**MUTONYI, MBIYU & CO.**

**ADVOCATES & COMMISSIONERS FOR OATHS**

JOSEPH NYOIKE MUTONYI LLB (HONS.) NBI DIP. IN LAW (KSL)

GEORGE KIRUMBA MBIYU LLB (HONS.) NBI DIP. IN LAW (KSL)

GATE HOUSE P.O BOX 14219-20100

4TH FLOOR ROOM 401 TEL :( 051) 2214107 **FAX**: (051) 2215713

GEOFFREY KAMAU WAY NAKURU

MOBILE: 0728579695

**OUR REF: CIV/N/1/16/2024 DATE: 17/05/2024**

**YOUR REF: TBA**

**DAVID KIBOI GATATI**

**0722792261**

Dear Sir,

**RE: ACCIDENT ON 12/12/2023 INVOLVING MOTOR VEHICLES REGISTRATION NUMBERS KCV 719T, KDE 080L AND KCM 223L**

**CLIENT:** **ALICE NJERI KAHIU**

We have been instructed by our above-named client to address you as hereunder:-

That on 12/12/2023 at or about 11:00 A.M, our Client was a lawful passenger in Motor Vehicle Registration Number KCV 719T (Mololine Prestige Matatu) travelling along Nakuru-Nairobi highway when at or near Kimende area, you and or your driver so negligently and recklessly drove the said Motor vehicle that you lost its control causing it to hit Motor Vehicle Registration Number KDE 080L (Land Rover) from the rear. As a result of the accident, our Client sustained serious bodily injuries and has suffered loss and damage for which she holds you liable.

**TAKE NOTICE** and be advised that unless we receive your admission of liability within **TEN (10)** days from the date hereof we have instructions to commence civil proceedings against you without any further reference to you at your own risk as to cost thereby incurred.

Yours faithfully,

**MUTONYI, MBIYU & CO**

**ADVOCATES**

*JNM/j.c.k*

*Cc: Client*

*Directline Assurance (Your Policy NO. 00479977(TPO)*

*When Replying Please Quote Our Reference*

PIN. NO. P051175118Q VAT NO. 0143523K

**REPUBLIC OF KENYA**

**IN THE CHIEF MAGISTRATE COURT AT LIMURU**

**CIVIL SUIT NO. OF 2024**

**ALICE NJERI KAHIU………….……………………………………………...PLAINTIFF**

**-VERSUS-**

**DAVID KIBOI GATATI………..……..………….……………….…………..DEFENDANT**

**PLAINT**

**(FAST-TRACK)**

1. The Plaintiff is a female adult of sound mind residing in Nakuru. Her address of service for purposes of this suit is care of Mutonyi, Mbiyu & Co. Advocates Gatehouse 4th Floor P.O Box 14219 Nakuru. Email: [info@mutonyimbiyuadvocates.com](mailto:info@mutonyimbiyuadvocates.com)
2. The Defendant is a male adult of sound mind. (Service of summons to be effected through Plaintiff’s Advocate offices)
3. At the material time relevant to this suit the Defendant was the registered and/or beneficial owner of Motor Vehicle Registration Number KCV 719T being driven by himself and/or his driver.
4. On 12/12/2023 at or about 11:00 A.M, the Plaintiff was a lawful passenger in Motor Vehicle Registration Number KCV 719T (Mololine Prestige Matatu) travelling along Nakuru- Nairobi highway when at or near Kimende area, the driver of Motor Vehicle Registration Number KCV 719T so negligently and recklessly drove the said Motor vehicle that he lost its control causing it to hit Motor Vehicle Registration Number KDE 080L (Land Rover) from the rear.

**Particulars of Negligence of the Defendant, his Driver, Agent or Servant**

1. Driving at an excessive speed in the circumstances.
2. Failing to brake, swerve and in any manner so to do to avoid the accident.
3. Losing control of the said Motor Vehicle Registration Number KCV 719T.
4. Driving without due care and attention.
5. Failing to have due regard to other road users.
6. Hitting Motor Vehicle Registration Number KDE 080L from the rear.
7. Res Ipsa Loquitur
8. By reason of the aforementioned facts, the Plaintiff sustained serious bodily injuries for which the Plaintiff now holds the Defendant liable.

