

IN THE GRAND COURT OF THE CAYMAN ISLANDS

595  
CAUSE NO. OF 2007

BETWEEN:

ANGELA MCINTOSH-HALL

PLAINTIFF

AND: DAVID SPENCER ALLOTT  
AKA DAVID ALCOTT

1<sup>ST</sup> DEFENDANT

AND: WESTEL LTD.

2<sup>ND</sup> DEFENDANT

WRIT OF SUMMONS

TO: DAVID SPENCER ALLOTT aka DAVID ALCOTT  
C/O WESTEL LTD  
GRAND CAYMAN

AND TO: WESTEL LTD.  
GOVERNORS PLAZA  
WESTBAY, GRAND CAYMAN

AND TO: BARBADOS FIRE AND GENERAL INSURANCE  
DEREK BOGLE & ASSOCIATES  
PASADORA PLACE, SMITH ROAD  
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. 495 G.T., George Town, Grand Cayman, 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 28<sup>th</sup> day of Nov. 2007

NOTE - This Writ may not be served later than 4 calendar months (*or, if leave is required to effect service out 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. The Plaintiff at all relevant times was a Sous Chef employed in the preparation and sale of food and driver of Toyota Corona ("Toyota Corona") registration number 92910 residing at 93 Mockingbird Crescent, Grand Cayman.
2. The First Defendant at all relevant times was the driver of Astro Chevrolet ("Chevy Astro") registration no. 97607 and an employee of Westel Ltd. who lived at #124 Britannia Condos. The First Defendant in the driving of the said motor vehicle was at all material times the servant and/or agent of the Second Defendant.
3. The Second Defendant at all relevant times was an incorporated entity engaged in cable television business in the Cayman Islands and employer of the First Defendant and owner of the Astro Chevrolet registration no. 97607. The Second Defendant is vicariously liable for the actions of the First Defendant at the material time.
4. At around 12:25pm on the 29<sup>th</sup> November, 2004 the Plaintiff was lawfully driving the Toyota Corona along South Street toward South Sound in the left lane of the highway going in that direction. On reaching the vicinity of Glen Eden Road the First Defendant drove the Chevy Astro out of Glen Eden Road into the path of the Plaintiff causing a collision and causing the Toyota Corona to hit a utility pole.
5. The accident was caused by the negligence of the First Defendant. As a result of the said accident the First Defendant was charged with Careless Driving and on

the 2<sup>nd</sup> of November, 2005 he was convicted on his own plea before the Summary Court of the Cayman Islands.

### PARTICULARS OF NEGLIGENCE

- (i) Failing to keep any or any proper look out;
  - (ii) Driving too fast in the circumstances;
  - (iii) Leaving a side road and entering a main carriageway without ensuring that the road was clear;
  - (iv) Failing to steer or control the Chevy Astro or to apply brakes adequately or at all so as to avoid colliding with the Plaintiff's Toyota Corona;
  - (v) Failing to stop at the entrance of a main carriageway or to take any or any adequate care for the safety of the Plaintiff;
  - (vi) Failing to see the Plaintiff's Toyota Corona in time or at all and thereby driving into its path causing the collision.
6. By reason of the negligence of the First Defendant, the Plaintiff suffered pain, injury, loss and damage.

### PARTICULARS OF INJURY TO THE PLAINTIFF

- (a) The Plaintiff suffered multiple superficial abrasions and lacerations to the right elbow, dorsum of right forearm, right knee and a hematoma on the forehead and most significantly a right acetabular fracture (fracture to right hip). She was hospitalized and the right acetabular fracture was treated by surgically intervention under general anesthesia at the George Town Hospital. The fractured fragments was replaced and fixed with two screws.

PARTICULARS OF SPECIAL DAMAGE

6. (f) The Plaintiff has incurred medical and related expenses in excess of \$10,000.00 and continuing;
- (g) Loss of earnings from November 29<sup>th</sup>, 2004 to March 30, 2005 (full) loss of C\$14,110.00 and at 50% loss from April to end of June 2005 of \$5,395.00;
- (h) Loss of Toyota Corona valued at \$1,500.00.
- (i) Costs for home caregiver in the sum of \$920.00

The Special Damages are continuing.

