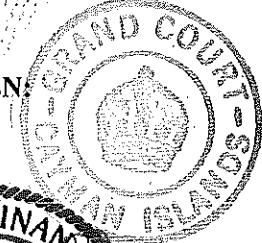


IN THE GRAND COURT OF THE CAYMAN ISLANDS

Go 227

CAUSE NO: OF 2014

BETWEEN



CHRISTOPH DANIEL LETTNER

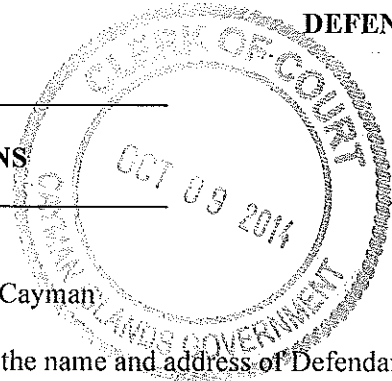
PLAINTIFF

JOHN CLEVELAND RANKINE

DEFENDANT



WRIT OF SUMMONS



TO: JOHN CLEVELAND RANKINE  
of 85 Verneice Bodden Drive, Bodden Town, 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:

Insurance Company of the West Indies (Cayman) Limited  
150 Smith Road  
P.O. Box 461, Grand Cayman KY1-1106

THIS WRIT OF SUMMONS has been issued against you by the above named Plaintiff of Stadtplatz 10 5280 Braunau, Austria 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 9<sup>th</sup> day of October 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:**

**CHRISTOPH DANIEL LETTNER**

**PLAINTIFF**

**AND:**

**JOHN CLEVELAND RANKINE**

**DEFENDANT**

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**STATEMENT OF CLAIM**

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1. The Plaintiff is an Austrian national and resides when in Cayman in West Bay, Grand Cayman and was at the material time employed with S.E.S. Investments Ltd trading as Luca Restaurant, located at Caribbean Club, 871 West Bay Road, Seven Mile Beach, Grand Cayman.
2. The Defendant resides in Bodden Town, Grand Cayman and was at all material times the operator of a Mercedes-Benz ML350 SUV bearing registration plate no. Q4278, 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 Insurance Company of the West Indies (Cayman) 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 11 May 2013 at or about 2:00 a.m. the Plaintiff had finished his shift at Luca Restaurant, and was in the process of crossing from the south side of West Bay Road immediately to the west of Caribbean Club, to the north side of West Bay Road, for the purposes of proceeding to his car, preceded by a fellow worker.
5. The Plaintiff was established on the roadway and had walked across the westbound lane of traffic and was proceeding at a walking speed across the centre/passing lane approaching the eastbound lane, following his co-worker, when suddenly and without warning he was struck violently by the Defendant operating the Defendant's vehicle at a high rate of speed thrown onto the hood of the Defendant's vehicle smashing the windshield of the Defendant's vehicle with his head and was then ejected from the hood and windshield of the Defendant's vehicle landing heavily onto the ground some 20 metres distant.
6. The Defendant backed up his vehicle, paused momentarily, observed that he had struck the Plaintiff, but ignoring the demand of the Plaintiff's fellow worker that he stop, immediately fled the scene of the accident at a high rate of speed forcing the fellow worker to jump out of the way to avoid himself being struck.

7. The Defendant was apprehended by the Royal Cayman Islands Police Service at his residence that night. His blood/alcohol level as obtained by the Royal Cayman Islands Police Service was 0.266, i.e. more than three times the legal limit for motorists in the Cayman Islands.
8. On 14 May 2014 the Defendant pled guilty in Summary Court to the offences of driving under the influence of alcohol and leaving the scene of an accident.

