

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

GD476
CAUSE NO: OF 2012

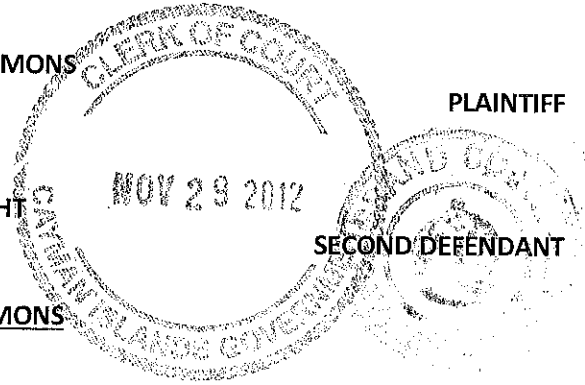
BETWEEN:

DANIEL FITZSIMMONS

AND:

PHILIP WIGHT

WRIT OF SUMMONS



PLAINTIFF

SECOND DEFENDANT

TO:

Philip Wight

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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of November 2012.

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 Acknowledgment of Service are given with the accompanying form.

And as a Noticed Party to:
Cayman First Insurance Company Limited
3rd Floor, Harbour Place
103 South Church Street
P.O. Box 2171
Grand Cayman KY1-1105

STATEMENT OF CLAIM

1. On the 2nd December 2009 the Plaintiff pedestrian was crossing West Bay Road, George Town, Grand Cayman, at or about the junction with Piper's Way and adjacent to Coconut Joe's Restaurant, when suddenly and without warning he was struck, knocked down and injured by a Range Rover motor vehicle registration number Q0832 being driven from his left towards him by the Defendant.
2. At all material times the Defendant was insured to drive the Range Rover motor vehicle registration number Q0832 with Sagacor General Insurance who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).
3. The accident was caused or contributed to by the negligence of the Defendant.

Particulars of negligence

The Defendant was negligent in that he:

- (a) drove too fast in all of the circumstances;
 - (b) failed to keep any or any proper look out;
 - (c) failed to see the Plaintiff in time or at all;
 - (d) failed adequately or at all in time or at all to heed or act upon the presence path and position upon the crossing of the Claimant;
 - (e) failed by means of his lights or horn or otherwise howsoever to warn the Claimant of his approach and intention;
 - (i) failed to apply his brakes in time or at all;
 - (j) failed to stop, to slow down, to swerve or otherwise so to manage or control his vehicle as to avoid the aforesaid collision;
 - (k) struck, knocked down and injured the Plaintiff;
 - (l) exposed the Claimant to a foreseeable risk of injury;
 - (m) failed to take any or any adequate care for the safety of the Plaintiff.
 - (n)drove his vehicle while impaired by alcohol
4. As a result the Plaintiff who is now aged 49 years, having been born on 12th December 1962 suffered pain, injury, loss and damage.

Particulars of general damage

5. The plaintiff was knocked to the ground by the impact with the vehicle and was taken to George Town hospital by ambulance shortly thereafter.
6. The plaintiff sustained a fracture of the upper 1/3rd shaft of the left ulna for which he required open reduction and internal fixation surgery at George Town Hospital on the 4th December 2009.
7. The plaintiff sustained an injury to his left wrist requiring surgery in April 2010. He further sustained a torn meniscus in his right knee, cartilage damage to his left shoulder, and a tear to

the triangular fibrocartilage complex of his left wrist. He is expected to need further surgery on one or both of his knees in the near future.

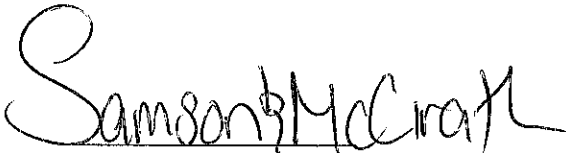
8. The plaintiff struck his head as he fell and also suffered pain to his mid lower central chest wall, and his right abdomen. He further sustained abrasions to his right leg, fingers and hand and a laceration to his right forearm and eyebrow region.
9. The plaintiff continues to experience problems with his left arm, left wrist, left shoulder, left knee and right knee.
10. The plaintiff has lost earnings and incurred medical expenses to date as set out in the Schedule of Damages.

Particulars of special damage

10. Please see attached Schedule of Damage. The plaintiff continues to receive treatment for his injuries and full particulars of future damages are not known at this time and will be provided in due course.
11. The Claimant will claim interest pursuant to section 34 of the Judicature Law (2007 Revision);

AND THE PLAINTIFF claims:

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2007 Revision)
3. Costs



Samson & McGrath
Attorneys for the Plaintiff

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CAUSE NO: OF 2012

BETWEEN:

DANIEL FITZSIMMONS

PLAINTIFF

AND:

PHILIP WIGHT

SECOND DEFENDANT

SCHEDULE OF LOSS

1. Loss of Earning to date

The plaintiff was entirely incapable of work from the date of the accident to the 15th February 2010 a lost wages of US\$9,995.

