



AND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2022

THEODORA SMITH

PLAINTIFF

AND:

RENE DANIEL SANTIAGO

FIRST DEFENDANT

AND:

SUNSHINE SUITES RESORTS LTD

SECOND DEFENDANT

AND:

THE WESTIN GRAND CAYMAN

SEVEN MILE BEACH RESORT & SPA

THIRD DEFENDANT

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WRIT OF SUMMONS

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TO:

Rene Daniel Santiago  
 C/o Sunshine Suites Resorts Ltd.  
 1465 Esterley Tibbetts Highway  
 Seven Mile Beach  
 P.O. Box 30095  
 Grand Cayman KY1- 1201  
 Cayman Islands

AND TO:

Sunshine Suites Resorts Ltd.  
 1465 Esterley Tibbetts Highway  
 Seven Mile Beach  
 P.O. Box 30095  
 Grand Cayman KY1- 1201  
 Cayman Islands

AND TO:

The Westin Grand Cayman Seven Mile Beach  
 Resort & Spa  
 Seven Mile Beach  
 P.O. Box 30620  
 Grand Cayman KY1-1200  
 Cayman Islands

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff, of 42A Oakland Close, Windsor Park, George Town, Grand Cayman in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

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 any 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        day of May 2022.

**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 original issuance unless renewed by order of the Court

**IMPORTANT**

Directions for the Acknowledgement of service are given with the accompanying form.

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STATEMENT OF CLAIM

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1. The Plaintiff is Caymanian, born 12 July 1947 and resides at 42A Oakland Close, Windsor Park, George Town, Grand Cayman, and was at all material times employed as a Taxi Driver.
2. The First Defendant was at all material times employed by the Second Defendant.
3. The Second Defendant is a Cayman Islands company operating as a hotel and resort.
4. The Third Defendant is a Cayman Islands company operating as a hotel and resort and sister property to the Second Defendant.
5. The Plaintiff is the registered owner of a 2005 Toyota Alphard motor vehicle registration number 165216.
6. On 28 June 2019, the Plaintiff was injured whilst seated in her motor vehicle which was stationary parked outside the entrance to the lobby of the Third Defendant.
7. The Plaintiff was waiting to collect pre-booked guests of the Third Defendant when a golf cart bearing a license plate number 164 534 registered to the Third Defendant, being driven by the First Defendant collided with the back of the Plaintiff's motor vehicle.
8. The Plaintiff whilst restrained by her seatbelt was injured and lost consciousness due to the accident. She was assisted by employees of the Third Defendant and taken to the hospital by ambulance.
9. The Plaintiff's motor vehicle was damaged because of the collision.
10. Royal Cayman Islands Police Service Traffic Officers attended the scene and ruled that the First Defendant was at fault.
11. In addition to the damage to her motor vehicle, the Plaintiff who is now aged 74 years, having been born on 12 July 1947 suffered pain, injury, loss, and damage

12. The Plaintiff states that the motor vehicle accident was caused by the negligence of the First, Second and Third Defendants (the "Defendants") and/or breach of statutory duty by virtue of the Traffic Law (2003 Revision) under sections 59 and 60.
13. The Plaintiff will rely on the fact that the Third Defendant's vehicle crashed into the Plaintiff's stationary motor vehicle as itself proving negligence and requires the Defendants to prove how that could have happened in the circumstances of this case without negligence.

PARTICULARS OF NEGLIGENCE AND/OR BREACH  
OF STATUTORY DUTY

- a) Failing to drive in such a manner as to ensure that the First Defendant had full control of the vehicle at all times.
- b) Failing to exercise reasonable skill and care to be expected of a reasonably skilful and careful driver in the circumstances.
- c) Losing control of the vehicle so that it collided with the rear of the Plaintiff's motor vehicle.
- d) Failing to keep any or any proper lookout.
- e) Failed to see the Plaintiff's motor vehicle in time or at all.
- f) Failed to adequately or at all to heed or act upon the presence, of the Plaintiff's motor vehicle.
- g) Driving at a speed that was too fast under the circumstances.
- h) Drove into the back of or otherwise collided with the Plaintiff's stationary motor vehicle.
- i) Failed to stop, slow down, swerve or otherwise so to manage or control his vehicle to avoid the aforesaid collision.
- j) Failed to take any adequate care for the safety of the Plaintiff.
- k) Exposed the Plaintiff to a foreseeable risk of injury.

