



IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: 198 OF 2016

BETWEEN:

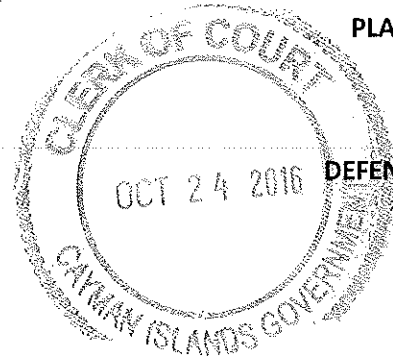
BARTON EDGAR STEWART

PLAINTIFF

AND:

STOYAN DIMITROV

DEFENDANT



WRIT OF SUMMONS

TO:

Stoyan Dimitrov

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 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 24 day of October 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:
Island Heritage Insurance Company
Island Heritage House
128 Lawrence Boulevard
PO Box 2501
KY1-1104

STATEMENT OF CLAIM

1. The Plaintiff's date of birth is the 6th February 1969 and his address is 28 Maliwinas Way, West Bay, Grand Cayman.
2. At all material times the Plaintiff was the owner and rider of a bicycle and the Defendant was the driver of a Toyota Corolla registration Q2863.
3. On the 12th November 2013 the Plaintiff was proceeding on his bicycle along West Bay Road, Grand Cayman in an Easterly direction. His intention was to turn into the entrance to Treasure Island Hotel. As he proceeded to turn into the entrance, the Defendant who was exiting Treasure Island pulled out of the exit and into collision with the Plaintiff's bicycle.
4. At all material times the Defendant was insured to drive the Toyota Corolla registration Q2863 with Island Heritage 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. failed to see the Plaintiff in time or at all;
 - d. failed to apply his brakes whether in time or at all;
 - e. failed to wait for the Plaintiff to pass him safely before commencing his manoeuvre;
 - f. failed to steer or control his vehicle so as to avoid the said collision.
6. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage

7. The Plaintiff is currently 47 years old, at the date of the accident the plaintiff was 44 years old.
8. The plaintiff suffered a Fractured Right Radius, Fractured Ulnar Styloid and damage to the distal radial ulnar joint.
9. As a result, the Plaintiff underwent an Open Reduction and Internal fixation on the 18th November 2013 under General Anesthesia. A number of screws and a plate were used to repair the fracture and the metalwork remains in situ.
10. The Plaintiff also underwent reduction of the distal radial ulnar joint and right carpal tunnel release. He remained in hospital until the 23rd November 2013.
11. The Plaintiff completed a course of physiotherapy following the operation.
12. The Plaintiff was unable to work for a period of 8 weeks. After this time, he returned to work on a reduced basis.

13. The plaintiff suffers stiffness of the arm and wrist and extension/flexion is restricted. The pain has increased since the start of 2016 with pain also occurring in his neck and shoulder.
14. Since the accident he can only work between 2 to 3 days per week. After working he suffers from cramping, pain and numbness. He has ongoing difficulty using many tools at work due to restriction of the arm and wrist. Specifically, when using a hedge trimmer, hammer or machete.
15. The Plaintiff has arthritis in his wrist and has been advised to have the metalwork removed and undergo additional investigations.
16. The Plaintiff will rely on expert evidence in support of his injuries.

Particulars of Special Damage

17. See attached Schedule of Special Damages. The Plaintiff will pursue future claims for loss of earnings, medical treatment and care.
18. 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 12th November 2013 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:

BARTON EDGAR STEWART

PLAINTIFF

AND:

STOYAN DIMITROV

DEFENDANT

SCHEDULE OF SPECIAL DAMAGES

Past Loss of Earnings	33,840.00
<p>The plaintiff is employed as a Gardener assistant by C&J Maintenance owned and managed by Courtney McNamee.</p> <p>Prior to the accident he earned \$80 per day and worked 5-6 days per week.</p> <p>On average he earned \$440 per week.</p> <p>He was absent from work from the date of the accident until 28 January 2014. He has been reimbursed for this period of loss.</p> <p>Since his return to work he is only able to work 2-3 days per week earning \$80 per day.</p> <p>On average he earns \$200 per week.</p> <p>Loss \$240 per week.</p> <p>28 January 2014 – 10 October 2016 = 141 weeks</p> <p>Loss \$33,840</p>	
Past Care	1,036.00
<p>During his stay in hospital (12/11/13 – 23/11/13), the Plaintiff was visited by his Friend every day for 1.5 hours.</p> <p>1.5 x \$14.00 x 12 days = \$252.00</p> <p>Prior to the accident, the Plaintiff lived alone but after he was released from hospital he had to go and live at his</p>	

<p>friend's house for 4 weeks as he was restricted in what he was able to do for himself. His friend cooked/washed his clothes and provided general care for approximately 2 hours per day.</p> <p>2 x \$14.00 x 28 days= \$784.00</p> <p>After this time the Plaintiff was still restricted but had no choice but to return home and manage the best he could.</p>	
Past Medication	50.00
<p>The Plaintiff does not have any documentation in support of his medication costs but estimates the cost of purchase of pain relieving medication in the region of \$50.00.</p>	
Travel Costs	150.00
<p>The Plaintiff had to travel from West Bay to the hospital and physiotherapy appointments on approximately 30 occasions at an average cost of \$5.00 per trip.</p> <p>30 x \$5.00=150.00</p>	
Prescription from Kandu Pharmacy	23.00
JA\$3,247.05	
Consultation with Dr Stacy Davis (Consultant rheumatologist)	46.50
JA\$6,500.00	
Flights to Jamaica	394.68
Police Report	100.00
TOTAL	35,640.18

**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.

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.

[Empty box for defendant's attorney indorsement]