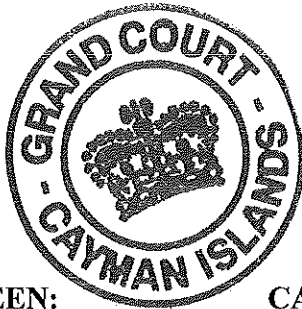
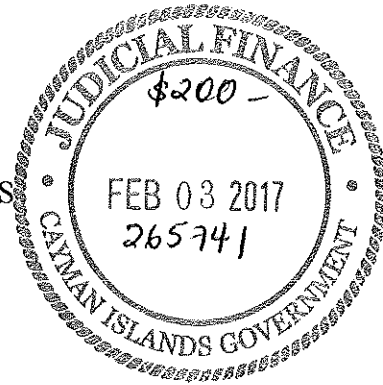


IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO. G.

27

OF 2017

**BETWEEN:**

**CARVEL FACEY**

**PLAINTIFF**

**AND:**

**JOSE ANTONIO AMEZUCA YEPIZ**

**FIRST DEFENDANT**

**AND:**

**DOLPHIN DISCOVERY LTD**

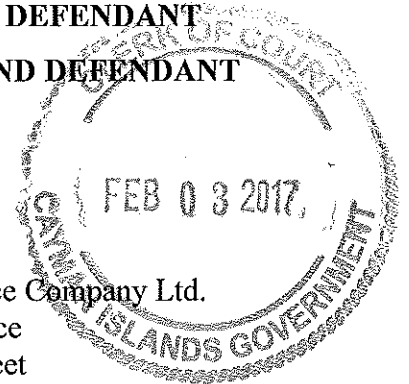
**SECOND DEFENDANT**

**WRIT OF SUMMONS**

**TO:**

The Manager  
Dolphin Discovery Ltd.  
North West Point Road  
West Bay  
Grand Cayman

Cayman First Insurance Company Ltd.  
3<sup>rd</sup> Floor, Harbour Place  
103 South Church Street  
Grand Cayman  
Cayman Islands



**AND TO:**

Mr. Jose Antonio Amezuca Yepix  
c/o Dolphin Discovery Ltd.  
North West Point Road  
West Bay  
Grand Cayman

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, 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 3<sup>rd</sup> day of February, 2017

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 at all material times a resident of the Cayman Islands and the registered owner of a red 2006 Honda Accord motor car license number 36745.
2. The first defendant was at all material times the driver of a black Chevy Colorado motor vehicle license number 131268.
3. The Second Defendant was at all material times a corporate entity registered under the laws of the Cayman Islands and was the registered owner of the said black Chevy Colorado motor vehicle license number 131268.
4. On the 18th day of June 2016 at around 2:30 PM, the plaintiff's wife was driving his red Honda Accord along Hell Road in the District of West Bay, Grand Cayman. Upon approaching the junction of Hell Road and Fountain Road, the plaintiff's wife put on her indicator to turn right onto Fountain Road. As she was proceeding right onto Fountain Road, suddenly and without warning, the defendant approached from behind overtook the Plaintiff's vehicle and collided with it and caused it to be severely damaged.
5. The impact caused the plaintiff's vehicle to be pushed across the road. The plaintiff's wife and the second defendant had a conversation and the second defendant offered to pay for the damages to the plaintiff's car. The plaintiff, through his attorneys, has made several attempts to collect payment for the damages to his car without success.
6. The accident was caused as a result of the negligent driving of the second defendant.
7. The second defendant was drunk and/or intoxicated at the time of the accident. As a result, his driving was impaired.

8. The second defendant is in breach of the Cayman Islands Traffic Law as well as the Cayman Islands Road Code.
9. The second defendant was charged for careless driving and driving under the influence of alcohol. He appeared in the Summary Court before the Honourable Magistrate Donalds on 21st November 2016 and he plead guilty to Charge No. 04691/16 (1-2), being careless driving and driving under the influence of alcohol. He was disqualified from driving a vehicle. The Magistrate ordered him to attend drug counseling classes.
10. The First Defendant was sentenced on 21<sup>st</sup> December, 2016. He was fined a total of CI\$700.00 for Careless driving and driving under the influence of alcohol (i.e. over the legal limit prescribed by law to wit .272%).