The Plaintiff will also claim loss of future earnings/earning capacity/handicap in her area of expertise/skill as well as future medical and other expenses.

In the premises the Plaintiff claims against the Defendants or one or the other of them:

1. Damages;
2. Pre and Post Judgment interest pursuant to the Judicature Law and the Grand Court Rules.
3. Costs
4. Such Further and/or other relief as may be just.

  
\_\_\_\_\_  
McKinney Reid & Company  
ATTORNEYS FOR THE PLAINTIFF

TO: THE CLERK OF THE COURT

AND TO: DAVID SPENCER ALLOTT AKA DAVID ALCOTT  
C/O WESTEL LTD.  
GRAND CAYMAN

AND TO: WESTEL LTD.  
GRAND CAYMAN  
CAYMAN ISLANDS

This Statement of Claim is filed by McKinney Reid and Company, Attorneys-At-Law, 201 Elizabethan Square,  
P.O. Box 1573 G.T., George Town, Grand Cayman, B.W.I.

*This Writ is filed by McKinney Reid & Company, Attorneys-at-Law for and on behalf of the Plaintiff, whose address for service is 201 Elizabethan Square, Shedden Road, George Town, Grand Cayman, Cayman Islands, B.W.I.*

FORM 2

Acknowledgment of Service (Rule.11)

DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE

*IF YOU INTEND TO INSTRUCT AN ATTORNEY TO ACT FOR YOU GIVE HIM THIS FORM IMMEDIATELY*

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.
2. After completion it must be signed by the Defendant and his attorney (if any) and must be delivered or sent by post to the Law Courts, P.O. Box 495 G.T., George Town, Grand Cayman.
3. The Acknowledgment of Service must be filed at court and served on the attorney for the Plaintiff (or on the Plaintiff if acting in person) within fourteen days service of the Writ of Summons.
4. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve an Answer on the attorney for the Plaintiff (or on the Plaintiff if acting in person) within fourteen days after service of the Writ of Summons.
- 4) In case of Writ of Summons is served outside the Cayman Islands the periods within which the Respondent must file an Acknowledgment of Service and any Answer are extended by fourteen days.

Please complete overleaf

NOTE: Notice of your intention to defend may be given by:

- a) an endorsement on the Acknowledgment of Service.
- b) by notice of such intention lodged in the Registry within fourteen days of the service of this Writ of Summons, or
- c) at any time by leave of the Court prior to the date fixed for trial.

The following person must be served:-

The Defendant

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 575 OF 2007

BETWEEN:

ANGELA MCINTOSH-HALL

PLAINTIFF

AND: DAVID SPENCER ALLOTT  
AKA DAVID ALCOTT

1<sup>ST</sup> DEFENDANT

AND: WESTEL LTD.

2<sup>ND</sup> DEFENDANT

ACKNOWLEDGMENT OF SERVICE

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

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1) Have you received the Writ of Summons?

Yes

No

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2) On what date did you receive it?

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3) Are you the person named as the Plaintiff in the Writ of Summons?

Yes

No

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4) Do you intend to defend the case?

[ ] Yes

[ ] No

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Service of the Writ of Summons is acknowledged accordingly

Dated: \_\_\_\_\_

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Defendant

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Defendant's Attorney

**Notes on address for service**

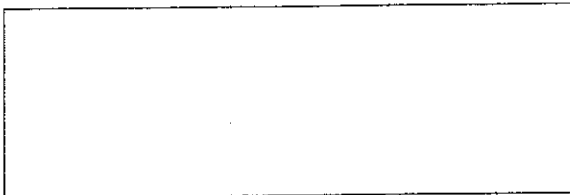
*Attorney:* where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

*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.

Indorsement by the Plaintiff's attorney (or by the Plaintiff if suing in person) of his name and address in the box below.

McKinney Reid and Company Attorneys-At-Law 201 Elizabethan Square P.O. Box 1573 G.T. George Town Grand Cayman
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Indorsement by Defendant's attorney (or by the Defendant if acting in person) of his name and address in the box below

A large, empty rectangular box with a thin black border, intended for the indorsement of the defendant's name and address.