

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

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

CAUSE NO. 69 OF 2012

BETWEEN

CARL JONATHAN CHRISTIAN

PLAINTIFF

AND:

YOLAYDIS EBANKS PEGUERO

DEFENDANT

SPECIALY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: YOLAYDIS EBANKS PEGUERO, C/O Hampson & Company,  
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 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 15<sup>th</sup> day of February 2012

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. At approximately 7.45am on the Wednesday, 18 February 2009, the Plaintiff was cycling along Shedden Road heading towards the traffic lighted four way junction. The Defendant was driving a Toyota Camry registration number 66806 in the left lane coming from the direction of the traffic lights and heading towards the airport. At the material time she was stationary in the road indicating to turn right into Printer's Way.
2. Without notice to the Plaintiff the Defendant's car started to move off at speed. The Plaintiff who was crossing Printer's Way shouted to the Defendant but the Defendant did not appear to see or hear him and continued to cross the road and thus into the path of the Plaintiff which resulted in her colliding with the Plaintiff, causing the Plaintiff to be knocked off his bicycle.
3. The collision was caused by the negligence of the Defendant.

### Particulars of Negligence

- a) Driving at an excessive speed in the circumstances.
  - b) Failing to keep any or any proper look-out or to have any or any sufficient regard for traffic including the cyclist that was or might reasonably be expected to be on the road and in particular crossing the junction of Printer's Way.
  - c) Entering into the lane of the oncoming traffic without first ascertaining or ensuring that it was safe so to do and when it was unsafe and dangerous so to do.
  - d) Failure to wait until the lane of the oncoming traffic was clear or to give any or any adequate warning of her intention to cross into the lane of the oncoming traffic.
  - e) Failure to see the Plaintiff in sufficient time or at all to avoid colliding with him.
  - f) Failure to stop, to slow down, to swerve, or in any way so as to manage or control the motor car as to avoid the collision with the Plaintiff
4. On 12 May 2009 the Defendant was convicted in the Summary Court sitting at George Town, Grand Cayman, on her plea of guilty of careless driving motor vehicle registration number 66806 contrary to section 69 of the Traffic Law (R2003). The said conviction is relevant to the issue of negligence and the Defendant intends to rely on it as evidence in this action.
  5. Further it is averred that the facts of the accident speaks for themselves as being an occurrence which cannot normally happen without negligence.

6. By reason of these matters, the Plaintiff sustained injuries and he has suffered loss and damage.

**Particulars of Injuries**

7. As a result of the accident, the Plaintiff has suffered various injuries including a severe blow to the right side of his head. Fortunately he was wearing a cycling helmet so was protected from and did not suffer the full impact of the blow.
8. He suffered a concussive head injury with posttraumatic headache. There were no real symptoms of post-concussive syndrome. It is likely this will improve with time. The Plaintiff suffers from severe headaches from time to time.
9. The Plaintiff was absent from work for over four months between March and May recuperating from his injuries.
10. Additional details of the Plaintiff's head injuries and also a shoulder injury are contained in the medical report of Dr. Brad Herskowitz dated the 24 March 2009 and Dennis Ross, MD dated 18 September 2009 respectively.

**Particulars of Special Damage**

Date	Description	Amount
6 March 2009	Traffic Accident Report	CI\$75.00
March 2009	Travel Expenses	
	-Airfare	US\$322.35(CI\$262.58)
	- Rental Vehicle for 3 days	US\$267.00(CI\$217.49)
	- Hotel Accommodations	US\$785.35(CI\$639.72)
	Loss of overtime due to absence from work February to May	CI\$2,500.00

AND the Plaintiff claims

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

  
CHAMBERS

THIS WRIT was issued by CHAMBERS on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 10, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

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

CAUSE NO.      OF 2012

BETWEEN                                  CARL JONATHAN CHRISTIAN                                  PLAINTIFF  
AND:    YOLAYDIS EBANKS PEGUERO                                  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 Allen  
**CHAMBERS**  
Attorneys-At-Law  
PO Box 31076SMB  
Jack & Jill Bldg, 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.*

[Empty box for defendant's attorney indorsement]