

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 90067 OF 2008

BETWEEN GLENDA DUARTE-MCGOWAN  
AND HORACE SINCLAIR  
AND CINDY SINCLAIR

1<sup>st</sup> PLAINTIFF  
2<sup>nd</sup> DEFENDANT

WRIT OF SUMMONS

TO: HORACE SINCLAIR  
208 SHEDDEN ROAD  
GEORGE TOWN  
GRAND CAYMAN

CINDY SINCLAIR  
208 SHEDDEN ROAD  
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 14 days after 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 495G, 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 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 judgement may be entered against you forthwith without further notice.*

Issued this 26<sup>th</sup> day of May 2008

**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.

**ENDORSEMENT**

The Plaintiff claims against the Defendants to recover damages for personal injuries in that on or about the 25<sup>th</sup> day of April 2007 the Second Named Defendant so negligently drove and operated the First Defendants motor car, being Ford Explorer motor vehicle licensed Q1869 along Shedden Road in George Town, Grand Cayman that she caused the same to violently collide with the Toyota Town Ace motor vehicle licensed 104 135 being driven by the Plaintiff and travelling along the said road and thereby occasioned loss and injury to the Plaintiff.

***AND THE PLAINTIFF CLAIMS:***

1. Damages;
2. Interest pursuant to the Judicature Law;
3. Costs.

Dated this 24<sup>th</sup> day of May 2008

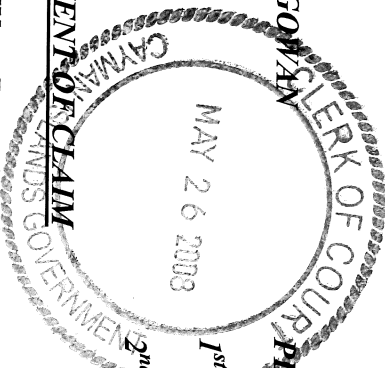


Murray & Westerborg  
Plaintiff's Attorneys-at-Law

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 0257 OF 2008

BETWEEN GLENDA DUARTE-MCGOWAN  
AND HORACE SINCLAIR  
AND CANDY SINCLAIR  
PLAINTIFF  
1<sup>st</sup> DEFENDANT  
2<sup>nd</sup> DEFENDANT



STATEMENT OF CLAIM

1. The Plaintiff, a resident of West Bay, Grand Cayman, is employed as an Accounting Clerk with Financial Integrated Services Limited and was at all material times the operator of Toyota Town Ace motor vehicle licensed 104 135 owned by her said employers and being used in connection with her said employment.
2. The First Defendant was at all material times the owner of Ford Explorer motor vehicle licensed Q1869.
3. The Second Defendant was at all material times the wife of the First Defendant and the driver of the said Ford Explorer motor vehicle licensed Q1869 owned by the First Defendant with whose authority and consent the First Defendant drove the motor vehicle, or alternatively she did so in her own behalf.
4. On or about the 25<sup>th</sup> day of May 2007 the Plaintiff was the driver of her employers aforesaid vehicle in an easterly direction along Shedden Road, George Town, Grand Cayman when on reaching the vicinity of the Texaco Gas Station on the said Shedden Road she stopped the said vehicle with its right indicator on awaiting a break in the oncoming traffic from the opposite direction to turn into the said gas station when the Second Defendant so negligently drove, managed and controlled the First Defendants said Ford Explorer along the said Shedden Road in an easterly direction and thereby caused or permitted the same to violently collide with the Toyota Town Ace motor vehicle being driven by the Plaintiff.
5. That the cause of the said accident was the negligent driving of the First Defendant's vehicle by the Second Defendant.

Particulars of Negligence

- (a) Driving at an excessive speed in all the circumstances;

- (b) Failing to keep any or any proper look-out or to have any or any sufficient regard for other traffic on the said road;
- (c) Failing to have or to keep any or any proper control of the said motor-vehicle;
- (d) Colliding into the rear of the vehicle being driven by the Plaintiff;
- (e) Failing to stop, to slow down, to swerve or in any other way so to manage or control the said motorcar as to avoid the said collision.

6. Further, the Defendants insurers settled the damage caused to the said Toyota Town Ace vehicle with the Plaintiff's aforesaid employers and the said settlement is relevant to the issue of negligence and the Plaintiff intends to rely thereon as evidence in this action.

7. By reason of the matters aforesaid, the Plaintiff sustained severe injuries and has suffered loss and damage.

Particulars of Injuries

- (a) Central cervical tenderness;
- (b) Fifty percent (50%) mobility restriction of C-spine in all directions;
- (c) C4-C6 Facet Sprain ("Whiplash" Injury);

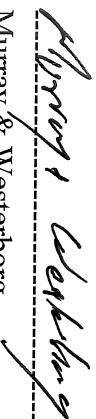
Particulars of Special Damages

i) Medical Costs (Continuing)	CI\$2,829.90
ii) Cost of Traffic Accident Report	CI\$ 75.00
iii) Cost of Interim Medical Reports	CI\$ 270.00
	<u>CI\$3,174.90</u>

**AND THE PLAINTIFF CLAIMS:**

- 1. Damages
- 2. Interest pursuant to the Judicature Law
- 3. Costs.

Dated the 24<sup>th</sup> day of May 2008

  
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Murray & Westerborg  
Plaintiff's Attorneys-at-Law

Acknowledgment of service of writ of summons (O.12, r.3)

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*

*Please complete overleaf*

## 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.

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

**CAUSE NO.                      OF 2008**

**BETWEEN      GLENDA DUARTE-McGOWAN                      PLAINTIFF**  
**AND              HORACE SINCLAIR    1<sup>st</sup> DEFENDANT**  
**AND              CINDY SINCLAIR    2<sup>nd</sup> DEFENDANT**

**ACKNOWLEDGEMENT 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                      Delay may result in judgement being  
directions and notes for guidance                      entered against a Defendant whereby he  
carefully before completing this form.                      May have to pay the costs of applying to  
If any information required is omitted                      set it aside.  
Or given wrongly, **THIS FORM MAY**  
**HAVE TO BE RETURNED.**

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

2. State whether the Defendant intends to contest the proceedings (tick the 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 judgement entered by the Plaintiff (tick box).

yes

Service of the Writ is acknowledged accordingly

(Signed).....  
[Attorney] for  
[Defendant in person]  
Address for service:

*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 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 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:*

MURRAY & WESTERBORG  
Attorneys-at-Law  
Second Floor (East Wing)  
FIS Building  
196 Sheddin Road  
George Town  
Grand Cayman

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