

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 218 OF 2017

BETWEEN:

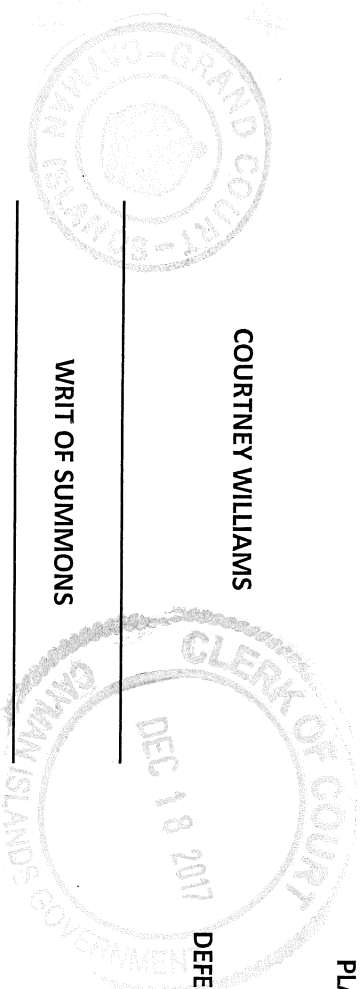
FRANK WILLIAMS

PLAINTIFF

AND:

COURTNEY WILLIAMS

DEFENDANT



WRIT OF SUMMONS

TO: COURTNEY WILLIAMS 133 Hillandale Close, West Bay, Grand Cayman

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff, of 5 Forrest Lane, George Town, Grand Cayman in respect of the claims set out on the next page.

Within 14 days after service of this Writ on you 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 18th day of December 2017.

NOTE this Writ may not be served later than 4 calendar 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.

Indorsement as to Insurers of Motor Vehicle

And as Notice Party to:

Saxon MG

DMS Centre 14 Saturn Close
Eastern Avenue
Grand Cayman

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2017

BETWEEN:

FRANK WILLIAMS

PLAINTIFF

AND:

COURTNEY WILLIAMS

DEFENDANT

STATEMENT OF CLAIM

1. At all material times the Plaintiff was the driver of a Black Kawasaki motorcycle, registration number 115427 and the Defendant was the driver of Toyota Windom motor vehicle, registration number 122685.
2. At all material times the Defendant was insured to drive the Toyota Windom motor vehicle, registration number 122685, with Saxon MG who issued a policy of insurance relating to the vehicle in accordance with the Vehicle Insurance (Third Party Risks) Law (2012 Revision).
3. On 6 January 2015, at or around 5:40pm, the Plaintiff was travelling in a southerly direction from West Bay to George Town along the Esterly Tibbetts Highway, in the left-hand lane. There were no other vehicles travelling in the left-hand lane, in front of the Plaintiff.
4. Prior to the roundabout located in the vicinity of Seven Mile Public Beach, the Plaintiff observed the Defendant travelling in the same direction as his vehicle, in the right-hand lane, with 2 or 3 other vehicles placed behind the Defendant.
5. The Plaintiff was travelling within the speed limit, wearing a helmet, and travelling with the motorcycle headlight on.
6. Prior to reaching the said roundabout, in the vicinity of Raleigh Quay, suddenly and without warning, and without it being safe to do so, the vehicle being driven by the Defendant, proceeded to move into the left-hand lane and in so doing collided with and/or caused a collision with the Plaintiff's motorcycle.
7. The collision was caused or contributed to by the negligence of the Defendant.

Particulars of negligence

The Defendant was negligent in that he:

- (a) failed to keep any or any proper look out;
- (b) failed to see the Plaintiff's motorcycle in time or at all;
- (c) failed to adequately or at all heed or act upon the presence, path, position and approach of the Plaintiff's vehicle;
- (d) failed to accord precedence to the Plaintiff's vehicle as it travelled along in the left-hand lane of the Esterley Tibbets Highway;
- (e) emerged out of the right-hand lane of the Esterley Tibbets Highway without looking both to his left and to his rear immediately before, or as he commenced so doing;
- (f) emerged out of the right-hand lane of the Esterley Tibbets Highway and into the left hand lane when the Plaintiff's vehicle was travelling therein, without any adequate or timely warning, and in such proximity to the Plaintiff so as prevent the Plaintiff from taking any evasive action to avoid the collision;
- (g) failed to give way to the Plaintiff's vehicle;
- (h) failed to heed or act upon the road markings;
- (i) drove into and collided with the Plaintiff's vehicle;
- (j) failed to stop to slow down to swerve or otherwise so to manage or to control the said motor vehicle as to avoid the aforesaid collision;
- (k) failed by means of horn or lights or otherwise howsoever to warn the Plaintiff, in a timely manner or at all, of his approach and/or his intentions;
- (l) drove in an unsafe manner;
- (m) failed to take any adequate care for the safety of the Plaintiff;
- (n) exposed the Plaintiff to a foreseeable risk of injury;
- (o) *res ipsa loquitur*.

