

STATEMENT OF CLAIM

1. The Plaintiff was at all material times a pedestrian and the Defendant was at all material times the driver and registered owner of a 2015 white Nissan Rogue SUV motor vehicle, Registration No. 162499.
2. On or around 26 January, 2018 at approximately 5:15pm, the Plaintiff was walking along Walkers Road in the vicinity of the Rubis Gas Station located at No. 435 Walkers Road. The said road is a public main road leading from Walker's Road towards George Town Central.
3. The Plaintiff who is a Security Officer was going home from work at the Cayman Prep and High School on Walker's Road. She was walking from south to north on the right hand side of the road which is the same side that the Prep School and the Rubis Gas Station are located.
4. The Defendant stopped her vehicle just before the exit of the Rubis Gas Station. The front of the vehicle was facing West. The Defendant was looking down towards her lap whilst her vehicle was still in a stopped position.
5. There were no vehicles approaching from south from Central George Town which would be to the right of the Defendant's vehicle. The Defendant did not look south (to her left) nor west (in front of her) before moving off her vehicle.
6. The Plaintiff was walking in front of the Defendant's vehicle when it was still in a stop position. Suddenly and without warning, the Defendant negligently drove her vehicle and collided with the right side of the Plaintiff's abdomen. The impact caused the Plaintiff to fall to the ground and sustain injuries which are stated below.

PARTICULARS OF NEGLIGENCE

7. The Defendant was negligent in that she:-
 - a. Failed to keep a proper or any look out at all for the Plaintiff or other users of the road;
 - b. Drove her vehicle into the Plaintiff's right side.
 - c. Drove off her vehicle without first looking in front of her to ensure that it was safe to proceed onto the main road;
 - d. Drove off her vehicle and/or lift her foot off the brake before making sure the road was clear from pedestrians and/or other vehicles and other users of the road.

- e. Failed to apply her brake and/or failed to keep her foot on her brakes until it was safe to proceed onto the main road;
 - f. Drove her vehicle without due care and attention;
 - g. Failed to honk her horn;
 - h. She could have avoided colliding with the Plaintiff but failed to do so.
8. The Plaintiff intends to rely on the fact that the Defendant was arrested and charged with the offence of careless driving. The Defendant appeared in the Summary Court on October 1, 8 and 22, 2018 under Charge No. 1097 of 2018.
9. The Plaintiff suffered pain and injuries and loss of amenities of life.

PARTICULARS OF INJURIES

10. The Plaintiff sustained multiple injuries including but not limited to those outlined below.
- a. Prolapsed c5-c6 disc;
 - b. Multiple soft tissue injury;
 - c. Right pulmonary contusion;
 - d. Injury to right side of neck, right shoulder and center of abdomen;
 - e. Severe pain in neck and right shoulder;
 - f. Blunt trauma to abdomen;
 - g. Lower and upper abdominal pain with burning sensation to the right lower quadrant;
 - h. Tenderness to the right sternocleidomastoid muscle;
 - i. Mild widening of the AC joint space with minimal superior displacement of the distal right clavicular and suggestive of Tossy II injury;
 - j. Pain and swelling to right shoulder and right side of face;
 - k. Weakness in right arm and right hand;

- l. Difficulty holding or gripping objects;
 - m. Stinging lower back pain especially when straightening up from a forward or bent position and when standing up from a sitting or lying down position;
 - n. Cramping and stinging sensation extenuating to right outer leg and numbness and stiffness in fingers and toes; and
 - o. Intermittent pain and cramping in abdomen.
11. The injuries were as a result of the negligent driving of the Defendant.
 12. The Defendant visited with the Plaintiff whilst the Plaintiff was in Hospital. The Defendant admitted to the Plaintiff whilst she was in hospital that she caused her injuries and apologized to the Plaintiff. The Defendant brought flowers to the Plaintiff whilst she was in hospital.
 13. The Plaintiff was 39 ½ years old at the time of the accident. Police and paramedics attended the scene of the collision. The Plaintiff was taken by ambulance to the Health Services Authority where she received treatment for injuries to her right shoulder, neck and abdomen. She was referred for surgical management. A soft collar was placed around her neck.
 14. The Plaintiff was admitted to Health Services Authority Hospital from 26 January to 29 January 2018. She was subsequently released and attended several sessions of physical therapy at the Health Services Authority and The Physiotherapy Center.
 15. Despite completing several sessions of physical therapy to relieve the pain to her neck, back and shoulder, to date she continues to experience intermittent sharp pain in her neck radiating down her shoulders, back, upper and lower limbs. She experiences more pain on movements especially when standing, walking, turning or sitting for more than twenty to thirty minutes.
 16. After the accident, the Plaintiff was placed on sick leave for about one month. The Plaintiff was employed as a Security Officer at the time of the accident and continues to be in that employment as of the date hereof. She has lost income as a result of the Defendant's negligent driving.
 17. Prior to the accident, the Plaintiff lived a fairly healthy lifestyle with no pre-existing condition such as disc protrusion or any other spinal problems. Also before the accident, the Plaintiff had no issues, aches and pains whilst standing, sitting, doing her daily chores or walking for long periods of time.

