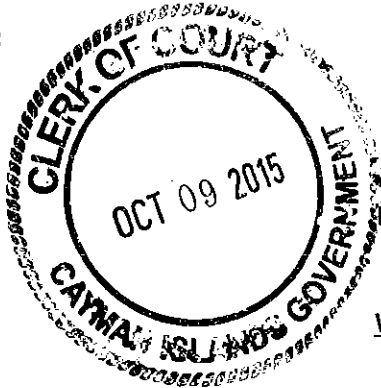


IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



USE NO: **G0179** OF 2015

BETWEEN:



RICHARD POWERY

PLAINTIFF

AND:

LORA SCHIWENDIKE



WRIT OF SUMMONS

TO: Lora Schiwendike

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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of October, 2015.

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 issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

And as a Noticed Party to:
Cayman First Insurance Company Limited
3rd Floor, Harbour Place
103 South Church Street
P.O. Box 2171
Grand Cayman KY1-1105

STATEMENT OF CLAIM

1. At all material times the Plaintiff was the owner and driver of a small passenger bus registration number 102651 and the Defendant was the driver of a Mitsubishi Pajero registration number 106022.
2. On the 3rd March 2015 the Plaintiff was stationary in the vicinity of Casanova by the Sea on North Church Street, George Town, Grand Cayman allowing pedestrians to cross the road. Suddenly and without warning the Defendant drove into the rear of the Plaintiff's stationary vehicle.
3. At all material times the Defendant was insured to drive the Mitsubishi Pajero registration number 106022 with Cayman First Insurance Company Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).
4. The accident was caused by the negligence of the Defendant.

Particulars of negligence

The Defendant was negligent in that she;

- 4.1 drove too fast in all of the circumstances;
 - 4.2 failed to keep any or any proper look out;
 - 4.3 failed to adequately control her vehicle;
 - 4.4 failed to see the Plaintiff in time or at all;
 - 4.5 failed to apply her brakes whether in time or at all;
 - 4.6 *res ipsa loquitur*
5. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage

6. The Plaintiff's date of birth is the 9th April 1963 and he is currently 52 years old.
7. Following the accident the Plaintiff was taken to George Town hospital by ambulance.
8. The plaintiff sustained injuries to his neck, lower back, left shoulder and headaches.
9. At hospital he underwent a number of tests including x-rays and a CT scan.
10. He was provided with sick notes from work and has only recently returned to driving the public bus and in a significantly reduced capacity.
11. He had undergone further treatment with Dr Stanley and Dr Gay.
12. He remains symptomatic and is still under the treatment of Dr Gay, his prognosis is guarded.
13. On the advice of Dr Gay, he purchased a TENS machine to help alleviate his ongoing pain.

14. In addition to Pain Suffering and Loss of Amenity, the Plaintiff also pursues claims for Future Care, Future cost of medication and Future Loss of Earnings which will be particularized in due course.


Particulars of Special Damage

15. See attached Schedule of Special Damages.

16. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2013 Revision);

AND THE PLAINTIFF claims:

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2013 Revision)
3. Costs



Samson & McGrath
Attorneys for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: ⁶⁰¹⁷⁹ OF 2015

BETWEEN:

RICHARD POWERY

PLAINTIFF

AND:

LORA SCHIWENDIKE

DEFENDANT

SCHEDULE OF SPECIAL DAMAGES

<u>Item</u>	<u>Description</u>	<u>Value in CI\$</u>
1	Loss of Income	61,732.90 and ongoing
	<p>The Plaintiff is self-employed as a bus driver. He was not able to work from the date of the accident on the 3th March 2015 until 24th July 2015 and has a number of sick notes in support. The Plaintiff is still unable to work full time and thus his loss of earnings is ongoing.</p> <p><u>Public Buses</u></p> <p>The Plaintiff drives a public bus 6 days a week (and occasionally on a Sunday) He starts anytime from 4.30am and can work up to 8pm. During high season, on average he earns \$400.00 per day and in low season approximately \$250.00 per day. The plaintiff spends around \$60-\$80 on gas daily; the above figures are already net of his fuel costs.</p> <p><i>4th March 2015 to the 23rd July 2015 (20 weeks)</i></p> <p>The Plaintiff could not work at all during this time and had sick notes to cover the time off work.</p> <p>Average daily earnings = \$325.00 6 days a week x \$325.00 = \$1,950.00 20 x \$1,950.00 = \$39,000.00</p> <p><i>24th July 2015 to the 10th September 2015 (7 weeks)</i></p> <p>The Plaintiff has been able to return to work but with reduced hours.</p>	

Item	Description	Value in CI\$
	<p>Using the calculation above he would have earned $7 \times \\$1,950.00 = \\$13,650.00$</p> <p>His actual income = \$3,837.10</p> <p>Loss = \$9,812.90</p> <p><u>Extended After School Programme.</u></p> <p>In addition to running his public bus, the Plaintiff also provides school buses for the Extended After School Programme.</p> <p>He earns \$680.00 per week for this service which he was been unable to do since the accident until the 21st September 2015. The Plaintiff gives credit for school holidays of 10 weeks during which he would not have been working in this capacity.</p> <p>3rd March 2015 – 21st September 2015 = 29 weeks (less 10 weeks of school holidays).</p> <p>$680.00 \times 19 \text{ weeks} = 12,920.00$</p>	
2	Care	3,830.00 and ongoing
	<p>Following the accident, due to his injuries, the Plaintiff has required Care and assistance.</p> <p>The Plaintiff required assistance from his girlfriend including cooking, washing, laundry, shopping, cleaning and other household chores. The Plaintiff required approximately 2 hours care per day from his girlfriend.</p> <p><i>4th March 2015 to the 23rd July 2015 (20 weeks)</i></p> <p>$20 \text{ weeks} \times 2 \text{ hours per day} \times 7 \text{ days per week} \times \\$10.00 \text{ per hour} = \\$2,800.00$</p> <p>In addition, when needed he relies upon his brother to transport him to medical appointments/ pharmacy etc.</p> <p>$20 \text{ weeks} \times 2 \text{ hours per week} \times \\$10.00 = \\$400.00$</p> <p><i>24th July 2015 to the 24th September 2015 (9 weeks)</i></p> <p>The Plaintiff still requires care from his girlfriend as above but to a slightly lesser extent, however she now also assists him with the placement of the pads for his Tens machine.</p>	

Item	Description	Value in CI\$
	9 weeks x 1 hour per day x 7 days per week x \$10.00 per hour = \$630.00	
3	Prescriptions/Medication	381.35
	Prescribed by A&E, Dr Arminan, Dr Sida and Dr Stanley	
4	Co-pay for treatment at CTMH (Dr Sida and Dr Gay)	519.89
5	X-rays	566.16
6	MRI Scan Lumbar and Cervical Spine (3T Cayman)	3,356.10
7	Ultrasound – Cayman islands Imaging	439.67
8	CIHSA Fees	3,521.76
	The outstanding balance is \$3,474.79 The Plaintiff has paid the sum of \$46.97	
9	Co-pay for treatment with Dr Stanley	164.17
10	Treatment wih Dr Arminan	800.00
11	TENS Machine and additional pads	83.58
12	Dr Lippett	90.00
13	CINICO Outlay	TBA
	TOTAL	75,485.58 and ongoing

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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

60179
CAUSE NO: OF 2015

BETWEEN:

RICHARD POWERY

PLAINTIFF

AND:

LORA SCHIWENDIKE

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 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

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.

Samson & McGrath
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman KGR/

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]