

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

CAUSE NO. ~~2008~~ 09 OF 2017

BETWEEN:

HORACE THOMPSON

PLAINTIFF

AND

SEAN BACHET

DEFENDANT



WRIT OF SUMMONS

TO: Sean Bachet
20 Lakeside Apartments
George Town
Grand Cayman
Cayman Islands

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 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.

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 24th November 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: British Caymanian Insurance Co. Limited, 236 Eastern Avenue, Grand Cayman, Cayman Islands.

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STATEMENT OF CLAIM

1. On 15th July 2016, the Plaintiff who was driving a Honda Accord motor vehicle, registration number 130255, within the speed limit along Esterly Tibbetts Highway, was involved in a road traffic accident (“the accident”).
2. The Plaintiff who was on his way to Camana Bay had joined the rear of a queue of traffic at the intersection of the Camana Bay Roundabout, and brought his vehicle to a complete stop behind a dump truck.
3. He was stationary momentarily when the Defendant, who was driving a Hyundai Santa Fe motor vehicle registration number 160219 failed to stop and collided with the rear of the Plaintiff’s vehicle at speed.
4. The Plaintiff’s vehicle was shunted forward by a distance of 6 to 10 feet and into collision with the rear of the dump truck in front.

5. The Plaintiff's vehicle was declared a total loss and the Defendant's insurance company compensated him KYD\$4,800.00
6. The Plaintiff sustained personal injury and associated loss as a result of the incident.
7. 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 stop, slow down, swerve or in any other way so to manage and control his motor car as to avoid the accident;
 - d. Failing to apply brakes in time or at all;
 - e. Colliding with the Plaintiff's vehicle.
8. The Plaintiff will rely upon the admission of liability by the Defendant at the accident scene and from the Defendant insurance company by way of letter dated 11th October 2016;
 9. As a consequence of the negligence, the Plaintiff, who was born on 23rd April 1981, has suffered injury, loss and damage.

PARTICULARS OF INJURY

- a. Neck injury;
- b. Back injury;

10. The Plaintiff will rely upon the desktop medical report of Mr. Ilango in addition to the medical notes for evidence of the injuries suffered. The Plaintiff is required to undergo an MRI scan of his back, which he will do so in due course and is at liberty to adduce and rely on further medical evidence.

PARTICULARS OF SPECIAL DAMAGE

11. 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.

12. In summary, these heads of loss are:

- a. Medical expenses;
- b. Care and assistance;

CLAIM FOR INTEREST

13. 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:

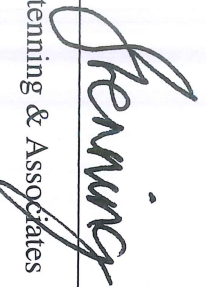
- a) Prejudgement (simple) interest on his general and special damages awarded from 12th September 2014 to judgement at a rate of 2.25%
- b) Post-judgment interest upon the principal amount of the judgement with the effect from the date of service of the judgement at a rate 2.25%; and

- 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 24th November 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.

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.

(Signed).....

Attorneys for Defendant

Please complete overleaf

Writ of Summons and Statement of Claim has been filed by Stenning & Associates, attorneys for the Plaintiff, whose address 10 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 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/1587/001

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

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