



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. G _____ OF 2021

BETWEEN:	MARGETA FACEY-CLARKE	FIRST PLAINTIFF
AND:	RIANNA ROOPCHAND	SECOND PLAINTIFF
AND:	KAYLEE ANNE WHORMS	FIRST DEFENDANT
AND:	LEROY WHORMS	SECOND DEFENDANT

TO: Ms. Kaylee Anne Whorms, 697 Northward Road, Bodden Town, Grand Cayman

AND TO: Mr. Leroy Whorms, 697 Northward Road, Bodden Town, Grand Cayman

AND TO: Caribbean Alliance Insurance Company Ltd.
Second Floor, Alissta Towers, George Town, Grand Cayman

WRIT OF SUMMONS

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs in respect of the claim set out on the next page.

Within Fourteen days (14) 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, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

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If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 31st day of December, 2021

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 First Plaintiff was at all material times the registered owner of a 2012 GLK 350 gray Mercedes Benz motor vehicle with license number 152605 (hereinafter referred to as the Mercedes Benz).
2. The Second Plaintiff was at all material times a lawful and authorized driver of the Mercedes Benz.
3. At all material times, the First Defendant was the driver of a 2008 blue Honda Fit, license number 175940 (hereinafter referred to as the Honda Fit).
4. The Second Defendant, at all material times, was the registered owner and the person in whose name the said Honda Fit was insured.
5. The Honda Fit was insured with Caribbean Alliance Insurance Company Ltd. located at Second Floor, Alissta Towers, North Sound Way, George Town, Grand Cayman.
6. On the 18th day of January 2019 at around 1:00 pm, the Second Plaintiff, restrained with seat belt, was driving the Mercedes Benz on the Camana Bay round-a-bout.
7. The Second Plaintiff was driving from West to East from Lawrence Boulevard and was on the round-a-about heading into Emeritus Drive which leads into the Camana Bay Complex. She was going for lunch with the First Plaintiff and to run office errands.

8. The First Defendant was driving from West Bay end, under the bridge, driving from North to South towards George Town Central.
9. Shortly before the accident, the First Defendant was stopped at the white dotted line and looking east towards Lawrence Boulevard. She continued looking east as she drove the Honda Fit onto the roundabout and collided with the Mercedes Benz.
10. The First Plaintiff was a front seat passenger restrained with seat belt in the Mercedes Benz.
11. Suddenly and without warning, the First Defendant, not looking in front of her nor driving with due care and attention, drove onto the roundabout and collided her vehicle into the Mercedes Benz.
12. The Second Plaintiff had on her left indicator, indicating that she was turning left to exit the roundabout onto Emeritus Drive.
13. The First Defendant did not apply her brakes or made any effort to avoid the collision. After hitting the Mercedes Benz, the Second Defendant collided with the border in the middle of the round-a-bout where the Honda Fit came to a stop.
14. After the First Defendant hit the Mercedes Benz, the Mercedes Benz came to a stop on Emeritus Drive.

15. At the scene of the accident, the First Plaintiff, Second Plaintiff and the First Defendant had a conversation about how the accident happened. The First Defendant accepted fault and apologized to the First Plaintiff for causing the accident. Her exact words were as follows:

“You know how some people put on their indicator and leave it on and then they don’t turn - I didn’t know if she was going to turn - I thought I could beat her. I am so sorry. I got so frightened, I couldn’t find my brake.”

16. The left front bumper of the Honda Fit collided with the left rear bumper of the Mercedes Benz causing damage to the left rear bumper of the Benz.
17. The collision caused the First Plaintiff and the Second Plaintiff to sustain bodily injuries.
18. The First Plaintiff and the Second Plaintiff will rely on the fact that the First Defendant appeared in the Summary Court before the Honorable Magistrate Donalds on 15th August, 2019 and pleaded guilty to careless driving under Case No. 00926 of 2019. The First Defendant was ordered by the Court to pay a fine of CI\$100.00 or 10 days imprisonment in default. Her driver’s licence was endorsed.

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19. The First Defendant and the Second Defendant are liable to the First Plaintiff and the Second Plaintiff for damages suffered as a result of the First Defendant's negligent driving.
20. The First Defendant and the Second Defendant are liable for the cost of repairs to the Mercedes Benz and the First Plaintiff claims the cost of repair as set out under the particulars of loss and damage below.
21. The motor vehicle accident was caused as a result of the negligent driving of the First Defendant.

