

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

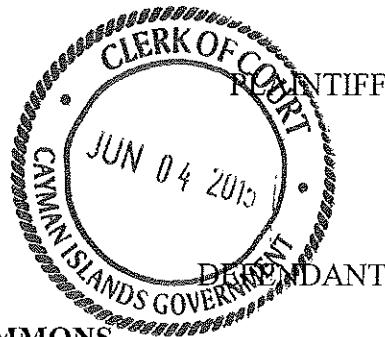
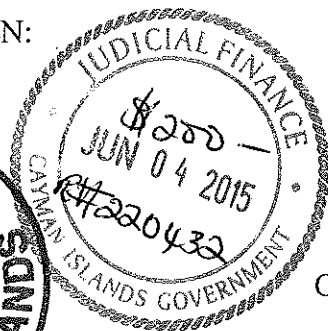
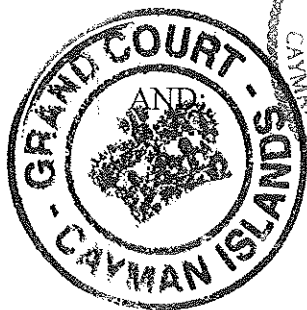
IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. *G0088* OF *2015*

BETWEEN:

STAFANEY AYTON

CHARLES DURANCEAU



SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: Charles Duranceau of 31 Turnberry Drive 4, George Town, Grand Cayman, Cayman Islands.

Insurance Company: Cayman First Insurance Company Limited, 3rd Floor, Harbour Place, 103 South Church Street, P.O. Box 2171, KY1-1105. 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 25th day of May 2015

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) On 2 October 2012 the Plaintiff was a passenger in a white Toyota Hiace motor truck motor vehicle registration number 102621 owned and driven by one Patrick Stewart along Shedden Road, past Mary Street and towards Eastern Avenue at or about 8.50 a.m. and as the Toyota Hiace motor vehicle was about to pass Mary Street the Defendant as a result of his negligent driving caused his motor vehicle Toyota Lexus registration number 1113777 to exit Mary Street turning right onto Shedden Road and into the path of the Toyota Hiace motor truck and thus to collide into the front of the Toyota Hiace motor truck.
- 2) The accident was caused by the negligent driving of the Defendant.
- 3) On 22 January 2015 the Defendant was convicted in the Summary Court sitting at George Town, Grand Cayman, on his plea of guilty of careless driving motor vehicle registration number 1113777 contrary to section 69 of the Traffic Law (R2003) where his license was endorsed and he was fined CI\$500.00. The said conviction is relevant to the issue of negligence and the Defendant intends to rely on it as evidence in this action.

Particulars of Negligence of the Defendant

- (a) Driving at a speed that was too fast in the circumstances.
 - (b) Failing to keep any or any proper lookout.
 - (c) Failing to stop at the junction and permit vehicles that had a right of way to first pass.
 - (d) Failing to steer or control the motor vehicle or to apply his brakes adequately or at all so as to avoid this accident.
 - (e) Failing to stop or slow down or swerve or so to control his motor vehicle as to avoid this accident.
- 4) By reason of the Defendant's negligence the Plaintiff suffered injury, loss and damage.

Particulars of Injury

- 5) The Plaintiff who was born on 31 of December 1979 sustained a head injury, neck, lower back and hip injury. Since the accident the Plaintiff has suffered ongoing pain and discomfort for which she is receiving treatment as a result of the accident. The Plaintiff will rely on the various medical reports including the operative report of Dr Crandon dated 4 July 2013.

Particulars of Special Damage

- | <u>Description</u> | <u>Date</u> | <u>Amount</u> |
|--|--------------------|----------------------|
| 1. Cayman Islands Health Services Authority- Discharge Summary Nursing dated 2 October 2012. | | |

