

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 0514 OF 2008

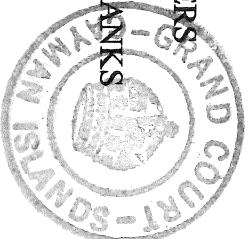
BETWEEN: DENISE C. MYERS

PLAINTIFF

AND: JAMES

EBANKS

DEFENDANT



WRIT OF SUMMONS

To: The Defendant  
James Ebanks  
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 (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 495, Grand Cayman, KY1-1106, Cayman Islands, 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 of Service 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 31<sup>st</sup> day of October, 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.

**ENDORSEMENT**

The Plaintiff's claim against the Defendant is to recover damages for loss and personal injuries sustained by the Plaintiff due to the negligent driving of the Defendant on or about November 3, 2005 along the round-about on Huldah Boddan Way in the vicinity of Cayman Business Park and which said negligent driving caused the Defendant's 1997 Ford cargo truck registration #87-696 to collide into the Plaintiff's Honda CRV motor car registration #100-200.

The Plaintiff also claims against the Defendant, interest on any amount recovered by way of damages and the costs of and incidental to these proceedings.

**DATED this 31st day of October, 2008.**



Morris M Garcia

Attorneys-at-law for the  
Plaintiff

Filed by Morris M Garcia, attorney-at-law for and on behalf of the Plaintiff whose address for service is that of her said attorneys of Suite #2, Newlaw Building, 180 Shedden Road, George Town, Grand Cayman, KY1-1501, Cayman Islands, British West Indies.

**ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO.                      OF 2008

BETWEEN:                      DENISE C. MYERS                      PLAINTIFF

AND:                              JAMES                      EBANKS                      DEFENDANT

**ACKNOWLEDGMENT OF SERVICE OF THE WRIT OF SUMMONS**

If you intend to instruct an attorney to act for you, give him/her this from  
**IMMEDIATELY.**

Important: Read the accompanying directions and notes for guidance carefully before completing this form. If given wrongly, this form may have to be returned. Delay may result in the Plaintiff obtaining judgment whereby the Defendant may have to pay the cost 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.

---

2. State whether the Defendant intends to contest the proceedings ( tick appropriate box.        -----yes                      -----no.

---

3. If the claim against the Defendant is for a debt or liquidated sum, 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

---

**Service of the Writ is acknowledged accordingly**

**(Signed)** \_\_\_\_\_

**( Attorney ) for:**

**( Defendant in person )**

**Address for service:**

Note 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 the 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 acting in person ) of his name and address in the box below.

Morris M Garcia  
P.O.Box 253, Grand Cayman KY1-1501  
Cayman Islands

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

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 495, George Town, Grand Cayman.

2. A defendant who states in his Acknowledgement of Service that he intends to contest the proceedings must also serve a defence on the attorney for the plaintiff ( or on the plaintiff acting in person).

If a Statement of Claim is endorsed on the Writ ( ie. 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 a Statement of Claim is not endorsed 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 ( ie 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 affidavit of his means. The affidavit should state any offer which the defendant desires to make for the 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 a 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. 514 OF 2008

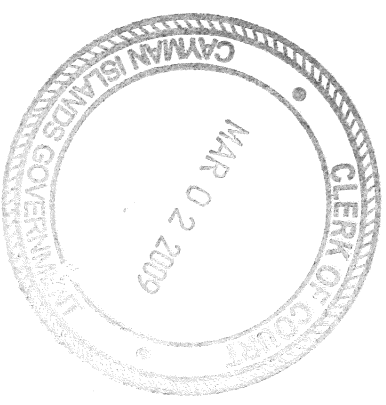
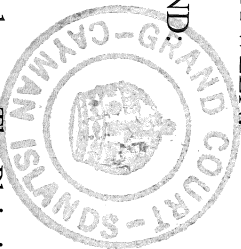
BETWEEN: DENISE MYERS PLAINTIFF  
AND: JAMES EBANKS DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff resides in Savannah, Grand Cayman.
2. The Defendant lives in Grand Cayman.
3. On or about November 3, 2005 the plaintiff was driving her Honda CRV motor car, registration # 100-200 along the roundabout on Huldah Boddan Way in the vicinity of Cayman Business Park in George Town, Grand Cayman.
4. On the same date and around the same time, the defendant was driving a cargo truck, registration # 87-696 along the said roundabout.
5. The defendant's cargo truck collided into the back of the Honda motor vehicle driven by the plaintiff.
6. The defendant's negligence was the sole cause of the collision described above.

PARTICULARS OF NEGLIGENCE

- (a) The defendant failed to discharge his duty of care towards other vehicles travelling on the same public road as he was and in particular his duty of care towards the plaintiff.
- (b) The defendant failed to discharge his duty to drive in such a manner as to have full control of his vehicle at all times.
- (c) The defendant failed to keep any or any proper look out.
- (d) The defendant failed in his duty to observe and watch for oncoming traffic.
- (e) The defendant failed his duty to stop, slow down or swerve or on any way to manage his said vehicle so as to avoid colliding with the plaintiff's motor vehicle.
- (f) The defendant failed to see the defendant's vehicle in sufficient time to avoid the collision or at all.
- (g) The defendant was using excessive speed.



7. By reason of the negligence/breach of duty of care/statute by the defendant, the plaintiff has suffered severe personal injuries, has endured much pain and suffering and has suffered damages and loss.

