

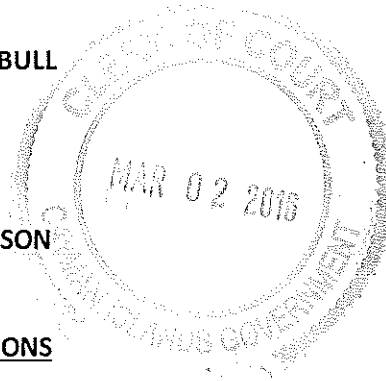
IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO: 0014 OF 2016

BETWEEN:

MAURICE TURNBULL

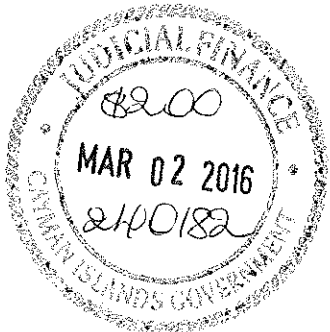


PLAINTIFF

AND:

LEON RICKY NELSON

DEFENDANT



WRIT OF SUMMONS

TO:

Leon Ricky Nelson

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 March 2016.

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
Harbour Place
3rd Floor
103 South Church Street
PO Box 2171
KY1-1105

STATEMENT OF CLAIM

1. The Plaintiff's date of birth is the 6th May 1975 and his address is 37 Maple Road, George Town, Grand Cayman.
2. At all material times the Plaintiff was the owner and driver of a Toyota Harrier registration 100119 and the Defendant was the driver of a Mitsubishi Canter Truck registration 97806.
3. On the 15th August 2015 the Plaintiff was proceeding correctly in his vehicle along Crewe Road, Grand Cayman in an Easterly direction. He was in the vicinity of the Rosedale Apartments when suddenly and without warning the Defendant travelling in the opposite direction failed to properly negotiate a bend and drove onto the incorrect side of the road and into collision with a Daihatsu registration 161727 travelling in front of Plaintiff and thereafter into collision the Plaintiff's correctly proceeding vehicle.
4. At all material times the Defendant was insured to drive the Mitsubishi Canter Truck registration 97806 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).

Particulars of negligence

5. The Defendant was negligent in that he:
 - a) drove too fast in all of the circumstances;
 - b) failed to keep any or any proper look out;
 - c) drove on the wrong side of the road;
 - d) failed to see the Plaintiff in time or at all;
 - e) failed to apply his brakes whether in time or at all;
 - f) drove his vehicle while impaired by alcohol
6. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage

7. The Plaintiff's date of birth is the 6th May 1975 and he is currently 40 years old.
8. Following the accident the Plaintiff was taken to George Town hospital by ambulance.
9. The plaintiff sustained the following injuries: -
 - Fractured Ribs
 - Lung Contusions
 - Liver Contusion
 - Splenic Haematoma
 - Fractured Right Femur
 - Fractured Ilium
 - Left Knee Injury
 - Neck and Back Injury
 - Various Lacerations
 - Dental injuries

10. He was intubated and remained an inpatient at George Town Hospital for approximately 3 weeks. He has undergone two operations on his leg to date and still requires the use of a crutch to walk. He has been advised he requires a further operation/s.
11. He has and continues to undergo extensive physiotherapy three times a week.
12. The Plaintiff had to be cut from his vehicle and has also suffered Psychological injuries.
13. The Plaintiff will rely on expert evidence in support of his injuries.

Particulars of Special Damage

14. See attached Schedule of Special Damages.
15. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2013 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 15th August 2015 to Trial.

AND THE PLAINTIFF claims:

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

Samson + McGrath
Samson & McGrath
Attorneys for the Plaintiff

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BETWEEN:

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PLAINTIFF

AND:

LEON RICKY NELSON

DEFENDANT

SCHEDULE OF SPECIAL DAMAGES

<u>Item</u>	<u>Description</u>	<u>Value in CI\$</u>
1	Write off value of vehicle	7,000.00
2	Loss of Use of Vehicle	1,700.00
	<p>The Plaintiff was without his vehicle from the date he was released from hospital being the 4th September 2015 until he received payment for his vehicle on the 22nd December 2015 and was able to purchase a replacement.</p> <p>17 weeks x \$100 per week = \$1,700</p>	
3	Medical treatment	65,000.34 and ongoing
	<p>As at 18 December 2015 the Plaintiff's outstanding balance with the CIHSA was 65,000.34.</p> <p>The plaintiff is likely to require further operations, treatment, therapy and care to assist with his recovery from his injuries. The nature, extent and cost of the said treatment are unknown at this time as his prognosis remains guarded.</p>	
4	Loss of Earnings to date	12,245.30 and ongoing

Item	Description	Value in CI\$
	<p>Prior to the accident the Plaintiff was a self-employed DJ. He has been unable to work at all since the accident. He regularly works for DMS Organization Ltd and Archie's Bar as well as other one off events such as weddings, parties, parades etc.</p> <p>Average Monthly Pay from DMS = US\$1,167.74 (CI\$957.55) Weekly Pay from Archie's Bar = CI\$250</p> <p>16th August 2015 – 14th February 2016 = 26 weeks/6 months</p> <p>DMS: 957.55 x 6 = CI\$5,745.30 Archie's Bar: 250.00 x 26 = CI\$6,500.00</p> <p>The Plaintiff will particularize details of other loss of income in due course.</p>	
5	Medication	60.00 and ongoing
	<p>The Plaintiff takes pain killers on a regular basis to alleviate his symptoms.</p> <p>He purchases approximately one packet per month at a cost of \$10.00</p> <p>6 months x \$10.00 = 60.00</p> <p>The Plaintiff continues to use medication and his loss is ongoing and subject to variation.</p>	
6	Past Care	\$6,090.00 and ongoing
	<p>Following the accident, the Plaintiff was in hospital for 3 weeks. He was visited and assisted by various friends and family members.</p> <p>2 hours per day x 7 days a week x 3 weeks x \$10 per hour = \$420.00</p> <p>After this he had the use of a walker for a period of 12 weeks. During this time, the Plaintiff was extremely limited as to what he could do and required significant Care and assistance.</p> <p>The Plaintiff required assistance from family and friends to bathe, get dressed, cooking, washing, laundry, shopping, cleaning and other household chores. In addition to this the</p>	

Item	Description	Value in CI\$
	<p>Plaintiff has numerous medical appointments to attend and had to rely on family and friends to drive him.</p> <p>4 hours per day x 7 days a week x 12 weeks x \$10.00 = \$3,360.00</p> <p>After this time, the Plaintiff moved from the walker to crutches and had slightly less restriction but still required assistance with most activities as listed above. This level of care is calculated to the 14th February 2016 and is ongoing.</p> <p>3 hours per day x 7 days a week x 11 weeks x \$10.00 = \$2,310.00</p> <p>The Plaintiff requires further surgery and will again required significant assistance due his restricted mobility.</p>	
7	Travel	460.00 and ongoing
	<p>Since being discharged from hospital, the Plaintiff has travelled to George Town Hospital for doctors appointments and physiotherapy approximately 4 times per week at a cost of approximately \$5 per round trip.</p> <p>\$20 per week x 23 weeks = \$460.00 and ongoing</p>	
	TOTAL	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.

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

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