

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

INDORSEMENT OF INSURER

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Defendants at the relevant time is Fidelity Insurance (Cayman) Limited, P.O. Box 2174 George Town, Cayman Financial Centre, Dr. Roy's Drive, Grand Cayman KY1-1105, Cayman Islands. See attached Statement of Claim for further particulars.

This Writ was issued by Waide L. DaCosta, attorney-at-law for and on behalf of the Plaintiff, whose address for service is care of the Unit #1, 3rd Flr. Thompson Building, George Town, P. O. Box 591, Grand Cayman KY1-1502, CAYMAN ISLANDS.

STATEMENT OF CLAIM

1. The Plaintiff is a student and resides in 24 Kingbird Drive, George Town Grand Cayman. The Plaintiff was at all material times resident in the Cayman Islands. At the time of the accident the Plaintiff was 24 years of age.
2. The First Defendant was a resident of the island and the driver of a Ford F350 motor vehicle, registration no. 131 835 owned by the 2nd Defendant, at all times (the "Defendant's Vehicle").
3. At approximately 12:50p.m. on 24th June 2010, the Plaintiff, was traveling from Venezia Plaza into the centre turning lane in order to head north on North Sound Road towards the Butterfield Round-a-bout Town in a black Honda Prelude motor vehicle registration no. Q4955 in the vicinity of the Compass commercial centre when the 1st Defendant who was driving South on the North Sound Road at a high rate speed moved into the turning lane in order to make an illegal right turn into the Compass Center. The 1st Defendant is not permitted to make this turn as he would have to drive over the chevron/stripped marks that indicate the end of the turning lane. This illegal manoeuvre by the 1st Defendant caused the Plaintiff's vehicle to collide into the front of the Defendant's vehicle, causing extensive damage to the Plaintiff vehicle and major damage to the Defendant's Vehicle and causing injury to the Plaintiff.
4. The Plaintiff sustained an injury to his head as a result of the collision.
5. The Plaintiffs makes claim for injuries sustained and damages incurred as a result of the said accident pursuant to The Torts (Reform) Law (1996 Revision) and the common law. The Plaintiffs state that the 1st Defendant negligently operated his vehicle and as a result of such negligence caused the above-described accident and caused injuries to the Plaintiff for which the Defendant is responsible at law and in equity. The 2nd Defendant is vicariously liable for the said actions of the 1st Defendant.

PARTICULARS OF NEGLIGENCE

6. The accident and the resulting injuries to the Plaintiffs resulted solely from the negligence and/or recklessness of the 1st Defendant in the operation of the Defendant's vehicle, the particulars of which are set out below:
 - (a) driving without due care and attention;

- (b) failing to observe or heed the presence of the Plaintiff's vehicle on the road;
 - (c) failing to remain in proper control of the vehicle;
 - (d) failing to avoid the collision with the Plaintiff;
 - (e) driving in such a speed and manner as to be unable to stop in the event of an emergency;
 - (f) failing to keep any proper look out or to have any sufficient regard for other road users;
 - (g) failing to give any or any adequate warning to the Plaintiff of his approach and/or the collision by indicators, horn or otherwise.
7. The fact that the 1st Defendant drove his vehicle into the path of the Plaintiff vehicle at such close proximity is evidence in itself of negligence and breach of the common law and statutory duties that the Defendant owed to the Plaintiff. The Plaintiffs plead and rely upon the doctrine of res ipsa loquitur.
 8. By reason of the Defendant's negligence, the Plaintiff suffered injuries and pain which the Defendant is responsible for at law and in equity.

PARTICULARS OF INJURIES


9. As a result of the accident the Plaintiff suffered the following injuries:

(a) Soft tissue injuries, contusions to his chest and a 14cm laceration to his scalp extending from mid-forehead at level of hairline to left supraorbital region;
11. At the time of the accident the Plaintiff was in good health and enjoyed an active social, family and sporting life.
12. Full particulars of the Plaintiffs injuries will be disclosed in advance of trial as part of the discovery process in this cause.
13. The Plaintiffs will provide details of the claim for special damages in advance of the trial in this cause.
14. As a result of the above the Plaintiff is entitled to the relief claimed in this proceeding.

AND the Plaintiffs claims:

- (1) Special damages for medical care and other expenses arising from the accident and the Plaintiffs injuries and future medical expenses to be incurred;
- (2) General Damages for pain, suffering, scarring and loss amenity;
- (3) Interest on all sums due found to the Plaintiff pursuant to the Judicature Law (2007 Revision) at such rate and for such period as may be just.
- (4) Costs.
- (5) Such Further or other relief as may be deemed just by this Honourable Court.

Dated this 21st June 2013.



Waide DaCosta
Attorney-at-Law for the Plaintiff

This Statement of Claim was filed by Waide L. DaCosta, attorney-at-law for and on behalf of the Plaintiff, whose address for service is care of the Unit #1, 3rd Floor, Thompson Building, George Town, P. O. Box 591, Grand Cayman KY1-1502, CAYMAN ISLANDS.

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 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, 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 to 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 installments or otherwise.

See over leaf for notes for guidance

Notes of 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 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 authorized to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on his 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.

Please complete overleaf.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2013

BETWEEN: GORDON MICHAEL OWENS PLAINTIFF

AND: WILLIAM CAUSLEY 1st DEFENDANT
ALLAN FOSTER 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.

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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

(Signed).....
Attorney for

Please complete overleaf

Notes on address for service

Attorney: where the Plaintiff is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act be a foreign attorney.

Plaintiff in person: where the Plaintiff is acting in person, he/she must give his/her post office box number and physical address of his/her residence or, if he/she does not reside in the Cayman Islands, he/she must give an address in Grand Cayman where communications for him/her should be sent.

Endorsement by Plaintiff's attorney (or by the Plaintiff if suing in person) of his/her name and address in the box below.

**Waide DaCosta
Attorney-at-Law
Unit #1, 3rd Floor, Thompson Bldg.
P.O. Box 591
George Town,
Grand Cayman KY1-1502
Cayman Islands**

Endorsement by Defendant's attorney (or by the Defendant if suing in person) of his/her name and address in the box below.