

IN THE GRAND COURT OF THE CAYMAN ISLANDS

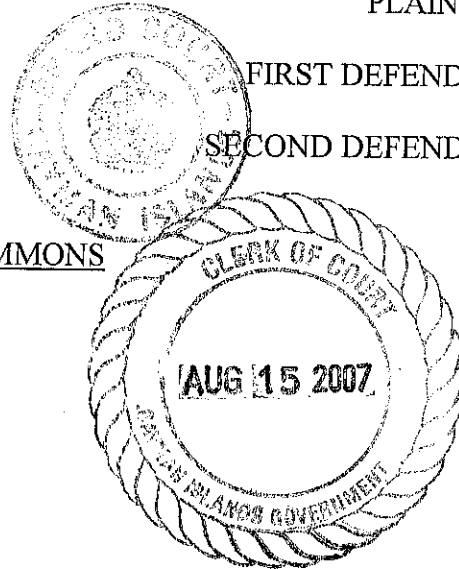
CAUSE NO. 357 OF 2007

BETWEEN: DANIEL CABALLERO PLAINTIFF  
AND: TEOTONIO PEREIRA FIRST DEFENDANT  
AND: KEISHA MCLEAN SECOND DEFENDANT

WRIT OF SUMMONS

TO: **MR. TEOTONIO PEREIRA**  
18 Mayfair Road, Windsor Park  
Walker's Road, Grand Cayman

AND TO: **KEISHA MCLEAN**  
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 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 14<sup>th</sup> day of August, 2007

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.

**STATEMENT OF CLAIM**

1. The Plaintiff was at all material times a bicyclist and the First Defendant was at all material times the driver of a 1993 Toyota Carolla Sedan, Registration No. 103111. The Second Defendant was at all material time the lawful owner of the said 1993 Toyota Carolla motor car.
2. On or around 27<sup>th</sup>, August 2006, at about 7:00 a.m. the Plaintiff was riding his bicycle along North Church Street in the vicinity of the 7-11 convenience store in George Town, Grand Cayman. The Plaintiff who lives at 61 Mary Street, George Town was riding on the correct left hand side of the road going in a northerly direction towards West Bay Road. He was on his way to work on West Bay Road.
3. Suddenly and without warning, the First Defendant drove the said 1993 Toyota Carolla into the Plaintiff and hit him from behind causing him to fall off his bicycle. The Plaintiff sustained severe injuries including injury to his right eye requiring stitches, broken or fractured left leg, deep laceration below left knee, laceration under right elbow, cut to the right side of his head about 4 inches long to which he received stitches, and injury to right lower rib. He suffered a lot of pain in neck, back, shoulders, legs, ankle and all over his body as a result of the said accident. His bicycle was a total wreck and was beyond repair and the Plaintiff has suffered loss and damages.
4. The Plaintiff who was born on 21<sup>st</sup> July 1952 was 54 years old at the time of the accident. He was taken by ambulance to the Cayman Islands Health Services Authority (the George Town Hospital) where he remained unconscious for quite some time. He was admitted to the hospital for 3 days.

5. Observations at the George Town Hospital shows that his heart appeared large due to poor inspiration and there was evidence of a small left pleural fluid collection consistent with haemothorax. Eye surgery was performed by Dr. Doniela Salinas of the Nevno Ciencias Images Medical Eye Institute in Honduras. Despite surgery, the Plaintiff has not healed satisfactorily and he is still undergoing treatment by the ophthalmologist due to an orbital floor fracture.
6. The Plaintiff is a civil servant with the Department of Mosquito Research and Control Unit. His salary at the time of the accident was CUS\$2,400.00 per month. He was unable to work for a total period of 5 months after the accident. He was not quite ready to return to work but felt compelled to do so as his salary would be cut by 50% if he continued to be off work for any further period. Although the Plaintiff returned to work on 8<sup>th</sup> February, 2007, he is very limited in his activities due to pain especially in his head, back and right eye.
7. The Plaintiff is married and is the biological father of 3 children and is responsible for his three step-children. He also has a total of 17 grand children. His youngest child is 6 years old and he has not been able to play with her and pick her up as he did before the accident. After returning home from the hospital the Plaintiff hired the services of a care-giver as he was unable to take care of himself. He is no longer able to perform his job as he did prior to the accident. He is limited in his daily activities. He walks with a limp and is scarred for life. His life will never be the same again.
8. Prior to the accident the Plaintiff enjoyed a fairly healthy life style. After the accident he has had many nightmares. He feels very afraid whenever he has to ride his bicycle on the road.

9. As a result of the First Defendant's negligence, the Plaintiff has suffered pain and suffering loss and damages. The said accident was caused by the negligence of the First Defendant and the Second Defendant.

**PARTICULARS OF INJURIES**

10. The First Defendant was negligent in that he:-
- (a) drove too fast in all the circumstances without due care and attention;
  - (b) failed to keep any or proper look out for other users of the road.
  - (c) Failed to apply his brakes and/or operated the vehicle when he knew or ought to have known that the brakes were defective and/or the vehicle was not road worthy.
  - (d) failed to stop, slow down, steer or otherwise control his motor car so as to avoid hitting the Plaintiff.
11. The Second Defendant was negligent in that she allowed the First Defendant to operate her vehicle when she knew or ought to have known that the vehicle was not in a road worthy condition.
12. As a result of the First and Second Defendant's negligence the Plaintiff has suffered loss and injuries. The Plaintiff will rely on medical evidence including report from Dr. Caroline Quartly at trial.
13. The First Defendant has been charged with dangerous driving and is scheduled to appear before the Summary Court on 22<sup>nd</sup> August, 2007. The Plaintiff will rely on any conviction of the First Defendant at trial.

**PARTICULARS OF INJURIES**

- (a) Severe injury to right eye which necessitated surgery
- (b) Deep laceration to right eye lid and right eye brow
- (c) Shock, pain and suffering
- (b) Broken or fractured right leg
- (c) Deep lacerations to head and laceration above knee
- (d) Broken and/or fractured ribs
- (f) Permanent scarring to his face, hands and legs

**PARTICULARS OF DAMAGES**

Special Damages

- (a) Medical expenses as at CI\$
- (b) Traveling expenses to and from doctors and physiotherapy CI\$
- (c) Cost of care giver for the first 2 weeks of injury CI\$
- (d) Loss of earnings from 27<sup>th</sup> August, 2006 to 8 February, 2007  
(6 <sup>3</sup>/<sub>4</sub> months x \$2,400.00 per month = \$16,200) CI\$
- (e) Cost to replace bicycle CI\$

Future Loss of Earnings

14. The Plaintiff claims interest pursuant to The Judicature Law.

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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.

\_\_\_\_\_

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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 on the \_\_\_\_\_ day of \_\_\_\_\_, 2007

\_\_\_\_\_  
Defendant or his Attorney

**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.

Facey-Clarke & Associates  
Unit 119, Ground Floor, Elizabethan Square  
P.O. Box 2545, KY1-1104  
Grand Cayman, Cayman Islands

Tel: 345 946-8111

Fax: 345 946-8141

Email: [mclarke@candw.ky](mailto:mclarke@candw.ky)

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