Conviction

8. On 8 August 2017, in the Summary Court at George Town, Grand Cayman the Defendant was convicted of Careless Driving arising from the manner and standard of his driving at the time of the collision with the Plaintiff. He was fined \$300. (*the Conviction*).

9. In accordance with Section 52 of the Evidence Law (2011 Revision) the Plaintiff intends to adduce evidence of the Conviction at the trial of this action. The Conviction is relevant to the issue of negligence, and is conclusive evidence of the fact that at the material time the Defendant drove a motor vehicle, without due care and attention, or without reasonable consideration for other persons.

10. As a result of the aforesaid the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage/Injury

11. The Plaintiff's date of birth is 17 October 1958 and he is currently 59 years old.
12. Immediately following the collision, the Plaintiff was taken to George Town Hospital by ambulance. The Plaintiff was immediately treated for his injuries and underwent examination and testing.
13. On 7 January 2015, the Plaintiff was transferred, by Air Ambulance, to the Trauma Unit at Jackson Memorial Hospital, Miami Florida, where he was admitted, examined and treated for the following injuries and conditions:
 - (a) Commuted fracture of the left scapula
 - (b) Fractures of the left fourth, fifth, sixth and ninth ribs with small left pleural effusion
 - (c) Laceration in the medial aspect of the spleen
 - (d) Diffuse Bladder wall thickening
 - (e) Commuted fractures of the right acetabulum and superior and inferior pubic rami with associated muscular hematoma
 - (f) Lacerations and bruises
 - (g) Road Rash
 - (h) Laceration to his left heel
14. Upon being stabilized and treated for cuts and bruises for which the Plaintiff was given pain medication, on 14 January 2015, the Plaintiff underwent open reduction internal fixation of the comminuted right anterior and posterior column acetabular fractures of the pelvis with placement of 3 malleable bone plates and screws. As the surgery was only partially completed he had to be operated on again, on 16 January 2015.
15. Following the surgeries performed on 14 and 16 January 2015, the Plaintiff was required to remain in Jackson Memorial Hospital until he was discharged on 21 February 2015. Throughout the period from the date of injury until his discharge and continuing thereafter the Plaintiff was unable to walk and was bedridden and/or confined to a wheelchair, the Plaintiff was medically advised to remain in Miami to continue treatment for his injuries which included follow ups with his treating physicians and physiotherapy sessions.
16. Upon further examination at Jackson Memorial Hospital, the Plaintiff was diagnosed as suffering from Heterotopic Ossification bridging across the right femoral acetabular joint superiorly and inferiorly (**HO**) and advised that it was likely he would have to undergo further surgery.
17. On 5 May 2015, the Plaintiff received confirmation from his treating physicians that he was capable of returning to Grand Cayman and proceeded to do so. He was required to travel to

Miami and attend at further follow up visits there during the remainder of 2015 and subsequently.

18. Since 9 May 2015, the Plaintiff has also been under the care of RVC Rehab services in Grand Cayman.

19. The Plaintiff was required to undergo further surgery as a result of the HO diagnosis at Jackson Memorial Hospital on 24 February 2016. He was discharged on 29 February 2016 and returned to Grand Cayman in March 2016.

20. At 35 months post-collision the Plaintiff continues to suffer from ongoing pain and discomfort in his hip/pelvis, diminished range of motion, loss of amenities and is receiving required medical treatment.

21. Prior to the collision the Plaintiff was extremely active. He has been unable to resume many of his pre-injury activities. He has suffered a serious loss of amenities and his quality of and enjoyment of life has been reduced with substantial limitation of his recreational, social and lifestyle activities. The Plaintiff's tolerance for standing and walking has been greatly diminished.

22. The Plaintiff continues to suffer from his injuries and treatment is ongoing. Further particulars of the Plaintiff's injuries and continuing treatment will be provided prior to trial. The Plaintiff will rely upon expert evidence in support of his injuries and required treatments.

23. In addition to pain, suffering and loss of amenity, the Plaintiff also pursues claims for future care, future medical treatment, future loss of income, equipment and future travel.

Particulars of Special Damage

24. See attached Provisional Schedule of Special Damages to date.

25. The Plaintiff claims interest pursuant to section 34 of the Judicature Law (2007 Revision) on the amount found to be due to the Plaintiff at such rate and for such periods as the Court thinks fit.