From 24th February 2010 to 17th August 2010 the plaintiff was unable to work to the same level as pre-accident and suffered loss of earnings as a result of his partial disability of US\$8,532.

From 14th June 2011 through 8th August 2011 due to an operation the plaintiff was again partially incapacitated due to his injuries and lost earnings in that period of U.S.\$4,131.

As a result of his injuries the plaintiff was transitioned from full time employee with his employer to contract worker on a full time basis in July 2011 and then on a part time basis from November 2011.

Full particulars of his loss during this period will be provided.

2. Future Loss of Earnings:

The plaintiff's on-going medical issues are such that he does not expect to be capable of returning to full time employment in his occupation as an electrical engineer on a full time basis for the foreseeable future. The plaintiff earned approximately US\$70,000 per annum prior to the accident and at present earns approximately US\$10,000 per annum. Full particulars of his future loss of earnings claim will be provided in due course.

3. Medical Expenses to date

Treatment	Date	Provider	Cost
Radiology	6/8/12	One Call Medical	\$450
Radiology	31/8/12	One Call Medical	\$450
Physical Therapy	2/25/10	Align Networks Inc	\$120
Physical Therapy	3/4/10	Align Networks Inc	\$69.60
Physical Therapy	3/4/10	Align Networks Inc	\$69.60
Physical Therapy	3/4/10	Align Networks Inc	\$69.60

Physical Therapy	3/8/10	Align Networks Inc	\$69.60
Physical Therapy	3/8/10	Align Networks Inc	\$69.60
Physical Therapy	3/8/10	Align Networks Inc	\$69.60
Physical Therapy	6/21/10	Align Networks Inc	\$91.20
Physical Therapy	6/30/10	Align Networks Inc	\$69.60
Physical Therapy	6/4/10	Align Networks Inc	\$91.20
Physical Therapy	8/19/10	Align Networks Inc	\$91.20
Physician	1/4/10	Stephen Clifford	\$510.30
Physician	1/4/10	Stephen Clifford	\$129.60
Physician	1/15/10	Stephen Clifford	\$125.10
Physician	1/29/10	Stephen Clifford	\$159.30
Physician	2/8/10	Stephen Clifford	\$102.60
Physician	2/10/10	One Call Medical	\$450.00
Physician	3/3/10	Stephen Clifford	\$125.10
Physician	3/5/10	Quest Diagnostics	\$47.79
Physician	3/11/10	Stephen Clifford	\$94.50
Physician	3/18/10	Palm Beach Orthopaed	\$950.00
Physician	3/23/10	One Call Medical	\$450.00
Physician	4/6/10	Palm Beach Orthopaed	\$101.00
Physician	4/16/10	One Call Medical	\$450.00
Physician	5/14/10	Palm Beach Orthopaed	\$101.00
Physician	5/17/10	Stephen Clifford	\$63.00
Physician	5/17/10	Palm Beach Orthopaed	\$976.00
Physician	5/26/10	Northpoint Surgery	\$4629.87
Physician	5/27/10	Palm Beach Orthopaed	\$12.35
Physician	6/11/10	Pain Medicine Physician	\$278.69
Physician	6/11/10	Pain Medicine Physician	\$106.16
Physician	6/25/10	Pain Medicine Physician	\$278.69
Physician	6/29/10	Stephen Clifford	\$104.00
Physician	8/30/10	Stephen Clifford	\$118.00
Physician	8/31/10	One Call Medical	\$450.00
Physician	9/10/10	Stephen Clifford	\$105.00
Physician	11/29/10	Stephen Clifford	\$105.00
Physician	2/23/11	Stephen Clifford	\$70.00
Physician	5/24/11	Stephen Clifford	\$70.00
Physician	7/18/11	Stephen Clifford	\$70.00
Physician	11/4/11	Stephen Clifford	\$95.00
Physician	12/1/11	Stephen Clifford	\$60.00
Physician	2/24/12	Stephen Clifford	\$70.00
Physician	2/24/12	Performance Orthopaed	\$695.00
Physician	5/31/12	Stephen Clifford	\$85.50
Physician	7/3/12	Stephen Clifford	\$54.00
Physician	9/28/10	Stephen Clifford	\$54.00
Pharmacy	6/10/10	Carlisle Medical Inc	\$13.00
Pharmacy	9/9/10	Carlisle Medical Inc	\$23.44
Emergency care and surgery	December 2010	Cayman Health Services Authority	\$7,764.60

Emergency care and surgery	December 2010	Cayman Health Services Authority	\$7,764.60
Total			\$21,997.99

4. Future Cost of Care and Treatment

The plaintiff may require further operations, physiotherapy and medication to assist with his recover from his injuries. The nature, extent and cost of the said treatment are unknown at this time and will be forwarded in due course.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS

1. The accompanying form of Acknowledgment 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 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment 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 indorsed on the Writ (i.e. the words "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 indorsed 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 Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, 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

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment 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.

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.

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman

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]

