

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

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

G 0038
CAUSE NO. OF 2014

BETWEEN



ERNEST REYNOLDS

NICOLAS BUSH

AND:

THE ATTORNEY GENERAL

1ST PLAINTIFF

2ND PLAINTIFF

DEFENDANT



SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: - c/o Attorney General's Department 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 ¹⁴ day of March 2014

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. The 1st Plaintiff is a Caymanian national and at the time of the accident was 16 years of age and was riding a motor cycle along the West Bay Road.
2. The 2nd Plaintiff is Caymanian national and at the time of the accident was 15 years of age and a pillion passenger on the same motor cycle. The motor cycle was owned by the 2nd Plaintiff and was being repaired by the 1st and 2nd Plaintiffs.
3. The Defendant in right of the Cayman Islands Government or its servants or agents, owed the Plaintiff a duty of care. The Commissioner of the Royal Cayman Islands Police Force and or its servants or agents, here PC 284 BRANAUGH PHILIPS owed the Plaintiffs a duty of care.
4. On 16 March 2011, the 1st Plaintiff was the driver of the motor cycle with the 2nd Plaintiff as a pillion passenger. They were riding the motor cycle along the West Bay Road towards George Town when PC 284 BRANAUGH PHILIPS, whilst performing his duties, was driving in the opposite direction along the West Bay Road towards West Bay. Whilst approaching and just before the traffic junction with Lawrence Boulevard he saw the Plaintiffs travelling in the opposite direction and noticed that the lights were off on the motor cycle. The Defendant turned his police vehicle around in the road and pursued the Plaintiffs.
5. The Defendant so negligently drove his motor vehicle along the West Bay Road in pursuit of the Plaintiffs travelling up to speeds of or about or between 50 to 60 mph. The police officer did not at any time alert his superiors or supervisors to the fact that he was involved in a chase of the motor cycle along the West Bay Road.
6. The Police Officer drove his motor vehicle at an excessive speed of over 50 mph in pursuit of the motor cycle in order to catch up to it and stop it. On catching up to the motor cycle, the Police Officer used the police motor vehicle in such a manner as to prevent the 1st Plaintiff overtaking a Honda Civic registration number 113 144 that was being driven immediately in front of the Plaintiffs motor cycle and which was traveling in the same lane and direction.
7. On catching up with the Plaintiffs motor cycle somewhere adjacent to St Mathew's Hospital Residence PC 284 BRANAUGH PHILIPS drove his motor vehicle in a careless, reckless and/or dangerous manner weaving from left to right behind the motor cyclist who was riding the motor cycle at or about 28 mph. PC 284 BRANAUGH PHILIPS so negligently drove and/or in breach of his statutory duty and or policy the police motor vehicle, a Chevrolet Impala, registration number 134402 authorised for use by the Commissioner of Royal Cayman Islands Police Force, along the West Bay road that when adjacent to Captain's Bakery,

the Defendant collided with and/or forced the Plaintiffs into the back of the above-mentioned Honda Civic motor vehicle which collision occurred in the road-way just before Slate Drive.

8. It is admitted that at the time of the accident and because the motor cycle was being repaired it was not insured, the license had expired, was not illuminated, did not have a valid certificate of road worthiness and was being driven by the Plaintiffs without being qualified to drive it.
9. The collision was caused by the negligence of PC 284 BRANAUGH PHILIPS whilst carrying out his duties on behalf of the Cayman Islands Police Force.

PARTICULARS OF NEGLIGENCE

- i) Driving at an excessive speed in the circumstances.
- ii) The 2nd Defendant failed to turn on his siren and blue flashing lights in a timely manner and thus properly alerting all road users of his presence.
- iii) Failed to give way to the Plaintiff's vehicle.
- iv) Drove into the path of the Plaintiff's motor cycle.
- v) In the circumstances, failing to discharge a duty of care to the Plaintiffs and exposing them to and causing the Plaintiffs a risk of injury of which he knew or ought to have known.
- vi) Failing to have sufficient regard for traffic on the road including the motor cyclist and the Honda Civic motor vehicle.
- vii) Permitting his driving to fall below a standard of skill and care expected of a reasonably skilled and prudent driver.
- viii) Failure to exercise such care and skill as is reasonable in the circumstances.
- ix) That the Defendant deliberately drove his motor vehicle at the Plaintiffs on the motor cycle in an effort to keep them confined behind the Honda Civic motor vehicle immediately in front of the motor cycle at a time when the motor vehicle was slowing down and had not yet pulled off the road.
- x) The Defendant drove his motor vehicle so close to the Plaintiffs thus creating a trap behind the Honda Civic and creating a foreseeable risk of injury.
- xi) The Defendant failed to drive at a distance and speed to allow the Plaintiffs to slow down and/or stop the motor cycle.
- xii) Failed to avoid colliding with the Plaintiffs by driving his motor vehicle at such a rate of speed and in such a way as to impede the Plaintiffs in such a manner or to such an extent that it created a foreseeable risk of injury to the Plaintiffs.

- xiii) Failure to stop, to slow down, to swerve, or in any way so as to manage or control the police motor vehicle so as to avoid the collision with the Plaintiffs

10. As a result of the accident the Plaintiffs suffered pain, injury loss and damage.

PARTICULARS OF INJURY

The 1st Plaintiff's date of birth is 13 September 1994. The 1st Plaintiff suffered various injuries including damage to his left leg by way of a haematoma, damages to his left wrist by way of a fracture and damage to his left side of his face including his left jaw.

The 2nd Plaintiff's date of birth is 22 March 1995. The Second Plaintiff suffered various injuries including head injuries to include, abrasions to forehead and scalp subarachnoid hemorrhage – bilateral frontal and bitemporal hemorrhage - and multiple skull fractures and was rendered unconscious for a number of days.

Particulars of Special Damage

1st Plaintiff

1. Medical expenses (scheduled to be produced in due course) owed to George Town Hospital of CI\$9,921.97.

2nd Plaintiff

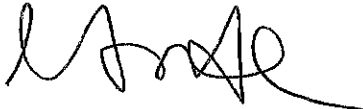
1. Medical expenses (schedule to be disclosed in due course) owed to George Town Hospital of CI\$9,894.16 of which the insurance provider has paid CI\$8,319.67.
2. Air Ambulance to Miami of US\$10,845.00 of which the insurance provider paid has paid 100%.
3. Medical expenses incurred at Jackson Memorial US\$308,496.36 of which the insurance provider has paid 100%

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 9, 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. ^{G0038} OF 2014

BETWEEN

ERNEST REYNOLDS

1ST PLAINTIFF

NICOLAS BUSH

2ND PLAINTIFF

AND:

THE ATTORNEY GENERAL

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.

[Empty box for defendant's attorney indorsement]