

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO. 314 OF 2007**

**BETWEEN: AMANDA MCLEAN PLAINTIFF**

**AND: (1) NEVILLE PASSARD FIRST DEFENDANT**

**(2) KARL THOMAS SECOND DEFENDANT**



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**WRIT OF SUMMONS**

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**TO: NEVILLE PASSARD  
47C FAIRLAWN ROAD (OFF FAIRBANKS ROAD)  
GEORGE TOWN  
GRAND CAYMAN  
CAYMAN ISLANDS**

**AND TO: KARL THOMAS  
6 SUSSEX CIRCLE  
PALM DALE (OFF CREWE ROAD)  
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, PO Box 495, Grand Cayman KY1-1106, Cayman Islands, the accompanying Acknowledgement of Service stating whether you intend to contest these proceedings.

If you fail to satisfy the claim or 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 26<sup>th</sup> day of July 2007.

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the court.

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**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form.

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## STATEMENT OF CLAIM

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1. At all material times the Plaintiff was a citizen of the Cayman Islands.
2. At all material times the Plaintiff was the owner and driver of Mitsubishi Lancer motor vehicle registration number 100 668 ("Plaintiff's vehicle").
3. At all material times the First Defendant was driving a Nissan Sunny motor vehicle registration number 65464 ("Defendant's vehicle").
4. At all material times the Second Defendant was the owner of the Defendant's vehicle.
5. On 30<sup>th</sup> July 2004 at approximately 6.50pm the Plaintiff was driving within the lawful speed in an easterly direction on Smith Road, George Town, Grand Cayman, in or about the vicinity of the entrance/exit of Tropical Plaza. The First Defendant, driving the Defendant's vehicle emerged suddenly and without warning from the exit of the Tropical Plaza into the path of the Plaintiff's correctly proceeding vehicle and in so doing collided with the Plaintiff's vehicle ("the Collision").
6. The Plaintiff had no opportunity to avoid the Collision.
7. At the time of the Collision it was normal daylight hours, the weather was clear, the road dry and visibility was good.
8. The Collision was caused as a result of negligence and/or breach of statutory duty of the First Defendant and/or the negligence of the First Defendant acting as servant/agent of the Second Defendant.

## PARTICULARS OF NEGLIGENCE

- (a) The First Defendant drove without due care and attention with regard to all the circumstances;
  - (b) The First Defendant failed to retain control of his motor vehicle at all times;
  - (c) The First Defendant drove too fast in all the circumstances;
  - (d) The First Defendant failed to apply his brakes in time or at all;
  - (e) The First Defendant failed to keep any or any proper lookout;
  - (f) The First Defendant failed to adequately or at all heed or act upon the presence or position of the Plaintiff's vehicle;
  - (g) The First Defendant failed to stop, slow down, swerve or otherwise manage to control his vehicle as to avoid the collision;
  - (h) The First Defendant failed to exercise the degree of skill and care to be expected of the average competent motorist in the circumstances;
  - (i) The First Defendant failed to take adequate care for the safety of the Plaintiff;
  - (j) The First Defendant failed to give way to the Plaintiff's correctly proceeding vehicle;
  - (k) The First Defendant exposed the Plaintiff to the foreseeable risk of injury.
9. By reason of the First Defendant's aforesaid negligence and breach of duty and/or the negligence of the First Defendant acting as servant or agent of the Second Defendant, the Plaintiff suffered personal injury, loss, damage and expense.

## PARTICULARS OF INJURY

The Plaintiff, who was born on 27<sup>th</sup> November 1980 was aged 22 at the time of the accident. The Plaintiff is a physical education teacher.

The Plaintiff suffered a soft tissue injury to the neck and lacerations to the mouth.

The Plaintiff reserves the right to obtain and serve updated medical evidence.

## PARTICULARS OF LOSSES AND EXPENSES

(a)	Pre-accident value of the Plaintiff's vehicle	-	CI\$16,500.00
(b)	Motor vehicle appraiser's report	-	CI\$130.00
(c)	Police report	-	CI\$75.00
(d)	Pro-rated premium	-	CI\$889.00
(e)	Towing fee	-	CI\$110.00
(f)	Loss of use Calculated at CI\$10.00 per day from the date of accident until 29 <sup>th</sup> September 2007.	-	CI\$620.00
(g)	Medical expenses	-	CI\$891.32


10. The Plaintiff claims interest at the prevailing statutory rate.

### **WHEREFOE THE PLAINTIFF claims:**

- (a) General damages;
- (b) Special damages;
- (c) Pre-Judgment interest in accordance with section 34 of the Judicature Law (1995 Revision)

- (d) Post-Judgment interest in accordance with section 34 of the Judicature Law (1995 Revision)
- (e) Further and/or other relief; and
- (f) Costs

Dated this 26<sup>th</sup> day of July 2007.

  
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**CAMPBELLS**  
**Attorneys at Law for the Plaintiff**

**ENDORSEMENT AS TO INSURER OF MOTOR VEHICLE**

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Defendants named herein is **Sagicor General Insurance (Cayman) Limited**, PO Box 2171, Harbour Place, 3<sup>rd</sup> Floor, 103 South Church Street, George Town, Grand Cayman KY1-1105, Cayman Islands.

**THIS STATEMENT OF CLAIM** was 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 Tel 949 2648 Fax: 949 8613 (Ref: STM/gh/14414)

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE**  
**OF WRIT OF SUMMONS**

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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 495, 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 installments or otherwise.

*See over for notes for guidance*

## NOTES FOR GUIDANCE

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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 his 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.



## 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  
P.O. Box 884  
Fourth Floor  
Scotia Centre  
George Town,  
Grand Cayman KY1-1103  
Cayman Islands  
Ref: STM/gh/14414

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