

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



BETWEEN: JOAQUIM D'SOUZA

AND: CONROY TAYLOR

CAUSE NO. 233/2015

PLAINTIFF

DEFENDANT



WRIT OF SUMMONS

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 495, George Town, Grand Cayman, KY1-1106 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 29th day of December 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.

STATEMENT OF CLAIM

1. The Plaintiff was lawfully resident in the Cayman Islands on a work permit as at December 26, 2012.
2. The Defendant was the driver of a motor vehicle along the West Bay Road on December 26, 2012 when he negligently and carelessly hit the Plaintiff from behind as Plaintiff was riding his bicycle going home from work. The Plaintiff was thrown bodily in the air and fell to the ground unconscious.
3. Plaintiff regained consciousness the next day, on December 27, 2012, in the Cayman Islands Hospital where he was diagnosed with a concussion, blunt trauma to the abdomen and chest, pelvic fractures, injuries to the spine and axial/brain bleeding. The Plaintiff experienced severe pain and weakness including loss of amenities.
4. The Defendant was subsequently charged criminally with the offence of careless driving and the outcome of that case is presently unknown as is whether that case has been concluded.
5. The Plaintiff's bicycle was irreparably destroyed and the Plaintiff also bore loss and damages from the personal injuries, pain and suffering.
6. The Plaintiff claims that the accident was caused by the negligence of the Defendant and/or breach of his statutory duty by virtue of the Traffic Law (2011 Revision) under sections 73, 76 and 77.

PARTICULARS

- i. Failing to exercise due care and attention when using the road and to have due regard to the safety and comfort of other road users and the preservation and protection of public and private property.
 - ii. Failing to drive in such a manner as to ensure that the Defendant had full control of the motor vehicle at all times.
 - iii. Driving at a speed which was too fast under the circumstances
 - iv. Failing to keep any or any proper watch on the road behind and in front of the vehicle being driven.
 - v. Driving his vehicle in a manner so as to collide with the Plaintiff's vehicle.
 - vi. Failing to stop, to slow down or in any way to manage or control his vehicle to avoid collision with the Plaintiff's bicycle.
 - vii. Failing to see the Plaintiff in sufficient time to avoid colliding with him.
 - viii. Failing to exercise reasonable skill and care to be expected of a reasonably skilful and careful driver in the circumstances.
 - ix. Driving dangerously or recklessly in all the circumstances.
7. By virtue of the Defendant's negligence and breach of duty the Plaintiff has suffered loss and damage including personal injuries pain and suffering.

PARTICULARS OF INJURIES

8. The Plaintiff sustained injuries diagnosed as concussion, blunt trauma to the abdomen and chest, pelvic fractures, injuries to the spine and subarachnoid hemorrhage (SAH).
9. The injuries indicated at the paragraph above were diagnosed at the Cayman Islands Hospital where he was admitted for approximately 7 days.
10. During hospitalization Plaintiff was nauseated experienced vertigo and severe pain, required assistance to ambulate.
11. The Plaintiff obtained medical treatment for his injuries and has been diagnosed with fractures of the lumbosacral spine at L2, L4 and L5.
12. The Plaintiff's total impairment of the whole person is yet to be diagnosed.
13. The Plaintiff continues to suffer the effects from his injuries. The Plaintiff to this day remains unable to resume his normal physical functioning which affects his employment.
14. Fuller particulars of the Plaintiff's injuries will be provided to this honourable court in preparation for trial.

PARTICULARS OF SPECIAL DAMAGES

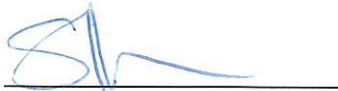
15. The Plaintiff's bicycle was irreparably damaged by the collision. It's value is approximately CI\$270.00.
16. The Plaintiff's medical expenses, to the date of filing, total CI\$11,000.00. Continued physiotherapy is recommended for the complete rehabilitation of the Plaintiff's injuries.

17. Travelling expenses were also incurred by the Plaintiff on account of his seeking medical treatment in another jurisdiction between February 2013 and September 2013. An approximate amount of CI\$9,000.00 was incurred for travelling expenses.
18. The Plaintiff also incurred loss due to loss of earnings. The Plaintiff earned approximately CI\$300.00 weekly as a Security Officer and was unable to work for approximately 16 weeks.
19. Future loss of earnings is foreseeable as the Plaintiff continues to have an effect on his capacity to stand and walk for long hours and ability to extend or flex his back. The Plaintiff, prior to the accident, enjoyed good health and presumed to be able to be fully employed until he attained retirement at 70 years.

AND THE PLAINTIFF CLAIMS:

1. Special damages and General damages
2. Pre Judgment and Post Judgment interest in accordance with Section 34 of the Judicature Law (1995 Revision)
3. Such further and other relief as this Honourable Court deems fit
4. Costs

Dated this 29th day of December 2015



Stacy Thompson

Attorney-at-Law for the Plaintiff

This Writ of Summons and Statement of Claim are filed by Stacy Thompson, Attorney-at-Law for and on behalf of the Plaintiff, whose address for service is Unit 201 Elizabethan Square, George Town, Grand Cayman, Cayman Islands. Tel: 345 747-4279 Email stacythompson@candw.ky

INDORSEMENT TO INSURER OF DEFENDANT'S MOTOR VEHICLE

Further to Order 6 Rule 4 of the Cayman Islands Grand Court Rules:

The Plaintiff's claim against the Defendant is premised on the Traffic Law (2011 Revision) and otherwise from the Defendant's negligent use of the public road way. The insurer of the Defendant's vehicle is THE CAYMAN FIRST INSURANCE COMPANY LIMITED whose address is Harbour Place, 3rd Floor, 103 South Church Street, George Town, Grand Cayman , Cayman Islands.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CIVIL DIVISION

CAUSE NO.

BETWEEN: JOAQUIM D'SOUZA PLAINTIFF

AND: CONROY TAYLOR DEFENDANT

ACKNOWLEDGEMENT 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 wrongfully, 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
[Defendant in Person]

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.

Stacy Thompson
Attorney-at-Law
Unit 201 Elizabethan Square
P.O. Box 12133
Grand Cayman KY1-1010
Cayman Islands

Tel : 345 747 4279
Email stacythompson@candw.ky

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

**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 installments or otherwise.

See over for notes for guidance

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 his 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.