

IN THE GRAND COURT OF THE CAYMAN ISLANDS

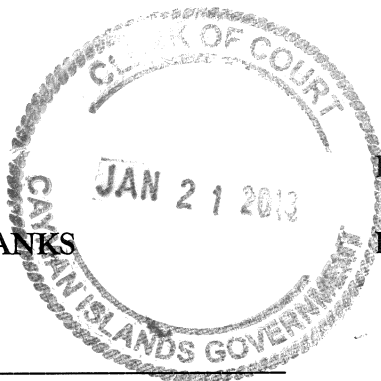
CAUSE NO: 23 OF 2013

BETWEEN: ERROL REID

PLAINTIFF

AND: THERESA EBANKS

DEFENDANT



WRIT OF SUMMONS

To: Theresa Ebanks
286 Hirst Road
Savannah-Newlands
Bodden Town
Grand Cayman

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 495 G.T., 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 18th day of January 2013

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.

STATEMENT OF CLAIM

1. The Plaintiff is a Caymanian employed as a Tour Operator residing at 10 Candover Street, Grand Cayman.
2. The Defendant's occupation is unknown, who at the relevant time resided at 286 Hirst Road, Grand Cayman. The Defendant was at all material times the driver and owner of a Honda Civic motor car registration number 116949 which was at all material times insured by the Insurance Company of the West Indies (Cayman) Ltd.
3. On Friday 22nd January, 2010 the Plaintiff was returning home driving his Toyota Coaster bus registration no. 102451. On approaching the vicinity of Candover Street on Hirst Road he signalled to turn right into his premises and checked to ensure that there were no oncoming vehicles. He saw none. However, whilst turning into his gate he heard the sound of oncoming cars and looked up to see two vehicles coming around the bend (approximately 300 feet from his turn) at a high rate of speed. The vehicle being driven by the Defendant, which was a green Honda Civic registration number 116949 was in the center of the carriage way. He accelerated trying to avoid a collision but one of the vehicles passed at the rear of his vehicle but the other vehicle being driven by the Defendant appeared to go out of control and appeared not to be able to stop and collided with the bus causing extensive damage to both vehicles and also causing damage to a concrete fence.
4. That the Police were called to the scene and did investigations resulting in the Defendant being charged before the Summary Court in case no. 05442/2010 (1-4) for the offences of Careless Driving, Speeding and other offences. The Defendant pleaded guilty and was convicted on the 26th July, 2010.
5. That the accident was caused by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE OF THE DEFENDANT

- (i) Driving at an excessive speed around a corner or bend.
 - (ii) Failing to keep a proper look out in the circumstances;
 - (iii) Failing to drive a vehicle in road worthy condition
 - (iv) Failing to steer or control the vehicle or to apply her brakes adequately so as to avoid colliding with the Plaintiff
 - (v) Failing to take any or any adequate care for the safety of other road users.
 - (vi) Failing to drive with caution around a corner or bend.
 - (vii) Failing to anticipate that other road users would be in the road around the bend or corner.
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6. By reason of the negligence of the Defendant, the Plaintiff suffered loss and damage.

Particulars of Loss and Damage

- 6(i) The Toyota Coaster was extensively damaged and as a result the Plaintiff lost income from that source from the date of the accident to 25th October, 2010 when it was finally repaired and placed back in service. Total loss of income was \$62,400.00
- (ii) The cost of damage and repairs to the Toyota Coaster \$15,150.00
- (iii) Damages to the concrete fencing in the sum of \$1,350.00

In the premises the Plaintiff claims against the Defendant;

- 1. Damages
- 2. Interest pursuant to the Judicature Law and the Grand Court Rules.
- 3. Costs
- 4. Such further and/or other relief as may be just.



McKinney Reid & Company
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court

AND TO: Theresa Ebanks
286 Hirst Road
Savannah- Newlands
Grand Cayman

AND TO: INSURANCE COMPANY OF THE WEST INDIES (CAYMAN) LTD.
150 Smith Road, George Town
Grand Cayman, Cayman Islands KY1-1106

Acknowledgement of service of writ of summons (0.12, r.3)

**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

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.

BETWEEN: ERROL REID

PLAINTIFF

AND: THERESA EBANKS

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 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

(Signed).....

Attorney for

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.

MCKINNEY REID & COMPANY ATTORNEYS-AT-LAW SUITE A4 Queens Court West Bay Road BOX 1573 GRAND CAYMAN CAYMAN ISLANDS KY1-1110

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

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