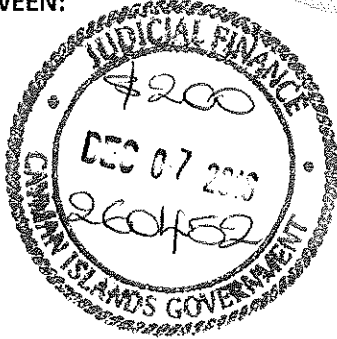


IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 2016

236

BETWEEN:



SHERLOCK FARRINGTON

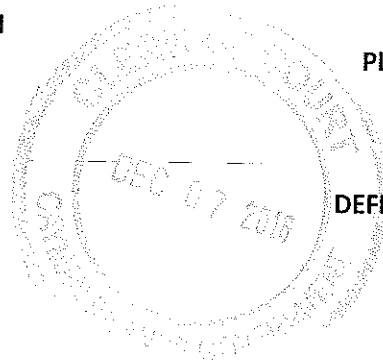
PLAINTIFF

AND:

THOMAS BARTILOW

DEFENDANT

WRIT OF SUMMONS



TO: Thomas Bartilow

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 5A Ernest Jackson Drive, West Bay, Grand Cayman 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 7th day of December, 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:

British Caymanian Insurance Company Limited
BritCay House
236 Eastern Avenue
George Town
P.O. Box 74
Grand Cayman KY1-1102

STATEMENT OF CLAIM

1. At all material times the Plaintiff was a passenger on a public bus registration number 90183 and the Defendant was the driver of a Toyota Camry registration number Q2626.
2. On the 12th December 2013 at approximately 7.50 am, the Plaintiff was travelling in an Easterly direction on the aforementioned bus along the Easterly Tibbetts Highway in the vicinity of Raleigh Quay, Grand Cayman. The bus was in the process of slowing down to stop and pick up passengers when the Defendant drove into the rear of the bus.
3. At all material times the Defendant was insured to drive the Toyota Camry registration number Q2626 with British Caymanian Insurance Company Limited 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 he;

- a) drove too fast in all the circumstances;
 - b) failed to keep any or any proper look out;
 - c) failed to adequately control his vehicle;
 - d) failed to see the vehicle in which the Plaintiff was travelling in time or at all;
 - e) failed to apply his brakes whether in time or at all;
 - f) *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 19th December 1955 and he is currently 60 years old.
7. Following the accident, the Plaintiff was taken to George Town hospital.
8. The plaintiff sustained injuries to his neck and back. He has a prior history of back pain.
9. At hospital, he underwent a number of tests including x-rays and a CT scan. He was discharged with advice on pain relief and head injuries.
10. He has undergone further treatment with Dr Stanley and Dr Lee and also undergone acupuncture, physiotherapy and chiropractic treatment.
11. After the accident, the Plaintiff also became aware of increased numbness in his feet.
12. He remains symptomatic and is under the treatment of RVC Rehab.
13. 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

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 12th December 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

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: OF 2016

BETWEEN:

SHERLOCK FARRINGTON

PLAINTIFF

AND:

THOMAS BARTILOW

DEFENDANT

SCHEDULE OF SPECIAL DAMAGES

<u>Item</u>	<u>Description</u>	<u>Value in CI\$</u>
1	Loss of Income The Plaintiff is employed as a Coder, Verifier and Editor within the Economic and Statistics Office earning \$2,418 per month. He has had significant time off work due to his injuries and has been absent entirely since April 2016. Since September 2016 his pay has been reduced. He was paid the following: - September \$1,868.45 October \$1,209.00 <u>November \$1,209.00</u> Total \$4,286.45 Loss = \$2,967.55 Additionally, the Plaintiff's contract is not being renewed as of 18 December 2016, due to his physical restrictions in not being able to perform field work.	2,967.55
2	Care Following the accident, due to his injuries, the Plaintiff has required Care and assistance. This was provided by his wife Gloria Uribe-Alvarez. Prior to the Plaintiff's accident all household chores including but not limited to cooking, laundry, cleaning, washing dishes, etc were shared equally between the Plaintiff and his wife.	10,920.00

<u>Item</u>	<u>Description</u>	<u>Value in CI\$</u>
	<p>Since the accident, the Plaintiff's wife has taken on the vast majority of these chores.</p> <p>The Plaintiff is usually able to undertake his own dressing and personal hygiene but will very occasionally require assistance.</p> <p>156 weeks x 7 hours per week x \$10 = \$10,920</p>	
3	Imaging CD	20.00
4	Travel	500.00
	<p>The Plaintiff has attended approximately 100 medical, physiotherapy, chiropractic appointments since the accident.</p> <p>\$5.00 x 100 =</p>	
5	CINICO	TBA
	The Plaintiff has health insurance with CINICO who may pursue a subrogated claim for their outlay.	
	TOTAL	14,407.55

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

CAUSE NO: OF 2016

BETWEEN:

SHERLOCK FARRINGTON

PLAINTIFF

AND:

THOMAS BARTILOW

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.