Particulars of Negligence and Breach of Statutory Duty

22. The First Defendant was negligent and is at fault for the accident in that she:-
 - a. Drove the Honda Fit without due care and attention;
 - b. Drove the Honda Fit onto the round-a-bout when it was not clear or safe to do so;
 - c. Failed to keep a proper lookout or indeed any lookout at all for the Mercedes Benz and/or other users of the road;
 - d. Failed to apply her brake and/or failed to keep her foot on her brake until it was safe to proceed onto the roundabout;

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- e. Failed to give way to the Mercedes Benz that had approached the round-a-about from the right and was already on the roundabout at the time of the collision; and
 - f. Made no attempts to apply her brakes or steer or otherwise control the Honda Fit so as to avoid hitting the Mercedes Benz.
 - g. Hit the Mercedes Benz with her vehicle causing the Benz to have a sudden jerk and causing it to swerve.
23. The First Defendant is in breach of Section 11(2)(j) of the Traffic Control Regulations (2012 Revision) which states:-

“where there is a road marking as specified in paragraph (i) means a vehicle shall give way to traffic approaching on your immediate right.”

24. The First Defendant is also in breach of section 3.11.1 of the Road Code of the Cayman Islands 2012 which states:-

“When reaching the roundabout, always give way to vehicles approaching from your immediate right ...”

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25. As a result of the matters aforesaid, the First Defendant and the Second Defendant are liable to the First Plaintiff and the Second Plaintiff for pain, suffering, loss, damage and loss of amenities of life.
26. The loss and damage was all reasonable foreseeable and the First Defendant and Second Defendant are liable to compensate the First Plaintiff and the Second Plaintiff for their pain and suffering, injuries, loss and damage and loss of amenities of life as it relates to each Plaintiff individually.

Particulars of Injury to the First Plaintiff

27. Shortly after the Defendant crashed the Honda Fit into the Mercedes Benz, the First Plaintiff started to feel pain in her lower back coupled with tingling, weakness and numbness in her left leg radiating down to her foot and toes.
28. The First Plaintiff who was born on 14th July, 1961 was 57 years old at the time of the accident. She was at all material times a practicing litigation attorney-at-law in the Cayman Islands.
29. The First Plaintiff was transported by ambulance to the Accident and Emergency Department of the Cayman Islands Health Services Authority. Whilst at the Accident and Emergency Department, the First Plaintiff started to experience sharp pain shooting upwards from her shoulders and neck up to her head. Her left leg became more numb and she was unable to stand, walk or lift her left leg at all.

30. The First Plaintiff was later transported by ambulance from the Accident and Emergency Department of the Health Services Authority to Health City Hospital. She was admitted at Health City Hospital from Friday 18th January, 2019 and released on Monday 21 January 2019. She was given anti-inflammatory pain medications and told to have follow-up visits with her neurosurgeon.
31. The First Plaintiff had further assessment with her Neurosurgeon in Tampa, Florida and underwent surgery to her L4-L5 lumbar spine on 8th February, 2019 at Laser Spine Institute, Tampa Florida, USA.
32. She experienced cervical spine tenderness at C3 to C7 levels, shock-like sensations in all four limbs and L4-L5 disc prolapse.
33. The First Plaintiff was still recovering from major surgery to her cervical spine which was done on 16th November, 2018 when the First Defendant drove her Honda Fit into her Mercedes Benz causing severe aggravation to the C5-C6 disc replacement.
34. As a result of the collision, the First Plaintiff suffered chronic neck, middle and lower back pain. She continues to suffer from striking headaches, sleeplessness, waking up at nights because of pain, numbness in tongue and mouth, pain in neck radiating to her shoulders and down her arms and hands with severe numbness in fingers especially during the nights. She also continues to have pain in middle and lower back, pain and numbness in both gluteal areas with pain shooting down both legs. She has loss of sensation in both right and left leg radiating to her toes.

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She has difficulty walking, sitting, standing, bending, weakness, clumsiness, loss of balance, pain exaggerated on movements.

35. The deterioration of her health since the collision caused the First Plaintiff to suffer severe financial setbacks, economic loss and loss of amenities and enjoyment of life.
36. The First Plaintiff was diagnosed with back problems in 2013 for which she received treatment such as pain medication, physical therapy, massage, ice, heat, acupuncture and exercise. She recovered well and lived a fairly healthy and active life style.
37. The collision severely exacerbated the surgery to the First Plaintiff's cervical spine. The collision also caused her to have underwent surgery to her L4-L5 disc on 8th February, 2019.
38. The First Plaintiff continues to suffer pain in her head, neck, middle and lower back which radiates to her upper and lower limbs as well as numbness in her tongue, mouth and upper and lower extremities. She continues to be monitored by doctors and specialists both locally and overseas and is undergoing physical therapy, exercises and taking pain medications to ease the pain.
39. The First Plaintiff is expected to undergo further surgery to her spine in the near future.