#### PARTICULARS OF NEGLIGENCE

11. The Defendant was negligent in that he:-
  - (a) failed to yield the right of way to the Plaintiff, to which he was entitled under the circumstances;
  - (b) overtook the Plaintiff's car without first ascertaining that he could do so in a safe manner;
  - (c) failed to keep a proper lookout;
  - (d) drove in an excessive rate of speed considering the circumstances and as such could not control his motor vehicle within his range of vision;
  - (e) failed to keep his motor vehicle under proper control;
  - (f) failed to have the brakes on his motor vehicle in proper working order or, in the alternative, failed to apply them properly or at all;
  - (g) followed too closely to the Plaintiff's vehicle;

- (h) failed to slow down or stop or turn sufficiently to the right or left so as to avoid colliding with the Plaintiff's car;
  - (i) could have and should have seen the Plaintiff's car making a right turn on to Fountain Road and could have and should have avoided the accident;
  - (j) failed to take reasonable care to avoid the accident which he saw or should have seen was likely to occur;
  - (k) failed to exercise due care and skill in the management of his motor vehicle;
  - (l) failed to observe the rules of the road as required by the Cayman Islands Traffic Law and Road Code;
  - (m) had the last clear chance to avoid the collision but failed to avail himself of that chance;
  - (n) made an unexpected manoeuvre without giving a proper warning;
  - (o) failed to have his motor vehicle in a fit and proper condition, suitable for its safe operation on the road;
  - (p) failed to give any adequate signal or warning to the driver of the Plaintiff's vehicle such as blowing his horn.
12. Had the Defendant exercised reasonable care he might have and could have seen the Plaintiff's vehicle turning right and could have avoided the accident.
13. Had the Defendant not consumed alcohol in such an amount, he could have avoided the accident.
14. By reason of the matter aforesaid, the Plaintiff sustained loss and damages as follows:-

**PARTICULARS OF LOSS AND DAMAGES INCLUDES BUT NOT LIMITED TO:-**

- (a) Damage to the front bumper and components
- (b) Grille – grille & components
- (c) Front Lamps – Headlamp components

- (d) Fender – Fender and components
- (e) Wheels
- (f) Front suspension – brake components
- (g) Front suspension – suspension components
- (h) Steering gear & linkage
- (i) Front door & components
- (j) Front door exterior trim
- (k) Front door – outer mirrors DX, VP
- (l) Front door – lock and hardware
- (m) Front door - interior trim
- (n) Front wheel alignment

Summary of Claim

Estimated cost to repair vehicle from H & R Auto Repair Shop	CI\$5,678.05
Cost for one day rental car from Economy Car Rental	50.00
Cost to obtain estimate from Vampt Motors Ltd.	<u>35.00</u>
	<u>CI\$5,763.05</u>

15. The Plaintiff is entitled to, and claims interest pursuant to the Judicature Law on the amount found to be due to her at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:

- (a) Damages in the amount of CI\$5,763.05
- (b) Per judgment and post judgment interest
- (c) Cost

Dated this 3<sup>rd</sup> day of February, 2017

*Facey-Clarke & Associates*

Facey-Clarke & Associates  
Attorneys-at-Law for the Plaintiff

To: The Clerk of Court  
And to: The Manager, Dolphin Discovery Ltd.  
And to: Mr. Jose Antonio Amezuca Yepiz  
And to: Cayman First Insurance Company Ltd

This Writ was issued by Facey-Clarke & Associates, Attorneys-at-law for the Plaintiff herein whose address for service is that of his said Attorneys-at-law, Unit 119, Ground Floor, Elizabethan Square, George Town, Grand Cayman



**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.

Facey-Clarke & Associates  
Barristers & Attorneys-at-Law  
P.O. Box 2545, Grand Cayman KY1-1104  
Unit 119, Ground Floor, Elizabethan Square,  
80 Shedden Road, George Town, Grand Cayman  
Cayman Islands, B.W.I.  
Email: [mclarke@candw.ky](mailto:mclarke@candw.ky)  
Tel: 345 946 8111 or 917 6351)

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