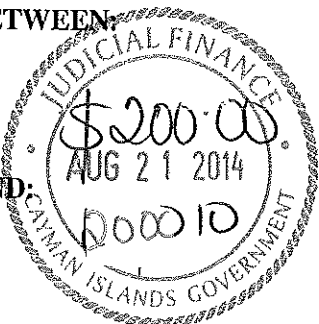


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: **G70183** OF 2014

BETWEEN



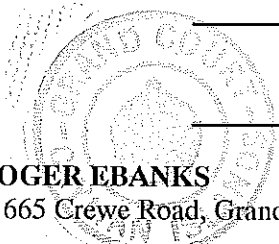
STEPHEN RICHARD PETGRAVE

PLAINTIFF

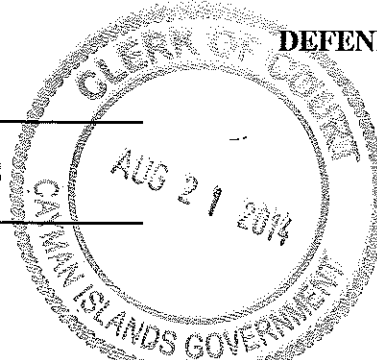
AND

ROGER EBANKS

DEFENDANT



WRIT OF SUMMONS



TO: ROGER EBANKS
of 665 Crewe Road, Grand Cayman

This claim arises out of the use of a motor vehicle on a road, and the name and address of Defendant's motor vehicle insurer is as follows:

Cayman First Insurance Company Limited
3rd Floor, Harbour Place
103 South Church Street
P.O. Box 2171, Grand Cayman KY1-1105

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff of Carmen Boulevard, Bodden Town, Grand Cayman in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1-1106, Cayman Islands the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein any 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 21st day of August 2014.

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 original issuance unless renewed by order of the Court.

IMPORTANT

Directions for the Acknowledgement of service are given with the accompanying form.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2014

BETWEEN:

STEPHEN RICHARD PETGRAVE

PLAINTIFF

AND:

ROGER EBANKS

DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff resides in Bodden Town, Grand Cayman and was at material times the owner and operator of a Chevrolet S10 pick-up truck bearing registration plate no. 150 212, hereinafter referred to as "the Plaintiff's vehicle".
2. The Defendant resides in Bodden Town, Grand Cayman and was at all material times the operator of a Dodge Dakota pick-up truck bearing registration plate no. 120 000, and hereinafter referred to as "the Defendant's vehicle".
3. The Plaintiff's claim arises from the use of a motor vehicle upon a road by the Defendant, required to be insured pursuant to the Vehicle Insurance (Third Party Risks) Law (2012 Revision). The insurer of the Defendant's vehicle at all material times was Cayman First Insurance Company Limited and notice of these proceedings will be given to the said insurer in accordance with s.15(2)(b) of the said Law.
4. On 5 July 2014 at or about 8:35 p.m. the Plaintiff was operating the Plaintiff's vehicle proceeding eastbound on Shamrock Road approaching Bodden Town, and was in the process of making a signaled right hand turn onto Mimosa Lane, proceeding to his residence in a reasonable and prudent manner, when suddenly and without warning as he was completing the turn onto Mimosa Lane, the Plaintiff's vehicle was struck violently on its right rear corner and quarter panel with such violence that it caused the Plaintiff's vehicle to roll over onto its side crushing and pinning the Plaintiff's left arm between the exterior of the Plaintiff's vehicle and the roadway, and forcing the Plaintiff's vehicle off the road.
5. The Plaintiff was trapped in the Plaintiff's vehicle with his arm pinned by the weight of the Plaintiff's vehicle, as gasoline spilled around him from the Plaintiff's vehicle's fuel tank, and remained so trapped in these circumstances until the vehicle was eventually righted by those on the scene, and permitting him to be removed from the vehicle.

Particulars of negligence

6. The Plaintiff states that the accident as aforesaid was caused by the negligence of the Defendant, and his actions in attempting to overtake the Plaintiff's vehicle at a high rate of speed, in violation of the solid white line prohibiting overtaking on Shamrock Road at this location, and when his ability to drive and judgment were impaired as the result of the consumption of alcohol.

7. The further particulars of the Defendant's negligence in the operation of the Defendant's vehicle are as follows:
 - a. He was operating the Defendant's vehicle when his ability to do so and his judgment were impaired by the consumption of alcohol, contrary to section 82(1)(a)(ii) of the Traffic Law, 2011, and a Breathalyzer test administered by the RCIPS following the accident recorded his blood alcohol level in excess of that permitted by law;
 - b. He was operating the Defendant's vehicle at an excessive and dangerous rate of speed in the circumstances;
 - c. He attempted to overtake the Plaintiff's vehicle when the centre of Shamrock Road at this location was marked with an unbroken white line, indicating that:
 - (i) pursuant to Reg. 11(1)(e) of the Traffic Control Regulations, 2012 such overtaking was prohibited; and
 - (ii) pursuant to paragraph 3.3.7 of the Road Code of the Cayman Islands, promulgated under s.106 of the Traffic Law 2011, such overtaking was prohibited;
 - d. He failed to apply his brakes promptly, in time, or at all when observing the slowing and signaled turning of the Plaintiff's vehicle;
 - e. He attempted to overtake the Plaintiff's motor vehicle when it was unsafe to do so;
 - f. He was operating the Defendant's vehicle in a careless fashion and without reasonable or sufficient regard for other users of the road.
8. In the circumstances where the Defendant's vehicle came into collision with the rear of the Plaintiff's vehicle in a location where overtaking was prohibited, the Plaintiff pleads and relies on the doctrine of *res ipsa loquitur* as to the negligence of the Defendant in the operation of the Defendant's vehicle.