AND THE PLAINTIFF CLAIMS

1. General and Special Damages
2. Pre-Judgment interest upon the general and special damages with effect from 5 January 2015 to the date of trial at the rate of 2³/₈ % per annum or at such other rate then prevailing and/or determined by the Court in accordance with s.34 of the Judicature Law (2007 Revision) and the Judgment Debts (Rates of Interest) Rules 2012 as amended from time to time

3. Post-Judgment interest upon the principal amount of the Judgment with effect from the date of service of Judgment at the rate of $2\frac{3}{8}$ % per annum and/or such other rate then prevailing and/or determined by the Court in accordance with s.34 of the Judicature Law (2007 Revision) and the Judgment Debts (Rates of Interest) Rules 2012, as amended from time to time
4. Costs
5. Such further or other relief as this Honourable Court deems just.

DATED at Grand Cayman this 18th day of December 2017

Nelson & Co

Nelson & Co.

Attorneys for the Plaintiff

THIS WRIT OF SUMMONS AND STATEMENT OF CLAIM is issued by Nelson & Co., Attorneys-at-Law, attorney for the Plaintiff, whose address for service is that of his said attorneys at 31 The Strand, P.O. Box 2075, Grand Cayman KY1-1105 Cayman Islands.

TO: The Clerk of the Grand Court
AND TO: The Defendant
AND TO: Saxon MG

PROVISIONAL SCHEDULE OF SPECIAL DAMAGES TO DATE

<u>Item</u>	<u>Description</u>	<u>Value in CI\$</u>
1	<p>Loss of Income and pension</p> <p><u>6 January 2015 to 31 December 2015</u></p> <p>Immediately prior to the collision the Plaintiff earned a salary of \$ 5,100.00 per calendar month, or a yearly income of \$61,200, after deductions and including benefits.</p> <p>As a result of the collision and his inability or reduced ability to work the Plaintiff was only paid \$32,283.17 during this period.</p> <p>Accordingly, the Plaintiff suffered a loss of \$28,916.83.</p>	28,916.83
2	<p>Care</p> <p><u>21 February 2015 to 5 May 2015</u></p> <p>Upon discharge from Hospital the Plaintiff required round the clock care an attention. He was bedridden and/or confined to a wheel chair and could not walk. He was initially cared for by his wife and subsequently his sister in law when his wife was required to return to her employment.</p> <p>During this period, he required assistance with bathing, getting in and out of bed, dressing, personal hygiene and other matters which required significant care.</p> <p>24hrs x 74 days x \$10.00 per hour = \$17,760</p> <p><u>24 February 2016 to 2 March 2016</u></p> <p>Following his discharge from hospital after the surgery of 24 February 2016 the Plaintiff required the assistance of his wife who provided significant care and assistance to the Plaintiff</p> <p>8hrs x 7days x \$10.00 per hour = \$560.00</p>	18,320.00
3	<p>Fidelity Health Insurance Subrogated Claim</p> <p><u>6 January 2015 to 29 August 2015</u></p> <p>US\$228,593.72/CI\$192,018.72</p> <p><u>14 January 2016 to 15 December 2016</u></p>	220,988.38

	US\$34,487.69/CI\$28,969.66	
4	RVC Rehab – Out of Pocket <u>9 May 2015 to 5 February 2016</u> \$4,850.00 <u>3 March 2016 to 1 December 2016</u> \$900.00 <u>1 February 2017 to 1 December 2017</u> \$ 1,100.00	6,850.00
5	CIHSA – Out of Pocket	2,980.12
6	Jackson Memorial -Out of Pocket	800.00
7	Ground Transportation and Living Expenses – Miami, FL <u>21 February 2015 to 5 May 2015</u> Transportation to and from Physiotherapy sessions and Doctors' appointments at Jackson Memorial Hospital. \$ 50 per trip x 20 trips = \$ 1,000.00	1,000.00
8	Sustenance and Accommodation <u>21 February 2015 to 5 May 2015</u> The Plaintiff was resident in Miami for a period of 10 weeks. \$600 per week x 10.4 weeks = \$6,240.00	6,240.00
9	Prescriptions – Out of Pocket	120.00
10	Police Report	75.00
11	Cost of Obtaining Medical Records	22.00
12	Estimated Cost of Repairs to 200 Kawasaki ZRX1100	4,497.72
13	Lost household earnings during Mrs. Williams' caring for the Plaintiff	3,500.00
Sub -Total		294,310.05

15. The Plaintiff's loss under some of the heads above is ongoing. The Plaintiff will provide a full Schedule of Loss to particularise all special damages to date of trial in due course in these proceedings.

16. The Plaintiff will pursue claims for future care, future medical treatment, future loss of income, equipment and future travel expenses.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2017

BETWEEN:

FRANK WILLIAMS

PLAINTIFF

AND:

COURTNEY WILLIAMS

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 intend 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 the Defendant

Address for service:

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

Nelson & Company
Attorneys at Law
PO Box 2075
31 The Strand
46 Canal Point Drive
Grand Cayman KY1-1105
Attn: C Flanagan/A Murray Ref 6248-55

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

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 495, 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

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.