

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 284 OF 2011

BETWEEN BEVERLEY POWELL PLAINTIFF

AND: MARTIN EDISON PARKE DEFENDANT



SPECIALY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: MARTIN EDISON PARKE, Number 17 Town Hall Courts, Grand Cayman, Cayman Islands, BWI

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 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 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment 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 22nd day of July 2011

NOTE - This Writ may not be served later than 4 calendar 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) On 1 December 2010 at or about 11pm the Plaintiff was a rear seat passenger in a Toyota Corolla registration number 92976 along with two other passengers which was being driven by the Defendant along Queen's High Way heading towards Old Man Bay. On reaching the vicinity of house #1157 and due to the negligent driving of the Defendant the motor vehicle veered to the left side of the road and off the road. The Defendant next caused the motor vehicle to swerve to the right to bring the vehicle back onto the road and in doing so the Defendant caused the vehicle to cross both lanes and then lost control of the vehicle which skidded off the roadway and into the rocks and bushes on the right hand side of the road. This collision caused the Plaintiff to be thrown from the vehicle where she sustained a fracture of her left forearm and multiple lacerations to her body.
- 2) As a result of this accident the Plaintiff required sick leave from work from 2 December 2010 to 9 March 2011 whilst she recovered from her injuries. She then returned to work for a month after which time her work permit expired as by law she had come to the end of her seven years working in the Cayman Islands.
- 3) The accident was caused by the negligent driving of the Defendant.

Particulars of Negligence of the Defendant

- (a) Driving at a speed that was too fast in the circumstances.
 - (b) Failing to keep any or any proper lookout.
 - (c) Losing control of the motor vehicle so that it moved to the left and off the road, then back on, then to the right, then across and off the road where it eventually crashed in the bushes.
 - (d) Failing to steer or control the motor vehicle or to apply his brakes adequately or at all so as to avoid this accident.
 - (e) Failing to stop or slow down or swerve or so to control his motor vehicle as to avoid this accident.
- 4) Further, the Defendant was charged in Criminal Case no: 00527/2011 on his own plea of guilty on 14 February 2011 where he was convicted of the traffic offence of Careless Driving under Section 69 Traffic Law (2003 Revision) and was fined and had his driver's license endorsed. The said offence is relevant to the issue of negligence and the claimant intends to rely on it as evidence in this action
 - 5) By reason of the aforesaid matters the Plaintiff suffered injury, loss and damage.

Particulars of Injury

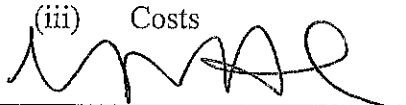
- 6) The Plaintiff who was born on 28 April 1972 sustained multiple abrasions and lacerations to her upper limbs, face, left knee, fracture of the proximal 1/3 left radius and had foreign bodies in her left forearm as a result of the accident. According to the hospital A & E report dated 2 December 2010 she had the following injuries:
- a) 3 cm laceration to frontal scalp-sutured
 - b) 2 cm laceration to helix of left ear-sutured
 - c) Punch wound to chin-sutured abrasions to right cheek
 - d) Abrasions to neck
 - e) Abrasions over right eye
- 7) Additional details of the Plaintiff's injuries are contained in the hospital A & E report performed by Vinton Douglas dated 2 December 2010. Also, details of her physical therapy treatment are contained in the letter of Jocelyn Sarsfield dated 1 March 2011.

Particulars of Special Damage

| 8) Date | Description | Amount |
|-----------------|-------------------------|-------------------|
| 26 January 2011 | Traffic Accident Report | \$75.00 |
| | Medical Expenses | \$3,754.52 |
| | Exams & medication | |
| | Physical Therapy | \$3,120.00 |
| | -\$390/wk for 8 wks | |
| | Total Expenses | \$6,949.52 |

And the Plaintiff claims:

- (i) Damages;
- (ii) Further, pursuant to The Judicature Law (1995 Revision), the Plaintiff is entitled to and claims interest on such sums as are found to be due at the statutory rate and for such period as the Court shall think fit;
- (iii) Costs



CLYDE H. ALLEN, CHAMBERS

THIS WRIT was issued by Clyde H. Allen whose address for service is Clyde H. Allen CHAMBERS, PO Box 31076, 2nd Floor, Suite 9, 19 Fort Street, KY1-1205, Grand Cayman, Cayman Islands, BWI.

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HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. OF 2011

BETWEEN BEVERLY POWELL PLAINTIFF

AND: MARTIN EDISON PARKE DEFENDANT

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

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

2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

Yes No

3. If the claim against the Defendant is for a debt or a 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 judgment entered by the Plaintiff (*tick box*)

Yes

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

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.

Clyde H. Allen

CHAMBERS

Attorney-At-Law

PO Box 31076, 2nd Floor

Jack & Jill Building, KY1-1205

Grand Cayman, Cayman Islands

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