Particulars of Injury and General Damages

9. As a result of the negligence of the Defendant as aforesaid, the Plaintiff sustained serious crush and injuries to his left arm, being broken in two places with extensive abrasions. He was admitted to the George Town Hospital for treatment of his injuries, which treatment included the use of a suction pump to drain the wound to his left arm, and required sedation in order to have his bandages changed.
10. The Plaintiff has undergone numerous procedures under the primary care of Dr Sida at the George Town Hospital for the treatment of his injuries including:
 - a. Open reduction and internal fixation of the shaft proximal to his left radius and ulna, debridement on his right forearm, decompression fasciotomy on his forearm flexor and extensor compartments, application of a cock-up splint to his left wrist, and negative pressure wound therapy to his left forearm to manage the extensive loss of tissue commencing on 7 July 2014;
 - b. Wound debridement and the continued application of negative pressure suction dressing, and the re-application of a cock-up splint to his left wrist on 11 July 2014;

- c. Wound debridement on his left forearm, and the re-application of cock-up splint to his left wrist on 16 July 2014;
 - d. Wound debridement, and removal of staples in his left forearm on 26 July 2014; and
 - e. A skin graft to his left forearm on 4 August 2014.
11. The Plaintiff has further suffered a blood clot to his right arm secondary to the insertion of an intravenous line at that location, and an injury to his throat from intubation.
 12. The Plaintiff is required to undergo the placement of pins in his left wrist and will require further surgery for the treatment of his injuries. The Plaintiff is currently attending physiotherapy. The Plaintiff's prognosis is presently undetermined.
 13. In addition to his physical injuries the Plaintiff experiences anxiety and panic attacks, difficulty sleeping, and relives the accident, including being trapped in his vehicle as gasoline leaked around him, and a diagnosis of post-traumatic stress disorder is anticipated.

Special damages

14. The Plaintiff is employed as a labourer with WestStar TV Ltd. As a result of his injury he has been unable to work and is presently on sick leave, with his continued employment with WestStar TV Ltd presently at risk. Full particulars of the Plaintiff's loss of income claim will be provided to the Defendant prior to trial.
15. The Plaintiff has incurred substantial liabilities on account of the co-pay due for his surgeries and the treatment he is receiving at the George Town Hospital. Full particulars of these and the Plaintiff's other special damages, including any subrogated claim advanced on behalf of the Plaintiff's health insurer, will be provided to the Defendant prior to trial.

Claim for interest

16. The Plaintiff pleads and relies on s.34 of the Judicature Law (2007 Revision) and Rules 4 and 5 of the Judgment Debts (Rates of Interest) Rules 1995 as varied from time to time and claims interest on his general and special damages and costs as follows:
 - (a) Pre-judgment (simple) interest on his general and special damages awarded, from 5 July 2014 (the date the Plaintiff's cause of action arose) to the date of trial at the rate of 2 ¾% per annum.
 - (b) Post-judgment interest upon the principal amount of the judgment with effect from the date of service of the judgment at the rate of 2 ¾% per annum or such other rate then prevailing in accordance with s.34 of the Judicature Law and the Judgment Debts (Rates of Interest) Rules; and
 - (c) Interest on all fixed or assessed costs and orders running from the date of service of the orders or certificates of taxation respectively and at the rate of 2 ¾% per annum or such other rate prevailing in accordance with s.34 of the Judicature Law and the Judgment Debts (Rates of Interest) Rules.

THE PLAINTIFF THEREFORE CLAIMS:

- (a) General damages for pain and suffering and loss of amenities to be assessed;
- (b) Special damages including loss of income;
- (c) Pre-judgment and post-judgment interest pursuant to s.34 of the Judicature Law (2007 Revision) and the Judgment Debts (Rates of Interest) Rules as more particularly pleaded above;
- (d) His costs of this action, and such further and other relief as to this Honourable Court may seem just.

DATED at Grand Cayman this 21st day of August 2014

Hampson and Co.

Hampson and Company
Attorneys for the Plaintiff

THIS STATEMENT OF CLAIM is filed by Hampson and Company, attorneys for the Plaintiff, whose address for service is that of his said attorneys, at Citrus Grove, 5th Floor, Goring Avenue, George Town, P.O. Box 698, Grand Cayman KY1-1107, 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 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 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 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

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2014

BETWEEN:

STEPHEN RICHARD PETGRAVE

PLAINTIFF

AND:

ROGER 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 intend 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 the Defendant

Address for service:

Please complete overleaf

Notes on address for service

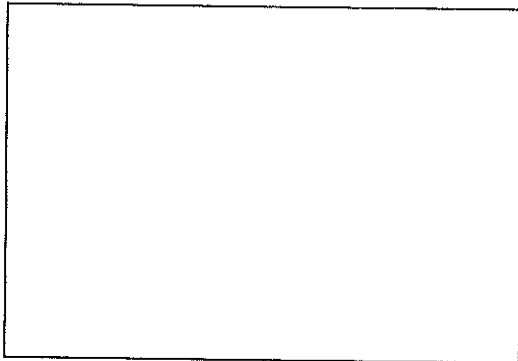
Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

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

Hampson and Company
Attorneys-at-Law
Citrus Grove (5th Fl.), Goring Avenue
P.O. Box 698 Grand Cayman KY1-1107
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.



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 (or 28 days in the case of a writ served outside the jurisdiction pursuant to an order of the Court), 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.