

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 229 OF 2015

B E T W E E N:

ROBERT WOODS

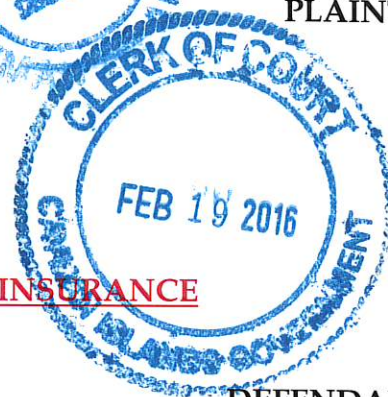


PLAINTIFF

AND

1. FLORIS THOMPSON

2. SAXON MOTOR & GENERAL INSURANCE  
COMPANY LTD.



DEFENDANTS

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AMENDED WRIT OF SUMMONS

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TO: Floris Thompson  
58 56 Maple Road  
George Town  
Grand Cayman  
Cayman Islands

AND TO:

Saxon Motor & General Insurance Company Ltd.  
DMS Corporate Services Ltd.  
PO Box 1344  
dms House  
20 Genesis Close  
George Town  
KY1-1108  
Cayman Islands

THIS AMENDED 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, PO Box 495, George Town, Grand Cayman KY1-1106, 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 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 23rd day of December 2015**

**Amended this 19<sup>th</sup> Day of February 2016**

**NOTE** - This Amended 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.

### GENERAL ENDORSEMENT

The First Defendant was convicted by the Summary Court for careless driving on 17 November 2015 in respect of an accident which took place on Shamrock Road on 27 December 2013, when she negligently drove her vehicle, a 2007 Blue Kia Sorento ("the Vehicle"), out of Prospect Drive into the path of the Plaintiff on his motorcycle, thereby colliding and injuring the Plaintiff, causing loss and damage to him.

The First Defendant's conviction is relevant to the issue of negligence and it will be relied upon by the Plaintiff as evidence in this action.

The First Defendant is liable to the Plaintiff and the only issue between the parties First Defendant and the Plaintiff is the quantum of damages, interest and costs.

The Second Defendant is the motor vehicle insurer which had issued and delivered a motor insurance policy to the First Defendant relating to the Vehicle.

The Second Defendant is also liable to the Plaintiff as the insurer of the First Defendant for such damages as shall be found due to the Plaintiff to be assessed, interest and costs.

Yet further and/or in the alternative, the Plaintiff is entitled to and claims a declaration that the Second Defendant is required to indemnify the First Defendant pursuant to the said motor insurance policy and to satisfy any judgment obtained by the Plaintiff against the First Defendant in respect of the collision on 27 December 2013.

#### **AND THE PLAINTIFF CLAIMS AGAINST THE FIRST DEFENDANT:**

- (i) Special Damages in the amount of US\$37,920.95;

- (ii) General Damages to be assessed;
- (iii) Any necessary inquiries into damages / with future losses to be assessed;
- (iv) Pre and post judgment interest at the rate of 2.38% in accordance pursuant to section 3(1) of the Judicature Law (2007 2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time; / or the equitable jurisdiction of the Court.
- (v) Costs; and
- (vi) Such further and other relief as the Court thinks fit.

**AND THE PLAINTIFF CLAIMS AGAINST THE SECOND DEFENDANT:**

- (i) Special Damages in the amount of US\$37,920.95;
- (ii) General Damages to be assessed;
- (iii) Any necessary inquiries into damages / with future losses to be assessed;
- (iv) A declaration that it is liable to satisfy any award of damages, interest and costs obtained by the Plaintiff against the First Defendant;
- (v) Pre and post judgment interest at the rate of 2.38% in accordance to the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- (vi) Costs; and
- (vii) Such further and other relief as the Court thinks fit.

Dated the 23<sup>rd</sup> day of December 2015

Amended this 19<sup>th</sup> day of February 2016

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**SINCLAIRS**

**ATTORNEYS FOR THE PLAINTIFF**

IN THE GRAND COURT OF THE CAYMAN ISLANDS

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PLAINTIFF

AND

1. FLORIS THOMPSON
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COMPANY LTD.

DEFENDANTS

---

STATEMENT OF CLAIM

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To:  
Floris Thompson  
58 Maple Road  
George Town  
Grand Cayman  
CAYMAN ISLANDS

And To:

Saxon Motor & General  
Insurance Company Ltd.  
DMS Corporate Services Ltd.  
PO Box 1344  
dms House  
20 Genesis Close  
George Town  
KY1-1108  
Cayman Islands