**Particulars of injuries**

1. Deep cut wound on the neck and other soft tissue injuries on the neck
2. Soft tissue injuries of the right leg (had cut wounds and swelling)
3. Blunt chest injury.

**Particulars of Special Damages.**

1. Police abstract Kshs. 200/=
2. NTSA search certificate Kshs. 550/=
3. Medical treatment Kshs. 6,331/=
4. Medical Report Kshs. 10,000/=

**TOTAL Kshs 17,081/=**

1. Demand and Notice of Intention to sue has been issued but the Defendant has failed to admit liability and or make good the claim.
2. The Plaintiff avers that there have been no previous or pending proceedings between the Plaintiff and the Defendant over the cause of action herein and the cause of action relates to the Plaintiff.
3. The cause of action arose along Nakuru-Nairobi highway, within the Jurisdiction of this Honourable Court.

**REASONS WHEREFORE** the Plaintiff prays for judgment against the Defendant for:-

1. General Damages.
2. Special Damages – **Kshs. 17,081/=**
3. Cost of the suit.
4. Interest on (a), (b) and (c) above at court rates.

**DATED at NAKURU this……………..…….day of ……………….…………….…..2024.**

**MUTONYI, MBIYU & CO.**

**ADVOCATES FOR THE PLAINTIFF**

**DRAWN AND FILED BY**

**MUTONYI, MBIYU & CO.**

**ADVOCATES**

**GATEHOUSE 4TH FLOOR**

**P.O BOX 14219-20100**

**NAKURU.**

**TO BE SERVED UPON**

1. **DAVID KIBOI GATATI**

**0722792261**

**REPUBLIC OF KENYA**

**IN THE CHIEF MAGISTRATE COURT AT LIMURU**

**CIVIL SUIT NO. OF 2024**

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**-VERSUS-**

**DAVID KIBOI GATATI………..……..………….……………….……...…….. DEFENDANT**

**VERIFYING AFFIDAVIT**

**(Under Order 3 Rule 2(a) of the Civil Procedure Rules 2010)**

I, **ALICE NJERI KAHIU** of ID NO. 5999258 Nakuruin the Republic of Kenya do hereby make Oath and state as follows:-

1. **THAT** I am the Plaintiff herein and therefore competent to make this Oath.
2. **THAT** I reside in Nakuru.
3. **THAT** I hereby verify that the averments of the Plaint herein are correct.
4. **THAT** I make this Oath to verify that the averments of the Plaint herein are correct.
5. **THAT** what is deposed to herein is true to the best of my knowledge, information and belief.

**SWORN BY THE SAID: )**

**ALICE NJERI KAHIU ) ……..……………………**

**At Nakuru this…………..day of….……..…………..2024 ) DEPONENT**

**)**

**BEFORE ME )**

**)**

**COMMISSIONER FOR OATHS )**

**DRAWN & FILED BY**

**MUTONYI, MBIYU & CO**

**ADVOCATES**

**GATEHOUSE 4TH FLOOR, ROOM 401**

**P.O BOX 14219-20100**

**NAKURU**

**REPUBLIC OF KENYA**

**IN THE CHIEF MAGISTRATE COURT AT LIMURU**

**CIVIL SUIT NO. OF 2024**

**ALICE NJERI KAHIU………….……………………………………………...PLAINTIFF**

**-VERSUS-**

**DAVID KIBOI GATATI………..……..………….……………….……………..DEFENDANT**

**PLAINTIFFS’ LIST OF WITNESSES**

**(Under Order 3 Rule 2(b) of the Civil Procedure Rules 2010)**

1. Alice Njeri Kahiu.
2. Dr. Wellington K. Kiamba
3. Traffic Base Commander, Lari Police Station.
4. Any other to be availed at hearing thereof.

