

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. **441** OF 2006

BETWEEN:

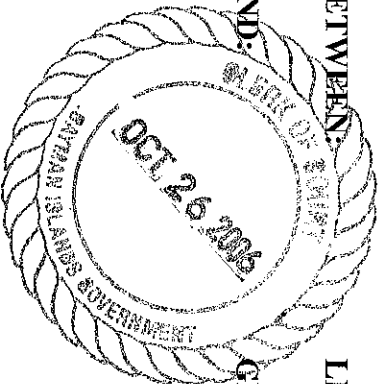
LISA ANN PARSONS

PLAINTIFF

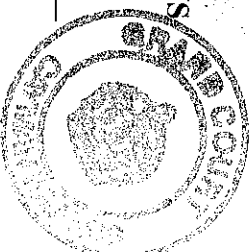
AND:

GERALD OSCAR PARSONS

DEFENDANT



WRIT OF SUMMONS



TO: **GERALD OSCAR PARSONS**

c/o Andy's Auto Sales & Service  
18 Josephs Drive / Fountain Road  
West Bay  
PO Box 127  
Grand Cayman KY1-1401  
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, Grand Cayman KY1-1106, Cayman Islands, 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 26<sup>th</sup> day of October 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 Acknowledgment of Service are given with the accompanying form.

### STATEMENT OF CLAIM

1. At all material times, the Defendant was the driver of a Chevrolet Cavalier, registration number 57596 (“the Vehicle”).
2. The Defendant’s employer, Andy’s Auto Sales and Service, was, at all material times, the owner of the Vehicle.
3. On Tuesday, 4<sup>th</sup> January 2005, at approximately 10:53 p.m., the Defendant was driving the Vehicle with the Plaintiff as a passenger.
4. The Plaintiff drove the Vehicle into Daisy Lane and stopped the Vehicle.
5. The Plaintiff and the Defendant both exited the Vehicle. The Plaintiff started to walk away from the Vehicle on the right side of the road in the direction towards Hell Road.
6. The Defendant returned to the Vehicle, drove in the direction of Hell Road, crossed over to the opposite side of the road and collided into the Plaintiff, knocking her down, into a barbed wire fence (“the Collision”).
7. The Collision was caused solely by the Defendant’s dangerous, alternatively reckless, alternatively, negligent driving, management and control of the Vehicle.

### PARTICULARS

The Defendant drove dangerously, alternatively was reckless, alternatively was negligent in that he:

- a) Drove in the direction of the Plaintiff knowing her to be there, alternatively not caring whether she was there or not, alternatively when he knew or ought to have known where she was in relation to the Vehicle.
- b) Failed to exercise due care and attention when using the road and to have due regard to the safety and comfort of other road users and the preservation of property, private and public.
- c) Failed to exercise all necessary caution in order to avoid the Collision;
- d) Failed to keep any or any proper look out.
- e) Failed to see the Plaintiff in time, or at all, to avoid the Collision;
- f) Failed to warn the Plaintiff of his intentions, thereby giving the Plaintiff an opportunity to avoid the Collision;
- g) Failed to comply with the signs and signals on the road.
- h) Failed to stop, swerve or otherwise maneuver the Vehicle in time to avoid the Collision.
- i) In all the circumstances, drove without due care and attention or other road users; more particularly the Plaintiff;

8. As a result of the Collision, the Plaintiff, who was born on 14<sup>th</sup> May 1968, suffered personal injuries, expense, loss and damage.

### PARTICULARS OF PERSONAL INJURIES

9. The Plaintiff suffered the following injuries:
  - i) fracture of her left tibia;
  - ii) fracture of her left elbow;
  - iii) bruising in her left breast;
  - iv) abrasion of the right breast;
  - v) hematoma in the left, frontal, temporal area;
  - vi) abrasion over upper abdomen;
  - vii) lower anterior abdomen bruising;
  - viii) laceration of left toe of the right foot ;
  - ix) minor abrasion to her right leg;
  - x) tenderness from her lateral thigh, from her hip to her knee and swelling in her knee;
  - xi) abrasion and bruising to both cheeks and nose
  - xii) anxiety and depression.
10. Following the Plaintiff's injuries as a result of the collision caused by the Defendant, the Plaintiff required surgical treatment for the insertion of three screws of the depressed comminuted lateral tibial condyle fracture. The Plaintiff's left elbow was placed in a cast.

11. The Plaintiff was discharged from hospital after approximately a week of surgical treatment, continuing her treatment at home and with medical professionals.
12. The Plaintiff was off work from 4<sup>th</sup> January 2005 to 11<sup>th</sup> April 2005.
13. As a result of her injuries, more specifically her unstable left knee, the Plaintiff, on or around 15<sup>th</sup> April 2005, slipped in the bathroom while at work which required medical attention. The Plaintiff was subsequently seen by Dr. Sekhar, who confirmed tenderness of the left knee and swelling.
14. The Plaintiff has required physical therapy as a result of the injuries suffered following the Collision caused by the Defendant and consequently has suffered financial loss. Further, the Plaintiff's home life, social life and parenting has been significantly affected by these injuries. Further and better particulars of the Plaintiff's injuries will be provided at trial.

#### **PARTICULARS OF SPECIAL DAMAGE**

17. The Plaintiff has incurred, and continues to incur, medical expenses, loss of income and legal costs as a result of the accident. The Plaintiff faces substantial future medical expenses, which are being assessed. Full particulars of the Plaintiff's damages and losses, which are continuing, will be provided prior to trial by means of a separate schedule.

#### **AND THE PLAINTIFF claims:**

- a) Special damages;
- b) General damages;

- c) Pre-judgment interest in accordance with section 34 of the Judicature Law (1995 Revision);
- d) Further and applicable other relief as this Honourable Court deems necessary; and
- e) Costs.

**STATEMENT REGARDING INSURER**

18. The Defendant was insured through his employer's vehicle insurance with Motor & General Insurance Co Ltd ("Motor & General") who have been notified of the claim. Motor & General refuse to enter into any correspondence.

**DATED** this 26 day of October 2006

**FILED** this 26 day of October 2006

  
**CAMPBELL**

Attorneys-at-Law for the Plaintiff

**THIS IS WRIT AND STATEMENT OF CLAIM** is filed by Campbells, Attorneys-at-Law for the Plaintiff whose address for service is 4<sup>th</sup> Floor Scotia Centre, George Town, Grand Cayman, Cayman Islands Tel: 949-2648 (Ref: JRM/BJH/sm/12644)

**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 495G, 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 (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**

## 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.

BETWEEN:

LISA ANN PARSONS

PLAINTIFF

AND:

GERALD OSCAR PARSONS

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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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  2. State whether the Defendant intends to contest the proceedings (tick appropriate box)
 

yes                       no

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  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
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Service of the Writ is acknowledged accordingly

(Signed).....  
Attorney for

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.

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

**CAMPBELLS**  
Attorneys-at-Law  
4<sup>th</sup> Floor Scotia Centre  
PO Box 488  
Grand Cayman KY1-1103  
CAYMAN ISLANDS  
(Ref: JRM/BJH/sm/13088)

Indorsement 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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