40. Prior to the motor vehicle accident, the First Plaintiff enjoyed going to the gym where she participated in low impact exercise classes such as low impact aerobics and spinning.
41. After the accident, the First Plaintiff's life style has changed completely. She is not able to walk, sit, dance or stand for long periods without experiencing pain. She cannot bend, or reach up her hands or run without pain. She is unable to do her gardening and house hold chores such as sweeping, mopping, washing, cleaning in general without pain. Driving aggravates her neck, shoulders, back, hands, gluteal areas, legs and foot. The First Plaintiff avoids driving due to pain, muscle cramps and restrictions of movements in her lower limbs.
42. The First Plaintiff was previously diagnosed with low back pain radiating to her left. She had lumbar stenosis to L4-L5 disc with radiculopathy pre and post-surgery. She had lumbar spondylosis but superimposed upon this was the motor vehicle accident on 18th January, 2019 which created a new left-sided radicular pain.
43. Findings as at date of surgery to L4-L5 vertebrae on 8th February, 2019 included but not limited to ligamentous hypertrophy with neural impingement to the L4-L5 vertebrae.
44. Medical review on 31st December, 2018 indicated that the First Plaintiff was 90% recovered from surgery to her neck on 16th November, 2018. The motor vehicle

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accident not only created a new injuries to her spine but aggravated her previous spinal injuries including the recent surgery to her neck.

45. After the accident on 18th January, 2019, the First Plaintiff was on sick leave for several weeks.
46. The First Plaintiff is severely limited in her daily activities and has not been able to return to full time employment since the motor vehicle accident. She continues to be on and off work for several weeks either because of excruciating pain, stand, walk, mobilize in general, attending doctors, neurosurgeons and physiotherapists, travels overseas for further medical intervention relative to the injuries she sustained in the motor vehicle accident. The First Plaintiff is unable to sit including sitting at her computer to work without excruciating pain especially in the gluteal areas and lower back.
47. The First Plaintiff has to, from time to time, use a wheel chair and/or scooter to get around airports, in malls and supermarkets both on Island and overseas. She has to get assistance to take care of herself. She is unable to continue fulltime work since the motor vehicle accident. She is unable to drive most times due to pain in neck, lower back and legs. She is partially handicapped on the job market and her life will never be the same again.
48. The First Plaintiff will rely on medical report from Neurosurgeon, Dr. Reginald Davis at trial if necessary.

49. The First Plaintiff claims:

Special Damages

- a. Past loss of income as an attorney-at-law from 18th January, 2019
- b. Medical Expenses from 18th January, 2019
- c. Cost of travel expenses to and from doctors locally and overseas from 18th January, 2019
- d. Cost for accommodation whilst overseas from 18th January, 2019
- e. Cost for past nursing care from 18th January, 2019
- f. Cost for past home care from 18th January, 2019
- g. Cost of medical aids and equipment between 18th January, 2019

General Damages

- a) Pain and suffering and loss of amenities of life
- b) Loss of enjoyment of job
- c) Miscellaneous
- d) Future loss of income
- e) Future loss of earning capacity
- f) Future medical care
- g) Future home care
- h) Future travel expenses
- i) Future accommodation expenses
- j) Future aids and equipment

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- k) Loss of medical insurance benefits
- l) Future DUI
- m) Miscellaneous
- n) Provisional damages

Particulars of Injury to the Second Plaintiff

- 50. The Second Plaintiff who was born on 27th April, 2001, suffered whip lash type injury to her neck and back radiating upwards to her head and outwards to her shoulders.
- 51. The Second Plaintiff claims special and general damages and loss of amenities of life.
- 52. The First Plaintiff and the Second Plaintiff are entitled to, and claims interest against the First Defendant and Second 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.
- 53. AND the First Plaintiff and the Second Plaintiff claims against the First Defendant and the Second Defendants as follows:-
 - (i) Special and General Damages
 - (ii) Pre-Judgment and Post Judgment Interests
 - (iii) Costs

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Dated this 31st day of December, 2021

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

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

Service of the Writ is acknowledged accordingly

(Signed).....
Defendant (if in Person) or Attorney for the Defendant

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.

Facey-Clarke & Associates
Barristers & Attorneys-at-Law
P.O. Box 2545, Grand Cayman KY1-1104
George Town, Grand Cayman
Cayman Islands, B.W.I.
Email: mclarke@candw.ky

For service or delivery of documents please call 345 917 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.



