustained in the accident and will require painful and ongoing surgical corrections, treatment and therapy in the future.
- 11) At the time of the accident, the Plaintiff was 44 years of age (date of birth 25 December 1958). She enjoyed excellent health and lived an active athletic life, and enjoyed a full and busy social life. As a result of the negligence of the Defendant, the Plaintiff has suffered past and will suffer future damages and losses as follows:
- a) loss of income and future loss of income;
 - b) loss of professional opportunity;
 - c) special damages for medical care and other expenses arising from the accident and her injuries;
 - d) general damages for pain, suffering and loss of amenities;
 - e) losses for paid and unpaid assistance;
 - f) prejudgment and post-judgment interest in accordance with the *Judicature Law (2002 Revision)* and
 - g) such other loss as may later be claimed or set out in the Statement of Claim

- 12) The Plaintiff will provide specific details of the claim for special damages prior to trial.
- 13) As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

AND THE PLAINTIFF CLAIMS

- A. Loss of income and future loss of income;
- B. Loss of professional opportunity;
- C. Special damages for medical care and other expenses arising from the accident and her injuries;
- D. General damages for pain, suffering and loss of amenities;
- E. Losses for paid and unpaid assistance;
- F. Pre-judgment post-judgment interest in accordance with the *Judicature Law (2002 Revision)*;
- G. Such other loss as may later be claimed;
- H. Costs on behalf of the Legal Aid Fund; and,
- I. Such Further and Other relief as this Honourable Court deems appropriate.

Dated the 10th day of February 2006

Appleby Spurling Hunter
APPLEBY SPURLING HUNTER
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court

AND TO: Mr. Todd Omar Bowen
C/O Quin & Hampson
3rd Floor Harbour Centre
North Church Street
PO Box 1348

George Town
Grand Cayman, Cayman Islands

Filed by Appleby Spurling Hunter Attorneys-at-Law for the Plaintiff whose address for service is 75 Fort Street, PO Bo 190 GT, George Town, Grand Cayman, Cayman Islands B.W.I.

**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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 53 OF 2006
LEGAL AID CERTIFICATE NO. 72 OF 2005

B E T W E E N:

MARY SUSAN BLAKEMAN

Plaintiff

AND

TODD OMAR BOWEN

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 fully 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

Service of the Writ is acknowledged accordingly

Quin & Hampson
Attorneys for Defendant

Address for service:

3rd Floor Harbour Centre
North Church Street
PO Box 1348
George Town
Grand Cayman, Cayman Islands

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.

Appleby Spurling Hunter
Attorneys-at-Law
Clifton House
75 Fort Street
P.O. Box 190 GT
George Town
Grand Cayman
Ref: [09656.001]

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