

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *45* OF 2011



B E T W E E N:



**EDWARD J. O'NEILL, JR AS THE EXECUTOR OF
THE ESTATE OF JANE W. O'NEILL, DECEASED**

Plaintiff

AND

MANUEL PEREZ HYDES

Defendant

WRIT OF SUMMONS

TO: Manuel Perez Hydes
Number 49 – 1 Grace Street
George Town, Grand Cayman
Cayman Islands

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 fourteen [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 495, George Town, Grand Cayman, 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 Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an 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 2nd day of September 2011

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 Acknowledgement of Service are given with the accompanying form.

ENDORSEMENT OF INSURER

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Defendant named herein is Fidelity Insurance (Cayman) Limited as agent for RoyalStar Assurance Ltd. The address for service is P.O. Box 2174 Cayman Financial Centre Dr Roy's Drive, Grand Cayman, Cayman Islands, KY1-1105

GENERAL ENDORSEMENT

- 1) The Plaintiff is the Executor of the Estate of Jane W. O'Neill, deceased whose address is 9 Higley Street, Gorton, Middlesex, Massachusetts 01450, United States of America.
- 2) Jane W. O'Neill, wife of the Plaintiff and resident of the United States of America, was on vacation in the Cayman Islands on 19 April 2010 when as a pedestrian she was struck by motor vehicle driven by the Defendant bearing licence plate number 63106 on West Bay Road, George Town in the vicinity of the Beachcomber Condominiums. The Defendant operated the motor vehicle negligently as a result of which the abovementioned accident was caused by the Defendant and loss and damage resulted to the said Mrs. O'Neill.
- 3) The Plaintiff makes a claim on behalf of the Estate in his capacity as Executor for damages incurred as a result of the said accident pursuant to the Torts (Reform) Law (1996 Revision) and the Estates Proceedings Law (1995 Revision). The Plaintiff claims damages, costs and interest pursuant to the Judicature Law (2007 Revision).

Dated the 2nd day of September 2011

Appleby (Cayman) Ltd
APPLEBY (CAYMAN) LTD
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court

AND TO: Mr. Manuel Perez Hydes
Number 49 – 1 Grace Street
George Town, Grand Cayman
Cayman Islands

Filed by Appleby (Cayman) Ltd Attorneys-at-Law for the Plaintiff whose address for service is 75 Fort Street, PO Box 190 GT, George Town, Grand Cayman, Cayman Islands. [ref: 319397.0001]

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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 495 GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement of Service that he intends to contest the proceedings *must also serve a Defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is endorsed on the Writ (i.e. the words of "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 endorsed 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 Plaintiff 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of 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 a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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JANE W. O'NEILL, DECEASED

Plaintiff

AND

MANUEL PEREZ HYDES

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 fully 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:
-
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 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

NO

Service of the Writ is acknowledged accordingly

Attorneys for Defendant

Address for service:

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.

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

Appleby (Cayman) Ltd
Attorneys-at-Law
Clifton House

75 Fort Street
P.O. Box 190 GT
George Town
Grand Cayman
Ref: [SC/319397.0001]

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

[Empty box for endorsement]