### PARTICULARS OF INJURIES

- i) The Plaintiff, who is 41 years old, has, as a result of the accident received disc herniation at the 4-5, 5-6 and 6-7 vertebrae with much acute pain in the neck, shoulder, back, arms, elbow and hands. The persistent pains have led to MRI and other evaluations.
- ii) The plaintiff has seen numerous orthopaedic and other specialists/consultants both in Cayman and overseas.
- iii) The plaintiff has been assessed with an overall permanent physical impairment of 18%, with her cervical spine mobility limited by 1/4 of normal range in all directions and the right shoulder girdle mobility limited by 1/4 of normal abduction/rotation.
- iv) The plaintiff will rely upon medical evidence to detail the full extent of her injuries and the prognosis for her future.
- v) By reason of such injuries, the plaintiff's personal and social life has changed completely. It has affected her ability to drive, carry shopping bags or perform household chores. Sleeping has become increasingly difficult, buying different pillows and turning from side to side to find the best sleeping position and angle. At times, she gets tingling sensations in the hands and numbness in both index fingers making it difficult to use her computer which is required at work.
- vi) The plaintiff continues to suffer from these injuries and is been placed on anti-inflammatory pain reliever of voltarin as well as muscle relaxant valium and at times must use a hot pack. She also attends physiotherapy.
- vii) Moreover, the plaintiff is depressed and feels miserable and anguished and has little hope for any improvement in her lifestyle and indeed, her life.
- viii) The plaintiff has incurred medical and other expenses as result of the said injuries.

**PARTICULARS OF SPECIAL DAMAGES**

5/3/06 hsa (GTHospital) statement # 475377		CI\$13.50
12/4/06 Dr. Marzouca		75.00
3/5/06 hsa		75.00
24/5/06 hsa		11.00
4/6/06 hsa		80.00
11/6/06 airline ticket to JA for med treatment	US\$359.00	
26/6/06 Dr. Ivor Crandon, Consultant orthopedic	JA\$1,750	
	JA\$1,750.00 (99.71)	95.12
26/6/06 airfare to JA for med treatment accompanied by an adult		
To offer assistance	US\$ 786 (.82)	644.52
29/6/06-hsa		13.50
20/7/06 hsa		100.00
31/8/06 hsa		16.00
3/9/06 hsa		7.00
5/10/06 hsa		28.00
10/10/06 hsa		16.00
30/10/06 hsa		7.00
6/11/06		44.00
6/12/06 hsa		95.00
6/12/06 hsa		20.00
6/12/06 has		64.00
6/12/06 hsa		40.00
6/12/06 hsa		31.00
15/12/06 hsa		35.00
2/1/07 hsa		18.50
2/1/07 hsa		19.00
1/2/07 hsa		37.50
12/6/07 Dr. C. Quartly	US\$45.73	41.48
20/12/07 Cayman Physiotherapy		155.00
13/3/08 Police Report		75.00
12/6/08 NorthCoast Imaging ( MRI Services)	US\$1,250.00	1,025.00
15/7/08 Medical MRI Imaging Services(Dr. Crandon's referral)	US\$750.00	615.00
16/7/08 Dr. Crandon		100.29
22/8/08 Dr. Crandon JA\$7,500.00	JA\$10,000.00	75.22
23/9/08 HAS( cost of medic-legal Report)		1,400.00
10/10/08 Cayman Physiotherapy		1,062.00
<b>TOTAL</b> .....		<b><u>CI\$6,525.93</u></b>

The plaintiff claims damages pain, suffering and loss of amenities resulting from the injuries she sustained in the accident.

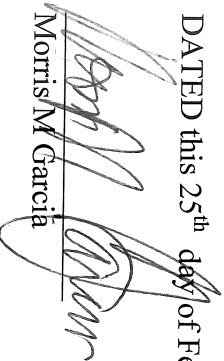
The plaintiff also claims from the defendant future medical expenses and any future loss of income.

The plaintiff reserves the right to produce full details of any other and all special damages at the trial as these are ongoing.

AND THE PLAINTIFF CLAIMS FROM THE DEFENDANT

1. Damages
2. Pre-Judgment Interest according to statute or the Law.
3. Post-Judgment interest according to statute.
4. Such further or other relief as the Honourable Court deems fit.
5. Costs

DATED this 25<sup>th</sup> day of February, 2009.

  
Morris M Garcia

To: The Clerk of the Courts

AND TO: The Defendant, James Errol Ebanks, George Town, Grand Cayman.

STATEMENT REGARDING INTEREST

- i) The prescribed rate of interest was 3% per annum from January 1, 2006 to June 30, 2006 and 7 ¼ % from July 1, 1006 to present.
- ii) The date from which the plaintiff wishes the interest to be calculated is, in the case of the special damages, the dates on which they were paid and in, the case of the general damages, the dates on which they were sustained.
- iii) The plaintiff is unable to state the total amount of interest claimed as her claim is not liquidated.

INDORSEMENT AS TO INSURERS

The motor vehicle which the plaintiff was driving and the motor vehicle which the defendant was driving at the time of the collision were both insured with British Caymanian Insurance Co. Ltd of Britcay House, Eastern Ave, George Town, Grand Cayman.

This Statement of Claim is filed by Morris M Garcia, attorney-at-law for the plaintiff whose address for service is that of her said attorneys, Suite #2, NEVLAW Building, George Town, Grand Cayman.