**DATED at NAKURU this……………..………….day of ………..………….…………..2024.**

**MUTONYI, MBIYU & CO.**

**ADVOCATES FOR THE PLAINTIFF**

**DRAWN AND FILED BY**

**MUTONYI, MBIYU & CO.**

**ADVOCATES**

**GATEHOUSE 4TH FLOOR**

**P.O BOX 14219-20100**

**NAKURU.**

**TO BE SERVED UPON**

1. **DAVID KIBOI GATATI**

**0722792261**

**REPUBLIC OF KENYA**

**IN THE CHIEF MAGISTRATE COURT AT LIMURU**

**CIVIL SUIT NO. OF 2024**

**ALICE NJERI KAHIU………….……………………………………………...PLAINTIFF**

**-VERSUS-**

**DAVID KIBOI GATATI………..……..………….……………….……………. DEFENDANT**

**PLAINTIFFS’ LIST OF DOCUMENTS**

**(Under Order 3 Rule 2(d) of the Civil Procedure Rules 2010)**

1. Copy of National Identity Card
2. Lari Level 4 Hospital Medical Report dated 12/12/2023.
3. Treatment chits.
4. Receipts.
5. Police abstract dated 4th March, 2024.
6. P3 form dated 4th March, 2024.
7. Dr. Wellington K. Kiamba Medical Report -+dated 6th March, 2024.
8. Demand Notice dated 17th May, 2024.
9. Copy of Search Certificate.
10. Ticket

**DATED at NAKURU this……………..………….day of ………..………….…………..2024.**

**MUTONYI, MBIYU & CO.**

**ADVOCATES FOR THE PLAINTIFF**

**DRAWN AND FILED BY**

**MUTONYI, MBIYU & CO.**

**ADVOCATES**

**GATEHOUSE 4TH FLOOR**

**P.O BOX 14219-20100**

**NAKURU.**

**TO BE SERVED UPON**

1. **DAVID KIBOI GATATI**

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**REPUBLIC OF KENYA**

**IN THE CHIEF MAGISTRATE COURT AT LIMURU**

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**-VERSUS-**

**DAVID KIBOI GATATI………..……..………….……………….……………. DEFENDANT**

**WITNESS STATEMENT**

I **ALICE NJERI KAHIU** of I.D No. 5999258, P.O. BOX 4389-20100 Nakuru, in the Republic of Kenya, do hereby state as follows:-

I do recall on 12/12/2023 at or about 11:00 A.M, I was a lawful passenger, occupying seat No. 1, the seat next to the driver in Motor Vehicle Registration Number KCV 719T (Mololine Prestige Matatu) travelling along Nakuru- Nairobi highway when at or near Kimende area, our driver so negligently and recklessly drove the said Motor vehicle that he lost its control causing it to hit Motor Vehicle Registration Number KDE 080L (Land Rover) from the rear.

After the collision, I was quickly rushed by a good Samaritan to Lari Level 4 Hospital having sustained severe injuries, where I received first aid treatment, to wit, cleaning and dressing of wounds and tetanus injunction. I was later discharged on 12th December, 2023.

Upon discharge at Lari Level 4 Hospital, I continued experiencing chest pains, neck pains and pain in the right leg. I visited several hospitals on diverse dates for treatment, to wit, Gardens Medical Centre in Kikuyu, Wesley Mission Hospital in Nakuru, Annex Hospital Nakuru and Nakuru Provincial General Hospital (PGH) where a chest x-ray was taken on 05/02/2024.

I later reported the matter at Lari Police Station on 04/03/2024 where I was issued with a P3 form and later a police abstract.

Subsequently, I visited Dr. Kiamba on 06/03/2024 who conducted a medical examination and wrote a medical report. As a result of the accident, I sustained a deep cut wound on the neck and other soft tissue injuries on the neck, soft tissue injuries of the right leg (had cut wounds and swelling) and blunt chest injury.

I have not healed completely. I am still experiencing pains on my chest, neck and right leg. I also suffer mental and emotional trauma arising from the said accident up to date, I still buy medication.

I blame the driver of Motor Vehicle Registration Number KCV 719T for the accident. He drove carelessly, was not keen while driving. He also drove fast and too close to the Motor Vehicle in front. He kept talking on his cellphone.

I pray for compensation for General Damages and Special Damages of Kshs. 17,081/=

I rely on the documents in the List of Documents.

That is all.

**DATED at NAKURU this ……………………..……… day of …………………..….…… 2024**

**Name: ALICE NJERI KAHIU**

**Signature:**