

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

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

CAUSE NO. **472** OF 2012

BETWEEN BERTILO POWERY

PLAINTIFF

AND: VINCENT MARTIN EBANKS

1st DEFENDANT

AND: SHEREDENE F. BENT

2nd DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT:

1. VINCENT MARTIN EBANKS, 42 Sparrow Street, George Town, P.O. Box 31543, Grand Cayman, KY1-1207, Cayman Islands.
2. SHEREDENE F.BENT, P.O. BOX 1781, Grand Cayman, KY1-1109, 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 27th day of November 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. On 29 February 2012 the Plaintiff was driving his motor vehicle registration number 99033 along Shedden Road away from the traffic lighted four way junction towards his place of work at Coconut Car Rentals. On arriving at his place of work he was stationary on his side of the road on Shedden Road waiting to permit the oncoming traffic to pass and once the road was clear to make a right turn into his company's place of work and parking lot.
2. The first Defendant permitted the second Defendant to drive her 2000 Mercedes S 500 motor vehicle registration number 126147. The second Defendant whilst driving the 1st Defendant's motor vehicle along Shedden Road drove the 1st Defendant's motor vehicle into the rear of the Plaintiff's stationary motor vehicle.
3. The 2nd Defendant so negligently drove the motor vehicle, the property of the 1st Defendant, and as a servant or agent of the second Defendant, along Shedden Road that it collided into the rear of the Plaintiff's motor vehicle.

PARTICULARS OF NEGLIGENCE OF THE 1st DEFENDANT

- (a) Driving too fast.
 - (b) Failing to keep any or any proper lookout or to have any or any sufficient regard for other road users and here in particular the Plaintiff.
 - (c) Failed to heed or to observe the presence of the Plaintiff.
 - (d) Failed to see the Plaintiff, in time or at all
 - (e) He failed to have any regard for the prevailing road conditions.
 - (f) The 1st Defendant was driving at a speed that was unsafe so to do.
 - (g) Failing to stop, to slow down, to swerve, or in any other way so to manage or control the motor vehicle so as to avoid colliding with the Plaintiff.
 - (h) Collided with the Plaintiff who was waiting to turn right off the main road.
4. The 1st Defendant told the Plaintiff and the Scenes of Crime Officer that he admitted liability for causing the accident and therefore not to call the police.
 5. Further it is averred that the facts of the accident speak for themselves as being an occurrence which cannot normally happen without negligence.
 6. By reason of the matters aforesaid, the Plaintiff sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

The Plaintiff's date of birth is 12 of December 1959. Following the accident on 29 February 2012, the Plaintiff did not lose consciousness and was immediately taken to

the hospital. The Plaintiff suffered injuries, including, a complete tear of the supraspinatus tendon with 9 mm retraction of the myotendinous junction as well as a crushing injury to his right knee exacerbated a pre-existing condition causing the right knee to swell up. The Plaintiff has since undergone surgery to the left shoulder and is unable to work whilst he is recovering from his injuries and the hospital procedure. The Plaintiff will be relying on the medical report of Dr. Yaron Rado, Consultant Radiologist Jv. with regards the shoulder injury.

PARTICULARS OF SPECIAL DAMAGE

Date	Description	Costs (CIS)
29 February 2012	- medical expenses	CIS\$16,790.00.
	Loss of income from 29 February 2012 at CIS\$670. 00 per week	CIS\$26,800.00

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



Clyde H. Allen, Chambers

THIS WRIT was issued by Clyde H. Allen, 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 ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. OF 2012

BETWEEN BERTILO POWERY PLAINTIFF

AND: VINCENT MARTIN EBANKS 1st DEFENDANT

AND: SHEREDENE F. BENT 2nd 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,
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.