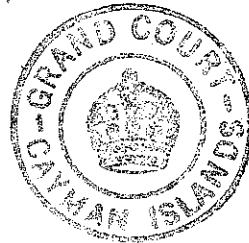
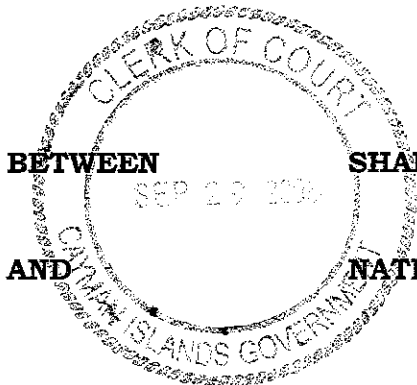


IN THE GRAND COURT OF THE CAYMAN ISLANDS



158

CAUSE NO: OF 2008



**BETWEEN** SHARMEE McFIELD  
**AND** NATIONAL CEMENT

**PLAINTIFF**  
**DEFENDANT**

**WRIT OF SUMMONS**

**TO: NATIONAL CEMENT**  
**Box 30649**  
**SEYMOUR DRIVE**  
**GEORGE TOWN**

**AND: BRITISH CAYMANIAN INSURANCE**  
**Po Box 74 GT**  
**BRITCAY HOUSE**  
**EASTERN AVENUE**  
**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. Box 495G, 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 29 day of September 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 Acknowledgment of Service are given with the accompanying form.

### **STATEMENT OF CLAIM**

1. The Plaintiff is a citizen of the Cayman islands and resides at 26 Anguilla Drive, Northward, Grand Cayman.
2. The Defendant was at the time of the accident a company registered under the laws of the Cayman Islands and was the owner of a vehicle driven in the course of his employment by a Mr Frankfort Scott. The vehicle was a Chevy Tahoe registration number 66400.
3. On the 4<sup>th</sup> October 2006 at approximately 5.30 p.m. the Plaintiff was driving along Smith Road heading in the direction of Red Bay, away from George Town. Upon reaching the intersection of Crewe Road and Smith Road, the Defendant's vehicle, driven by Mr Frankfort Scott made a right turn across the Plaintiff's vehicle at this intersection. The two vehicles were traveling in the opposite direction. The Plaintiff and the Defendant collided in the lane that the Plaintiff was established in.
4. The Plaintiff went to hospital due to the injuries sustained.
5. The collision occurred due to the negligence of the Defendant his servants or agents in and about the care, management, driving and control of his motor vehicle on the 4<sup>th</sup> October 2006.
6. Particulars of Negligence
  - (a) Driving too fast in the circumstances
  - (b) Failing to keep any or a proper look out
  - (c) Driving without due care and attention
  - (d) Failing to avoid a collision
  - (e) Failing to stop, swerve or otherwise manoeuvre the vehicle in time to avoid a collision.

7. As a result of the Defendant's negligence, the Plaintiff has suffered personal injuries, loss and damage.

8. Particulars of Personal Injury

### **Injuries**

(a) Fracture of the posterior aspect of the tibial plateau alongside a small non-displaced avulsion fracture of the patella.

(b) Disruption of the Anterior Cruciate Ligament

(c) Soft tissue injuries to neck

### **Treatment**

9. The Plaintiff received extensive physiotherapy as set out in the report of Cayman Rehab Services and continues to receive such treatment.

10. The Plaintiff received Surgery performed by Dr Ogilvie for an arthroscopic ACL repair and debridement of the joint on the 27<sup>th</sup> September 2007.

### **Prognosis**

11. The Plaintiff may experience some mild degenerative changes in the future to the knee resulting in avoidance of some recreational activities and as well as possible avoidance of activities of daily living particularly prolonged standing or repetitive flexion.

12. The use of anti-inflammatory medication and physiotherapy will be necessary.

### **Particulars of Special Damage**

#### **Medical expenses**

13. Cayman Orthopaedic Group	\$214
George Town Hospital	\$6,175.21
Medical expenses are on-going.	

#### **Physiotherapy**

Cost of physiotherapy to May 2008	\$4,100
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Cost of physio in future:

Taken at 12 months physiotherapy @ 2 visits per week

52 x 2 x \$105

\$10,920

**Traffic Accident Report**

\$75

**AND THE PLAINTIFF claims:**

1. General damages for pain and suffering and special damages to be assessed.
2. Interest in accordance with the Judicature Law (2007 Revision)
3. Costs
4. Such further and other relief as this Court may deem just

STATEMENT REGARDING INSURER

The Defendant was insured by British Caymanian Insurance

*Samson & McGrath*

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**Samson & McGrath**

**Attorneys for the Plaintiff**

THIS WRIT was issued by Samson & McGrath, Attorneys for the Plaintiff whose address for service is 5<sup>th</sup> Floor Genesis Building, Genesis Close, P.O. Box 446 GT, George Town, Grand Cayman

*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.



**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.

Samson & McGrath Attorneys at Law 3 <sup>rd</sup> Floor Genesis Building Genesis Close PO Box 446 George Town Grand Cayman
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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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