14. As a result of the Defendants' negligence and breach of duty of care as aforesaid, the Plaintiff sustained injuries and damages including the following:

PARTICULARS OF INJURY

- (a) injury to her neck
  - (b) injury to her shoulder
  - (c) injury to her lower back
  - (d) radiculopathy
  - (e) decreased range of motion to her neck
  - (f) swelling and pain in the posterior aspect of the neck.
  - (g) decrease active range of motion of all cervical movements and pain at the end of her available range.
  - (h) tenderness to the base of the neck and bilateral upper trapezius area.
15. The Plaintiff was treated initially at the Emergency Department of the George Town Hospital immediately following the accident and has regularly re-attended for further treatment since then.
16. On 15 July 2019, the Plaintiff was referred to Janine Rose Registered Physiotherapist, at the George Town Hospital, and commenced a course of physiotherapy treatment on 30 July 2019. She has undergone extensive investigation and treatment for her injuries including motion exercises, therapeutic ultrasound, hot packs and soft tissue mobilization. These procedures, however, provided only temporary relief and her treatment is ongoing.
17. The Plaintiff presently takes Ibuprofen daily for pain relief. She is unable to walk any distance without pain, but equally sitting for any time brings on lower back pain, and she must get up and move around every 15-20 minutes as advised in the pain management program. Her sleep is interfered with by the pain and she uses pillows at night to try to ease the stress on her low back and to get comfortable.
18. The Plaintiff has suffered a loss of amenities and her quality of and enjoyment of life has been reduced with substantial limitations to her recreational, social, and lifestyle activities. In particular, the Plaintiff's tolerance for walking, bending, sitting or standing has been greatly diminished and her sleep is regularly interfered with by pain.

19. By virtue of the First Defendant's negligence and breach of duty, the Plaintiff has suffered loss and damage, including personal injuries, pain, and suffering.

PARTICULARS OF SPECIAL DAMAGES

20. As a result of this accident and the injuries, she sustained the Plaintiff was unable to continue her job as a Taxi Driver. At the time of this accident, her gross income at the time was approximately KYD950.00 per month. The Plaintiff had intended to continue working to age 75 but for this accident.
21. Because of the accident and the injuries she sustained the Plaintiff is also unable to drive for prolonged periods, consequently, she is reliant on taxi services for transport for both personal and medical purposes.
22. The Plaintiff will serve a schedule of details of past and future expenses and losses in due course. For clarity, the Plaintiff claims for all medical costs and expenses consequent upon the accident.
23. Further, pursuant to Section 34(1) of the Judicature Law, the Plaintiff claims interest on the amount of damages found to be due to him at such rate and for such period as the Court thinks fit.

THE PLAINTIFF THEREFORE CLAIMS:

- (a) General damages to be assessed.
- (b) Special damages to be assessed.
- (c) Pre-judgment and post-judgment interest
- (d) Cost; and
- (e) Such further and other relief as to this Honourable may seem just.

DATED this 19<sup>th</sup> day of May 2022



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MARTHA SELICEA RANKINE  
ATTORNEY-AT-LAW for the Petitioner

THIS WRIT is filed by **MARTHA SELICEA RANKINE**, Attorney-at-Law for the Plaintiff, whose address for service is that of her attorney at 2<sup>nd</sup> Floor, Genesis Building, Genesis, Close, Grand Cayman KY1-1503

INDORSEMENT TO INSURER OF DEFENDANT'S MOTOR VEHICLE

Further to Order 6 Rule 4 of the Cayman Islands Grand Court Rules:

The Plaintiff's claim against the Defendants is premised on the Traffic Law (2011 Revision) and otherwise from the Defendant's negligent use of the public roadway. The Insurer of the Defendant's vehicle is SAXON INSURANCE whose address is 14 Saturn Close, Eastern Avenue, P.O. Box 1094, Grand Cayman KY1-1102, Cayman Islands.

**Acknowledgment of service of writ of summons (O.12, r.3)**

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS

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 Plaintiffs (or on the Plaintiffs 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 Plaintiffs 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 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 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: OF 2022

BETWEEN: THEODORA SMITH PLAINTIFF

AND: RENE DANIEL SANTIAGO FIRST DEFENDANT

AND: SUNSHINE SUITES RESORTS LTD SECOND DEFENDANT

AND: THE WESTIN GRAND CAYMAN  
SEVEN MILE BEACH RESORT & SPA THIRD DEFENDANT

**ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

TO: Rene Daniel Santiago  
C/o Sunshine Suites Resorts Ltd.  
1465 Esterley Tibbetts Highway  
Seven Mile Beach  
P.O. Box 30095  
Grand Cayman KY1- 1201  
Cayman Islands

AND TO: Sunshine Suites Resorts Ltd.  
1465 Esterley Tibbetts Highway  
Seven Mile Beach  
P.O. Box 30095  
Grand Cayman KY1- 1201  
Cayman Islands

AND TO: The Westin Grand Cayman Seven Mile Beach  
Resort & Spa  
Seven Mile Beach  
P.O. Box 30620  
Grand Cayman KY1-1200  
Cayman Islands

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

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)  
 YES  NO

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3. If the claim against the Defendant is for a debt or liquidated demand, **AND** she 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

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Service of the Writ is acknowledged accordingly.  
(Signed).....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 Plaintiffs' Attorney (or by plaintiffs if suing in person) of his name, address, and reference, if any, in the box below.

MARTHA SELICEA RANKINE  
Attorney-at-Law  
2<sup>nd</sup> Floor, Genesis Building  
Genesis Close  
P.O. Box 1191  
Grand Cayman KY1-1503  
T: +1 (345) 547-6725

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