

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: 221 OF 2017

BETWEEN:

TONYA MYLES

PLAINTIFF

AND:

ANDREW NGYOU

DEFENDANT

WRIT OF SUMMONS

TO: ANDREW NGYOU

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of Frank Sound, 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 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 day of December 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.

And as a Noticed Party to:

Saxon MG
14 Saturn Close
Eastern Avenue
PO Box 1094
KY1-1102

STATEMENT OF CLAIM

1. At all material times the Plaintiff was the owner and front seat passenger of a Hyundai Tucson registration number 154 620, which was being driven by her husband, Mr. Alistair Clarke.
2. The Defendant was the driver of vehicle registration Q0191.
3. On 30 December 2014, the Plaintiff was sitting in the front passenger seat of her vehicle whilst it was parked at the entrance of Crighton House. As the Plaintiff was exiting her stationary vehicle, suddenly and without warning, the Defendant lost control of his vehicle and collided with the front of the Plaintiff's vehicle.
4. The Plaintiff understands that at all material times the Defendant was insured to drive his vehicle under an insurance policy incepted with Saxon MG. It is also understood by the Plaintiff that this insurance policy covered the Defendant's vehicle in accordance with the Motor Insurance (Third Party Risks Law).
5. The accident was caused by the negligence of the Defendant.

Particulars of negligence

6. The Defendant was negligent in that he:
 - a) drove too fast in 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 occupied by the Plaintiff in time or at all;
 - e) failed to apply his brakes in time or at all;
 - f) *res ipsa loquitur*

7. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage

8. The Plaintiff's date of birth is the 23 September 1975 and she is currently 42 years old.
9. Upon impact, the Plaintiff was thrown forwards then backwards. She was immediately aware of receiving a jolt to her body.
10. The Plaintiff attended George Town Hospital following the accident and was diagnosed with a laceration to her lip, a minor head injury, fractured mandible and soft tissue injuries to her lower back radiating down her right leg. The Plaintiff was subsequently diagnosed with Piriformis Syndrome.
11. Thereafter, the Plaintiff attended her GP's clinic (Dr. Lawrence) on a number of occasions in January/February 2015.

12. The Plaintiff had x-rays and an MRI scan of her Lumbar and Thoracic Spine and had a facet joint injection from Dr. Akinwunmi to alleviate the pain.
13. The Plaintiff also underwent chiropractic and acupuncture treatment for her back followed by an intensive course of physiotherapy.
14. The Plaintiff has had treatment from Dr. Margetis, Dr Akinwunmi, Dr Stanley and Dr. S'usheel (Neurosurgeons).
15. On the 22 June 2016, Dr. Stanley performed a right piriformis injection, which had some success in alleviating her leg pain but no relief of her back pain. In the circumstances, Dr. Stanley recommended further Facet Joint Injections which were performed in October/November 2016.
16. The Plaintiff was unable to work for some time after the accident. She then returned to work on a full time basis but with significant restrictions. She chose to work the night shift so she could lie down when her pain became unbearable. It also enabled the Plaintiff to accommodate her physical therapy sessions and visits to see her doctors.
17. The Plaintiff has difficulty sleeping. Due to her significant pain and restrictions she has been depressed. The Plaintiff sought medical treatment for insomnia in 2016 and depression in 2017 (caused by her physical pain).
18. The Plaintiff still suffers significant discomfort in her back, hip and leg, particularly if standing/sitting for long periods of time or when particularly active. Furthermore, on most mornings, the Plaintiff wakes up with pain her back, hip and leg, whilst also suffering with muscle spasms when getting out of bed.
19. The Plaintiff accepts that she had previously suffered from lower back pain prior to the accident but this was manageable and the accident has significantly exacerbated the pain. The accident has caused the Plaintiff's Piriformis Syndrome which is the primary cause of her leg and hip pain. It is also often triggers her lower back pain.
20. Although it is nearly 3 years post-accident, the Plaintiff remains symptomatic. The Plaintiff is about to commence further steroid injection treatment on her back in an attempt to resolve the symptoms suffered. More specifically, the Plaintiff has had steroid injection treatment on the piriformis muscle in order to reduce spasms that affect her sciatic nerve.
21. The Plaintiff is to undertake an MRI scan in order to rule out any other potential medical issues and will shortly be scheduling further sessions of physical therapy treatment in order to help manage the Piriformis Syndrome
22. The Defendant's negligence has severely impacted upon the Plaintiff's quality of life. This is due to the fact that the Plaintiff's daily activities are now extremely limited by her physical condition which renders unable to stand and walk without assistance.
23. Since the accident, the Defendant has also been unable to be intimate with her husband because of the constant pain that she has suffered. Inevitably, this has caused marital problems.
24. The Plaintiff relies upon medical records which document her symptoms and treatment.

25. In addition to pain, suffering and loss of amenity, the Plaintiff also pursues claims for medical treatment costs, care and assistance, loss of earnings, additional Domestic Helper costs, travel expenses and medication costs which will be particularized in due course.

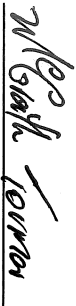
Particulars of Special Damage

26. The Plaintiff continues to receive treatment for her injuries and full particulars of future damages are not known at this time and will be provided in due course.

27. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (as Revised).

AND THE PLAINTIFF claims:

1. General and Special Damages
2. Interest in accordance with the Judicature Law (as Revised)
3. Costs



McGrath Tonner

Attorneys for the Plaintiff

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SCHEDULE OF SPECIAL DAMAGES

The Plaintiff will provide a full Schedule of Loss to particularise all special damages to the date of trial in due course.

The Plaintiff will pursue future claims for medical treatment costs, care and assistance, loss of earnings, travel expenses and medication costs.

**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

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.

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**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.

McGrath Tonner
Attorneys at Law
5th Floor Genesis Building
Genesis Close
PO Box 446
George Town
Grand Cayman
Attn: Michael Vaughn

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