**The Parties**

1. The Plaintiff is and was at all material times an individual residing in the Cayman Islands.

2. The First Defendant is and was at all material times an individual residing in the Cayman Islands.
3. The Second Defendant is and was at all material times an insurance company organised and carrying on business pursuant to the laws of the Cayman Islands. The Second Defendant's registered office is DMS Corporate Services Ltd., PO Box 1344, dms House, 20 Genesis Close, George Town, KY1-1108, Cayman Islands.
4. At all material times, the Second Defendant had issued and delivered a motor insurance policy (the number and full particulars of which the Plaintiff cannot give until discovery herein) to the First Defendant relating to the First Defendant's motor car, a 2007 blue Kia Sorento with a registration number of 125446 (the "Kia Sorento").
5. Pending discovery, the best particulars which the Plaintiff can give of that insurance policy are that the following statement in respect of third party insurance coverage appears on the Second Defendant's website: *"Third Party is the Government mandated coverage in order to operate a motor vehicle in the Cayman Islands. This coverage provides protection for you in the event you cause an accident where there is property damages and/or bodily injury to anyone else. If you caused property damage to someone in an accident, we would provide coverage up to \$250,000 KYD to repair or replace the property for that other person. If you caused bodily injury to someone in an accident, we would provide coverage up to \$1,000,000 KYD to any 1 person for a total of \$5,000,000 KYD for EVERY person injured in one accident."*

### The Facts

6. On 27 December 2013, the Plaintiff was riding his 2008 blue Triumph Sprint motor bike with a registration number of 132450 (the "motor bike") along Shamrock Road in the right hand lane of the dual carriage way in an easterly direction towards Bodden Town in the vicinity of Prospect Drive when the Kia Sorento which was being driven by the First Defendant exited from Prospect Drive into the road towards George Town and drove into the path of the motor bike, thereby causing a collision between the two vehicles.

7. The Plaintiff was ejected from the motor bike onto the road and sustained severe personal injuries.
8. The collision and the injuries, loss and damage pleaded below were caused by the negligence of the First Defendant in respect of which she and/or the Second Defendant (being the relevant motor insurer) are directly liable to the Plaintiff and/or in respect of which the Second Defendant is required to indemnify the First Defendant and satisfy any judgment obtained by the Plaintiff against the First Defendant.

#### Particulars of Negligence

The First Defendant was negligent in that she:

- (i) Failed to keep any or any proper lookout;
  - (ii) Failed to observe or heed the presence of the motor bike in time or at all;
  - (iii) Emerged from Prospect Drive when it was unsafe to do so by reason of the presence, path, position and approach of the motor bike;
  - (iv) Drove the Kia Sorento into the path of the motor bike and into collision with it, thereby failing to accord it precedence;
  - (v) Failed to stop, slow down, steer or otherwise control the Kia Sorento, whether adequately or at all, so as to avoid colliding with the motor bike and so as to avoid causing the Plaintiff to be ejected from it;
  - (vi) Failed to apply her brakes in time or at all so as to avoid colliding with the motor bike;
  - (vii) Failed to give any or any adequate warning of her approach or of her intention to drive onto Shamrock Road;
  - (viii) Drove too fast in the circumstances.
9. The First Defendant was convicted of the offence of careless driving in the Summary Court, number 01825/2014, on 17 November 2015 and was fined

CI\$300 along with having her licence endorsed. The First Defendant's conviction is relevant to the issue of negligence and it will be relied upon by the Plaintiff as evidence in this action.

### Loss and damage

10. By reason of the matters aforesaid, the Plaintiff who was born on 13 January 1963, has sustained severe personal injury and has suffered loss and damage.

### Particulars of Personal Injury

10.1 The Plaintiff suffered the following physical injuries:

- a) A "Bennett" fracture of the left hand.
- b) Fractures of the right 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> ribs.
- c) Bilateral shoulder pain and a SLAP tear of the left shoulder which required surgery. The Plaintiff's right shoulder initially responded well to physiotherapy however it now causes acute pain and has limited motion. The Plaintiff continues to experience pain with a limited range of motion in his left shoulder.
- d) Multiple deep lacerations, some 3 inches deep, and abrasions over both upper and lower limbs. The Plaintiff has been left with an unsightly scar on each leg.
- e) An adductor strain of the right groin.
- f) A partial tear of the anterior cruciate ligament of the left knee and a tear of the posterior cruciate ligament of the left knee. The Plaintiff experiences pain when kneeling down and stiffness when standing up after sitting for long periods. The Plaintiff also experiences similar symptoms in the right knee due to injuries sustained from the accident and also has metal artifacts sediments in the same knee as a result.
- g) The Plaintiff is no longer able to practise yoga which he did regularly before the accident or to play soccer.

