

IN THE GRAND COURT OF THE CAYMAN ISLANDS
(CIVIL DIVISION)

CAUSE NO 9,00F 2017

BETWEEN:

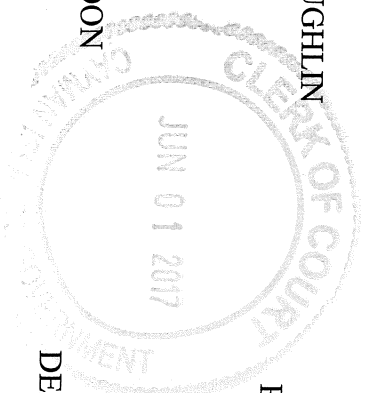
MELISSA MCLAUGHLIN

PLAINTIFF

AND

ATHOL GORDON

DEFENDANT



WRIT OF SUMMONS

TO: ATHOL GORDON
of 38 Log Wood Way, Prospect, Grand Cayman

This claim arises out of the use of a motor vehicle on a road, and the name and address of Defendant's motor vehicle insurer is as follows:

British Caymanian Insurance Co. Limited
BritCay House
236 Eastern Avenue
PO Box 74
Grand Cayman
KY1-1102
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of a claim set out on the next page.

Within 14 days after service of this Writ on you, (or where this Writ is served on you out of the jurisdiction pursuant to an Order of the Court, within 28 days) counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O. Box 495, George Town, Grand Cayman, KY1 1106, Cayman Islands the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein any 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 1st June 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 original issuance unless renewed by order of the Court.

IMPORTANT

Directions for the Acknowledgement of service are given with the accompanying form.

ENDORSEMENT PURSUANT TO GCR Order 6, rule 4(1) as to the MOTOR VEHICLE INSURER: The Defendant is insured by British Caymanian Insurance Co. Limited, whose address for service is: 236 Eastern Avenue, Grand Cayman, Cayman Islands.

BETWEEN:

MELISSA MCLAUGHLIN

PLAINTIFF

AND

ATHOL GORDON

DEFENDANT

STATEMENT OF CLAIM

1. On 12th September 2014, the Plaintiff who was driving a Honda CR-V motor vehicle, registration number Q3400, within the speed limit along Reverend Blackman Road, West Bay, Grand Cayman, was involved in a road traffic accident (“the accident”).
2. The accident occurred when the Defendant, who had been driving a Chevrolet Colorado registration 97-121 pulled out of Powell Smith Drive, and into collision with the side of the Plaintiff’s vehicle forcing it off the road and through the side of a fence.
3. The Defendant initially advised at the scene of the accident that his brakes had failed before advising that he simply just had not stopped.
4. The Plaintiff sustained personal injury and associated loss as a result of the incident.
5. The accident was caused by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE

- a. Failing to drive with due care and attention;

- b. Failing to keep a proper look out;
 - c. Failing to see the Plaintiff before exiting the side road;
 - d. Failing to give the Plaintiff any or any sufficient time to pass before emerging from the side road;
 - e. Failing to stop, slow down, swerve or in any other way so to manage and control his motor car as to avoid the accident;
 - f. Failing to apply brakes in time or at all;
 - g. Colliding with the Plaintiff's vehicle.
6. The Plaintiff will rely upon the admission of liability from the Defendant's insurance company by way of email on 5th December 2016;
7. As a consequence of the negligence, the Plaintiff, who was born on 2nd December 1981, has suffered injury, loss and damage.

PARTICULARS OF INJURY

- a. Crushed foot injury;
- b. Fracture 3 and 4 metatarsals and chondral injury to the talus;
- c. Bruised knee;
- d. The Plaintiff has developed Osteoarthritis in her ankle, which is likely to progress and for which she will require surgical intervention- ankle infusion or replacement ankle.

8. The Plaintiff will rely upon the desktop medical report of Mr. Ilango in addition to the medical notes for evidence of the alleged injuries suffered. The Plaintiff is at liberty to adduce and rely on further medical evidence in due course.

PARTICULARS OF SPECIAL DAMAGE

9. A schedule of Special Damage with full particulars will be served in due course including any subrogated claim advanced on behalf of the Plaintiff's health insurer, will be provided prior to trial.

10. In summary, these heads of loss are:

- a. Medical expenses;
- b. Loss of earnings;
- c. Travelling expenses;
- d. Care and assistance;
- e. Cost of future treatment;
- f. Future travel;
- g. Future loss of earning;
- h. Future care and assistance;

CLAIM FOR INTEREST

11. The Plaintiff pleads and relies upon section 34 of the Judicature Law (2013 Revision) and the Judgement Debts (Rates of Interest) Rules 1995 as amended and claims interest on his general and special damages and costs as follows:

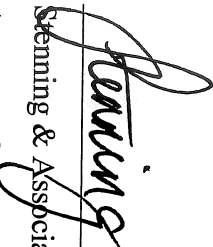
- a) Prejudgement (simple) interest on his general and special damages awarded from 12th September 2014 to judgement at a rate of 2.25%

- b) Post-judgment interest upon the principal amount of the judgement with the effect from the date of service of the judgement at a rate 2.25%; and
- c) Interest on all fixed or assessed costs and orders running from the date of service of the orders or certificates of taxation respectively and at a rate of 2.25%

AND the Plaintiff claims:

- (i) General damages for pain and suffering and loss of amenities to be assessed;
- (ii) Special damages;
- (iii) Pre-judgment and post-judgment interest pursuant to section 34 of the Judicature Law (2013 Revision) and Judgement Debts (Rates of Interest) Rules 1995 as amended, and more particularly pleaded above;
- (iv) Costs; and
- (v) Such further and other relief as the Court may deem just.

DATED this 1st June 2017


Stenning & Associates
Attorneys for the Plaintiff

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

This Writ of Summons and Statement Of Claim has been filed by Stenning & Associates, attorneys for the Plaintiff, whose address from service is that of his attorneys, at 3rd Floor, 433 west Bay Road, Georgetown, P.O. Box 901, Grand Cayman KY1-1103, Cayman Islands.

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 2017

BETWEEN:

MELISSA MCLAUGHLIN

AND

PLAINTIFF

ATHOL GORDON

DEPENDANT

**ACKNOWLEDGMENT OF SERVICE
OF WRIT OF SUMMONS & STATEMENT OF CLAIM**

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).....

Attorneys for Defendant

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.

STENNING & ASSOCIATES
Attorneys-at-Law
3rd Floor, Marquee Place,
433, West Bay Rd,
George Town,
Grand Cayman.

REF: JS/CR/1582/001

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