2. Cayman Islands Health Services Authority- Discharge Summary dated 2 October 2012.
3. Cayman Islands Health Services Authority- Return to Work Status dated 2 October 2012.
4. Invoice from C.I. Health Services Authority Statement #- 6715359 dated 4 October 2012. (2,622.44)
5. Invoice from C.I. Health Services Authority Statement #- 6715360 dated 4 October 2012. (7.00)
6. Windward Pharmacy receipt RX# 690256 dated 5 October 2012. (4.40)
7. Dr. Joseph Marzouoca BSc. MB BS. – Certification of absence dated 5 October 2012.
8. Receipt from Dr. Joseph Marzouoca BSc. MB BS. Dated 5 October 2012. (175.00)
9. Windward Pharmacy receipts RX# 4005040 (10.50), RX# 6090255 (8.60), RX# 6090256 (4.40) and RX# 6090257 (52.50) dated 5 October 2012.
10. Receipt from Dr. Joseph Marzouoca BSc. MB BS. Dated 6 October 2012. (80.00)
11. Dr. Joseph Marzouoca BSc. MB BS. – Certification of absence dated 6 October 2012.
12. Payment Receipt Cayman Islands Hospital dated 10 October 2012.
13. Invoice from C.I. Health Services Authority Statement #- 6718235 dated 10 October 2012. (88.99)
14. Dr. Joseph Marzouoca BSc. MB BS. – Certification of absence dated 12 October 2012.
15. Payment Receipt Cayman Islands Hospital dated 18 October 2012. (50.31)
16. Dr. Joseph Marzouoca BSc. MB BS. – Invoice dated 19 October 2012. (95.00)
17. Receipt from Kirk Pharmacy RX# 6219812 dated 31 October 2012. (36.75)
18. Receipt from Kirk Pharmacy RX# 6219813 dated 31 October 2012. (12.85)
19. Receipt from Kirk Pharmacy RX# 6219814 dated 31 October 2012. (4.50)
20. Dr. Joseph Marzouoca BSc. MB BS. – Invoice dated 31 October 2012. (95.00)
21. Dr. Joseph Marzouoca BSc. MB BS. – Certification of absence dated 31 October 2012.
22. Debit Card photocopied receipt for RTX Pharmacy dated 31 October 2012. (54.10)
23. Payment Receipt Cayman Islands Hospital dated 5 November 2012. (388.36)
24. Payment Receipt Cayman Islands Hospital dated 7 November 2012. (25.00)
25. Cayman Islands Health Services Authority- Illness/ Injury Certificate dated 7 November 2012.
26. Payment Receipt Cayman Islands Hospital dated 13 November 2012. (50.00)
27. Payment Receipt Cayman Islands Hospital dated 21 November 2012. (50.00)
28. Letter from Hurlston Janitorial Services dated 22 November 2012.
29. Payment Receipt Cayman Islands Hospital dated 26 November 2012. (50.00)
30. Payment Receipt Cayman Islands Hospital dated 29 November 2012. (50.00)
31. Receipt from Kirk Pharmacy RX# 6220954 dated 3 December 2012.
32. Receipt from Kirk Supermarket & Pharmacy dated 3 December 2012. (6.75)
33. Dr. Joseph Marzouoca BSc. MB BS. – Invoice dated 3 December 2012. (130.00)
34. Valu- Med Pharmacy Receipt dated 4 December 2012. (3.50)
35. Invoice from C.I. Health Services Authority Statement #-6747237 dated 12 December 2012. (74.01)
36. Invoice from C.I. Health Services Authority Statement #-6747973 dated 13 December 2012. (74.01)
37. Invoice from C.I. Health Services Authority Statement #-6747972 dated 13 December 2012. (143.19)
38. Invoice from C.I. Health Services Authority Statement #-6747971 dated 13 December 2012. (295.94)
39. Invoice from C.I. Health Services Authority Statement #-6747970 dated 13 December 2012. (758.16)

40. Invoice from C.I. Health Services Authority Statement #-6747969 dated 13 December 2012. (388.36)
41. Invoice from C.I. Health Services Authority Statement #-6747968 dated 13 December 2012. (7.00)
42. Invoice from C.I. Health Services Authority Statement #-6747967 dated 13 December 2012. (2,622.94)
43. Payment Receipt Cayman Islands Hospital dated 18 December 2012. (20.00)
44. Cayman Airway Ticket dated 22 December 2012. US\$425.04
45. Dr. Joseph A. Marzouca BSC, MBBS dated 24 January 2013. (95.00)
46. Request for Referral from H.S.A dated 3 January 2013.
47. Valu-Med Pharmacy Receipt Rx# 912630 dated 25 January 2013. (69.65)
48. Valu-Med Pharmacy Receipt Rx# 912632 dated 25 January 2013 attached to No. 47 on list. (28.20)
49. Valu-Med Pharmacy official cash receipt dated 25 January 2013 attached to No. 47 on list.
50. Receipt from Cayman Islands Government dated 25 January 2013. (100.00)
51. Fosters Food Fair Supermarket Receipt dated 4 February 2013. (4.15)
52. Strand Pharmacy Receipt dated 4 February 2013 attached to No. 51 on list.
53. Royal Cayman Islands Police Service TAR dated 6 February 2013.
54. Payment Receipt Cayman Islands Hospital dated 6 February 2013.
55. Payment Receipt Cayman Islands Hospital dated 8 February 2013. (30.00)

Jamaica Expenses

1. Invoice – Cotterell’s Service Station dated 25 December 2012. (381.00)
2. Receipt from Ivor W. Crandon dated 27 December 2012. (11,000.00)
3. York Pharmacy Ltd. Tax Invoice dated 27 December 2012. (6,327.01)
4. Vineyards West No. 00400008 – Passage Receipt dated 27 December 2012. (270.00)
5. Vineyards West No. 00600044 – Passage Receipt dated 27 December 2012. (60.00)
6. Direct Diagnostic Services Ltd. dated 27 December 2012.
7. Receipt from Island Radiology Mandeville dated 2 January 2013. (3,500.00)
8. Receipt from Ivor W. Crandon dated 3 January 2013. (6500.00)
9. Receipt from Mother’s Enterprise Ltd. dated 3 January 2013. (230.00)
10. Receipt from Cornerstone Pharmacy dated 4 January 2013. (8,888.69)
11. Cash Receipt from Pier-Ann Brown dated 12 January 2013. (2,000.00)
12. Receipt from Ivor W. Crandon dated 14 January 2013. (7,000.00)

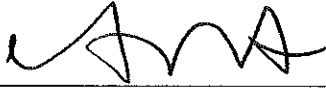
Total Amount KYD \$9,214.65

Total Amount JMD \$ 46,156.70

Total Expenses KYD\$9,542.05

And the Plaintiff claims:

- (i) Damages;
- (ii) Further, pursuant to The Judicature Law (1995 Revision), the Plaintiff is entitled to and claims interest on such sums as are found to be due at the statutory 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 whose address for service is Clyde H. Allen Chambers PO Box 31076, 2nd Floor, Suite #9, 19 Fort Street, KY1-1205, Grand Cayman, Cayman Islands.

Acknowledgement of service of writ of summons (0.12, r.3)

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 495G, 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

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, 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.

BETWEEN:

STAFANEY AYTON

PLAINTIFF

AND:

CHARLES DURANCEAU

DEFENDANT

**ACKNOWLEDGMENT OF SERVICE
OF SPECIALLY ENDORSED 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 complete overleaf