10.2 In addition, the Plaintiff has developed acute anxiety about motor bike riding, one of his favourite pastimes for approximately 40 years, and he does not feel able to return to riding motor bikes.

11. Medical evidence giving further details of the Plaintiff's injuries, treatment and prognosis will be served in due course in accordance with Court directions.

**Particulars of Loss**

12. A Schedule giving details of the losses suffered by the Plaintiff as a result of the First Defendant's negligence is served with this Statement of Claim:-
  - a. The total amount being claimed by the Plaintiff as being paid by him to date in regards to special damages caused by the accident is US\$37,920.95.
  - b. The Plaintiff is entitled to and claims all future loss and damage caused by or relating to the accident, the quantum of such damage to be assessed.
13. Further, the Plaintiff is entitled to and claims interest upon such damages as may be awarded to him pursuant to The Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules at the rate of 2.38% per annum.
14. Yet further and/or in the alternative, the Plaintiff is entitled to and claims a declaration that the Second Defendant is required to indemnify the First Defendant pursuant to the said motor insurance policy and to satisfy any judgment obtained by the Plaintiff against the First Defendant in respect of the collision on 27 December 2013.

**AND THE PLAINTIFF CLAIMS:-**

**Against the First Defendant**

- a) General Damages to be assessed;
- b) Special Damages in the amount of US\$37,920.95;

- c) Future Losses to be assessed;
- d) Pre and post judgment interest at the rate of 2.38% in accordance with the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- e) Costs; and
- f) Such further and other relief as the Court thinks fit.

**Against the Second Defendant**

- a) General Damages to be assessed;
- b) Special Damages in the amount of US\$37,920.95;
- c) Future Losses to be assessed;
- d) A declaration that it is liable to satisfy any award of damages, interest and costs obtained by the Plaintiff against the First Defendant.
- e) Pre and post judgment interest at the rate of 2.38% in accordance with the Judicature Law (2013 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time;
- f) Costs; and
- g) Such further and other relief as the Court thinks fit.

Issued this 19<sup>th</sup> day February 2016



**SINCLAIRS**  
**Attorneys for the Plaintiff**

This STATEMENT OF CLAIM was filed by Sinclairs, Attorneys-at-Law for and on behalf of the Plaintiff whose address for service is 3<sup>rd</sup> and 4<sup>th</sup> Floor Genesis Building, Genesis Close, PO Box 498, Grand Cayman, KY1-1106, Cayman Islands

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SCHEDULE OF LOSS

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1. SPECIAL DAMAGES TO DATE.

(a) Items destroyed/damaged in accident

(i) Item description: 2008 Blue Triumph Sprint Motor Bike

Registration number: 132450

The motor bike at the time of the accident was in immaculate condition and had less than 10,000 miles: US\$12,195.12.

(ii) Item description: Clothing including helmet and rucksack in the amount of US\$1,097.56.

(b) Extra Expenses

(i) Medical Expenses to date due to injuries sustained from accident in the amount of US\$23,234.73 are comprised of;

(a) Medical procedures;

- (b) Physiotherapy; and
- (c) Doctor Examinations.

(ii) Travel Expenses in attending hospital/medical appointments in the amount of US\$1,393.54 are comprised of;

- (a) Airfare;
- (b) Hotel; and
- (c) Transportation.

Dated: 19<sup>th</sup> February 2016

Sinclairs

**SINCLAIRS**

IN THE GRAND COURT OF THE CAYMAN ISLANDS

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RESPONSE PACK FOR  
DEFENDENTS

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**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of Acknowledgement 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, PO BOX 495, GRAND CAYMAN KY1-1106.

2. A Defendant who states in his Acknowledgement 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 of "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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgement, 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*

**Notes for Guidance**

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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.

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DEFENDANTS

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ACKNOWLEDGMENT OF SERVICE OF  
WRIT OF SUMMONS

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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:

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

YES

NO

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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

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Service of the Writ is acknowledged accordingly

\_\_\_\_\_

Date:

2015 6

Attorneys for the Defendant

Address for service:

## 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.

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

Sinclairs  
3<sup>rd</sup> & 4<sup>th</sup> Floor Genesis Building  
Genesis Close  
PO Box 498  
George Town  
Grand Cayman KY1-1106  
Ref: SD/HB/

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

Hampson and Company  
Attorneys-at-Law  
Citrus Grove, 5<sup>th</sup> Floor, Goring Avenue  
P.O. Box 698  
Grand Cayman, Ky1-1107  
Cayman Islands