18. After the accident, the Plaintiff has been restricted in her daily activities. She is not able to sit, stand or walk for more than twenty to thirty minutes without experiencing pain. Running is almost impossible. She continues to take pain killers and wears a pain relief patch and sometimes uses pain rubs to ease the pain. She is currently attending physical therapy. She does home exercises as directed by her neurosurgeon. She was referred to a pain management specialist by her neurosurgeon.
19. The Plaintiff is limited in her daily activities. She is no longer able to do her chores at home without pain and discomfort. She wakes up during the nights with pain and stiffness in her neck and shoulders as well as numbness and tingling in her hands and fingers. She is unable to lift her hand above her head and unable to braid her hair. She has to pay others to braid and style her hair. She continues to have pain in her stomach.
20. The Plaintiff experiences pain whenever she drives and when she has to do chores in and around her home such as cooking, sweeping, mopping, squeezing or holding objects such as food and utensils, dusting. She also suffers pain and discomfort when bathing especially bending over to wash and dry her feet and dressing herself.
21. The Plaintiff is married and has two dependent children who are ages 18 and 5 years old.
22. The Plaintiff's injuries are as a result of the Defendant's negligence.
23. As a result of the said accident, the Plaintiff has suffered loss and damage and loss of amenities of life.
24. After the Plaintiff experienced severe pain and was put on various medication and muscle relaxers such as Voltaren gel, Panadol 1g, Arcoxia 90mg, Baclofen 10mg, Tramadol 50mg, Panadol and Colace 100mg. The Plaintiff continues to do neck and back strengthening exercises at home.
25. Despite taking the above and ongoing medication and physical therapy, the Plaintiff continues to suffer from pain in her abdomen, neck, shoulders mainly to the right as well as her lower back and lower extremities.
26. The Plaintiff will require ongoing medical treatment. Surgery to her spinal column cannot be ruled out at this stage.
27. Her job requires her to stand and walk around for several hours. Standing and walking aggravates her injuries. She will eventually be handicapped on the job market. Her life will never be the same again.
28. The Plaintiff will require further medical intervention and therefore is entitled to an award for Provisional Damages or for ongoing and future medical care.

29. As a result of the accident, the Plaintiff has suffered loss of income and has incurred medical and other expenses.
30. The Plaintiff is entitled to, and claims interests against the Defendant pursuant to the Judicature Law on all amounts found to be due to her at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:

- (i) Damages
- (ii) Pre-Judgment and Post Judgment Interests.
- (iii) Costs

Dated this 12th day of January, 2021

Facey-Clarke & Associates Ltd.
Facey-Clarke & Associates Ltd.
Attorneys-at-Law for the Plaintiff

This Writ was issued by Facey-Clarke & Associates Ltd, Attorneys-at-Law for the Plaintiff herein whose address for service is that of the said Attorneys-at-Law, George Town, Grand Cayman. For service or delivery of documents please call (345) 917-6351 or email mclarke@candw.ky

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.

Facey-Clarke & Associates Ltd
Barristers & Attorneys-at-Law
P.O. Box 2545, Grand Cayman KY1-1104
George Town, Grand Cayman
Email: mclarke@candw.ky
Tel: 345 917 6351
For service and delivery of documents please call 917-6351

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