

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. **246** OF 2012

**BETWEEN DELROY EDWARDS, DONNA ROBB &
AMANDA MOORE-PUMAREJO As
ADMINISTRATORS OF THE ESTATE OF
KAREN IONIE EDWARDS, DECEASED**

PLAINTIFF

AND DORLISA GAVRILA PIERCY

DEFENDANT



WRIT OF SUMMONS

MAY 16 2012



TO: DORLISA GAVRILA PIERCY

39 Pond 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 day of 2012

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.

INDORSEMENT

The Plaintiffs' claim as Administrators of the Estate of KAREN IONIE EDWARDS, Deceased, for damages under the Law of Torts Reform Law 1977 for the benefit of the dependants of the Deceased; and under the Estates Proceedings Law 1974 for the benefit of the Deceased's estate arising out of the death of the Deceased on or about the 14th day of August 2011 by reason of the breach of statutory duty and/or negligence on the part of the Defendant in that on or about the 14th day of August 2011 the Defendant so negligently drove and operated Toyota Altezza motor vehicle bearing registration number 141 188 along the Seaview Road in East End, Grand Cayman, in the vicinity of Lovers Wall and Half Moon Bay that she caused permitted failed to control or allowed the said motor vehicle to leave the said roadway and crash forcefully into a coconut tree before rotating and rolling airborne and then landing some 228 feet away resulting in the death of the Deceased who was a passenger in the said motor vehicle.

AND THE PLAINTIFF CLAIMS:

1. Damages;
2. Interest as per the applicable Statutory rate(s) pursuant to the Judicature Law;
3. Costs to be taxed if not agreed.

Dated this 12th day of March 2012



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.

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BETWEEN DELROY EDWARDS, DONNA ROBB & AMANDA MOORE-PUMAREJO As ADMINISTRATORS OF THE ESTATE OF KAREN IONIE EDWARDS, DECEASED

PLAINTIFF

AND DORLISA GAVRILA PIERCY

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 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 judgement being entered against a Defendant whereby he May have to pay the costs of applying to set it aside.

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 2 nd Floor (South West Wing) Cayman Shipping Centre Bldg. 10 Shipping Lane 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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*BETWEEN DELROY EDWARDS, DONNA ROBB &
AMANDA MOORE-PUMAREJO as
ADMINISTRATORS OF THE ESTATE OF
KAREN IONIE EDWARDS, DECEASED
AND DORLISA GAVRILA PIERCY*

*PLAINTIFF
DEFENDANT*

STATEMENT OF CLAIM

1. The Plaintiffs are the Administrators of the Estate of Karen Ionie Edwards (hereinafter referred to as "the Deceased"), and brings this action for the benefit of the dependants of the Deceased under the provisions of the Law of Torts Reform Law 1977 and for the benefit of the estate of the Deceased under the Estates Proceedings Law 1974 as amended.
2. Letters of Administration to the estate of the Deceased were granted to the Plaintiffs by the Grand Court on or about the 19th day of January 2012.
3. The Defendant was at all material times a resident of the Cayman Islands and the driver of Toyota Altezza motor vehicle bearing Registration number 141 188 (hereinafter referred to as "the Vehicle").
4. On or about the 14th day of August 2011 the Deceased was a passenger in the Vehicle which was being driven along the Seaview Road, East End, Grand Cayman in a westerly direction, when the Plaintiff lost control of the Vehicle, as she attempted to negotiate a right hand bend at speed, along the said road in the vicinity of Lovers Wall and Half Moon Bay causing the same to leave the roadway, hit a coconut tree and rotate and roll whilst airborne before landing some 228 feet away.
5. The said impacts resulted in the death of the Deceased.
6. The said collision and death of the Deceased was caused by the negligence and/or breach of statutory duty imposed by virtue of and pursuant to the Traffic Law on the Defendant.

PARTICULARS OF NEGLIGENCE

- (a) Driving too fast and/or without due care and attention in all the circumstances;
- (b) Failing to properly and safely negotiate the right hand bend in the said road;
- (c) Failing to drive at such speed and in such a manner so as to be able to stop the Vehicle in time to avoid the collision;
- (d) Failing to stop, steer, guide and/or otherwise control the Vehicle so as to avoid the said collision;
- (e) Failing to keep any or any proper look out or to have any or any sufficient regard for the right hand bend in the road and the safe speed necessary to negotiate the same;

- (f) Driving too fast in all the circumstances and/or without due care and attention.
- (g) The Plaintiffs' will further rely on the maxim *res ipsa loquitur* in proof of the Defendant's negligence and/or breach of Statutory duty.

7, The Defendant was charged with Causing the death of the Deceased by Dangerous Driving and the Plaintiffs will rely on any conviction that may result as a consequence of such charge as further evidence of the Defendant's negligence.

PARTICULARS PURSUANT TO STATUTE

A. The persons for whose benefit this action is brought are all dependants of the Deceased, namely:

- (i) Lashae Shirene Nicola Whittaker born on the 5th May 2010, daughter of the deceased;
- (ii) Joshua Andrew Whittaker born on the 4th day of February 2008, son of the deceased;


B. The nature of the claim is that the Deceased, who was aged 24 years at the time of death was a strong healthy young woman who had since leaving school worked at various places including Diamonds International where she earned a monthly salary of US\$1,341.46 plus commission during the period 31st May 2010 to the 6th July 2010; FINAB ACM where she earned a monthly salary of US\$2,195.12 during the period 1st November 2008 to 28th February 2009 and last worked with Polar Bear Air Conditioning during the period 26th May 2011 to 28th June 2011 where she earned a salary of CI\$2,075.00, being paid at the rate of CI\$15.00 per hour. A substantial part of this income was spent for the benefit of the said dependants and this would have continued had she remained alive.

C. The funeral expenses were CI\$5,299.00.

AND THE PLAINTIFFS CLAIM:

- (i) Under the Law of Torts Reform Law 1977 damages for the aforesaid dependants of the Deceased;
- (ii) Under the Estates Proceedings Law 1974 damages for the benefit of the Estate of the Deceased.
- (iii) Interest pursuant to the Judicature Law
- (iv) Costs

Dated this 12th day of March 2012



Murray & Westerborg
Attorneys-at-Law for the Plaintiffs.