**Particulars of negligence**

9. The Plaintiff states that the accident as aforesaid and injuries and damages sustained by the Plaintiff occurred solely as the result of the negligence of the Defendant in the operation of the Defendant's vehicle.
10. The Plaintiff states that the accident as aforesaid occurred at a time when West Bay Road was free and clear of traffic and when visibility was entirely unobstructed. The Plaintiff was proceeding in a lawful and prudent manner at a walking speed across the roadway following his fellow worker, and was established on and plainly visible on the roadway, further the presence of pedestrians crossing West Bay Road was readily apparent, when the Defendant impaired as the result of the consumption of alcohol, having left Elements Bar at The Strand, Canal Point Road earlier and operating the Defendant's vehicle in an erratic fashion and at a high rate of speed ran him down in the centre/passing lane of West Bay Road.
11. 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;
  - b. He failed to keep a proper or sufficient lookout in the operation of the Defendant's vehicle, when he knew or ought to have known that pedestrians were crossing the roadway;
  - c. He was operating the Defendant's vehicle at an excessive and dangerous rate of speed in the circumstances;
  - d. He failed to slow or stop his vehicle when he ought reasonably have done so, or to apply his brakes promptly in time or at all;
  - e. He failed to maintain the Defendant's vehicle within the eastbound lane for traffic and entered the centre/passing lane where he struck the Plaintiff;
  - f. He failed to take sufficient or any precautions to avoid running down the Plaintiff, when he could reasonably and safely have done so; and
  - g. He was operating the Defendant's vehicle in a careless fashion and without reasonable or sufficient regard for other users of the road.

12. In the circumstances where the Defendant operating the Defendant's vehicle ran down the Plaintiff pedestrian when the Plaintiff was established on and proceeding at a walking speed across the roadway, the Plaintiff pleads and relies on the doctrine of *res ipsa loquitur* as to the negligence of the Defendant in the operation of the said vehicle.

**Particulars of Injury and General Damages**

13. The Plaintiff was initially treated at the Emergency Department of the George Town Hospital and subsequently admitted for further treatment and observation of a closed head injury, including cerebral edema and cerebral contusion, as well as bruises, abrasions and soft tissue injuries to various parts of his body.

14. The Plaintiff suffered continuing complaints and pain in his left shoulder, as well as his coccyx, hip and headaches. Following an MRI examination underwent surgery on 16 October 2013 to repair the detachment of his long biceps tendon at the supraglenoidal insertion. Following surgery the Plaintiff's shoulder was immobilized for three weeks with a shoulder cast. Commencing 11 December the Plaintiff attended five weeks of physiotherapy treatment. The Plaintiff continued to suffer from pain in his headaches and pain in his hip, and was prescribed painkillers through January 2014.

15. The Plaintiff has suffered a loss of his amenities, and has had his recreational and social activities and interest impaired as the result of his injuries, including the loss of his planned kitesurfing vacation in Maui, Hawaii.

**Special damages**

16. At the time of this accident the Plaintiff booked to fly to Maui, Hawaii for a seven week kitesurfing vacation on 12 May 2013 but as a result of this accident and his injuries was compelled to cancel that trip and as a result suffered the loss of his deposit of €1,200.00 (CI\$1,272.00).

17. The Plaintiff was due to commence work in Austria as a food and Beverage Server on 1 July 2013 and but for this accident would have worked returned to work with Luca Restaurant in Cayman in November 2013. The Plaintiff's duties require heavy lifting and carrying, and as the result of his injuries he was unable to return to work until 15 February 2014.

18. The Plaintiff's loss of income is as follows:

July 2013 – November 2013 (€4,600 per month at CI\$1.06)	CI\$24,415.95
1 December 2013 – 15 February 2014 (CI\$1,200 per week)	CI\$13,200.00
Total	<u>CI\$37,615.95</u>

19. Full particulars of the Plaintiff's other special damages, including any subrogated claim advanced on behalf of the Plaintiff's health insurers, will be provided to the Defendant prior to trial.

**Endorsement as to interest**

20. The Plaintiff pleads and relies on s.34 of the Judicature Law (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2010 as amended 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 11 May 2013 (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 the Judgment Debts (Rates of Interest) Rules 2010; 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 the Judgment Debts (Rates of Interest) Rules 2010.

**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 (2013 Revision) and the Judgment Debts (Rates of Interest) Rules 2010 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 9<sup>th</sup> day of October 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, 5<sup>th</sup> Floor, Goring Avenue, George Town, P.O. Box 698, Grand Cayman KY1-1107, Cayman Islands.