

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: CIV 0018 OF 2018
LACV 0055 of 2017

BETWEEN:

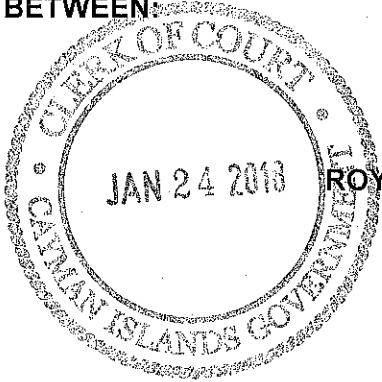
ROGER WOOD JNR.

PLAINTIFF

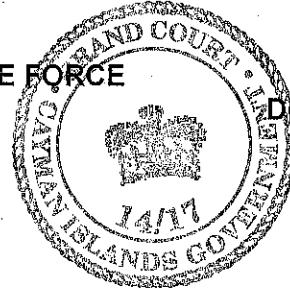
AND:

ROYAL CAYMAN ISLANDS POLICE FORCE

DEFENDANT



WRIT OF SUMMONS



TO: Royal Cayman Islands Policy Force, 69A Elgin Avenue, George Town, Grand Cayman.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of George Town Grand Cayman, Cayman Islands, 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 24th day of January 2018.

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. At all material times the Plaintiff was the rider of a Honda 450-R motorcycle, registration number 165-435.
2. The Defendant's vehicle was a Ford Taurus, registration number 159-955, driven by Mr. Norman Banfield. At all material times Mr. Banfield was employed by the Defendant in the capacity of a Police Officer and was driving the Defendant's vehicle in the course of his employment.
3. On 7 April 2016 at approximately 10:33pm, Mr. Banfield wrongfully suspected the Plaintiff of committing a robbery at the Ice Bar on Forte Street, George Town, Grand Cayman. Therefore, Mr. Banfield commenced a high speed pursuit with a view to arresting the Plaintiff.
4. The pursuit proceeded along West Bay Road, Lime Tree Bay Road and then onto Esterly Tibbetts Highway. A Police helicopter recorded CCTV footage of the pursuit.
5. As the pursuit proceeded along Shamrock Road, in the vicinity of Mangrove Avenue and Lantern Point roundabout, the Defendant's vehicle collided with the rear of the motorcycle, causing the Plaintiff to crash.
6. The accident was caused by the negligence of Mr. Banfield during the course of his employment.

Particulars of Negligence

7. The Plaintiff submits that Mr. Banfield (whilst employed by the Defendant) was negligent in that he:
 - (a) failed to keep any or any proper look out;
 - (b) failed to adequately control the Defendant's vehicle;
 - (c) failed to see the vehicle ridden by the Plaintiff in time or at all;
 - (d) failed to apply his brakes in time or at all;
 - (e) failed to conduct his pursuit in a reasonable manner;
 - (f) unnecessarily caused physical harm to the Plaintiff;
 - (g) failed to avoid a collision when it was reasonable to do so;
 - (h) *res ipsa loquitur*
8. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.
9. Although the police helicopter obtained CCTV footage of the accident, it is not conclusive as to the maneuvers performed by the parties concerned immediately before the collision. This is because the camera swung away immediately before the collision.

10. Due to the lack of evidence to determine the true accident circumstances leading up to the collision, the Plaintiff's Accident Reconstruction Expert has requested the following documentation from the Defendant in order to finalize his report:
 - (a) A legible copy of Vincent Walter's diagram contained within his Accident Reconstruction Report;
 - (b) A copy of Collin Redden's report relating to the accident;
 - (c) Digital copies of all photographs from the police file;
 - (d) The Vehicle Examination Report;
 - (e) The audio tape of the Control Room's communication with the Police Officers;
 - (f) An explanation as to why there is no witness statement provided by the camera operator in the Police helicopter.
 - (g) The download of the Events Data Recorder fitted to the Defendant's vehicle at the time of the accident.
11. The Plaintiff had initially only requested items noted in paragraph 10 (a)-(c) above. However, the Defendant advised the Plaintiff that no information would be disclosed in absence of a Court Order. Therefore, the Plaintiff has been required to issue proceedings prematurely. The Plaintiff shall request an Order for Disclosure at the relevant juncture.

Particulars of General Damage

12. The Plaintiff's date of birth is 23 January 1996 and he is currently 22 years old.
13. An ambulance attended the scene shortly after the accident and transferred the Plaintiff to hospital. The Plaintiff suffered the following injuries as a result of the accident:
 - (a) Pelvic fracture;
 - (b) Lumbar spine fracture;
 - (c) Right lower leg paralysis;
 - (d) Right hip dislocation; and
 - (e) Road rash to the right arm.
14. The Plaintiff is still recovering from the injuries referred to above. He has recently undergone spinal surgery in Miami in order to aid his recovery.
15. In addition to pain, suffering and loss of amenity, the Plaintiff also pursues claims for medical treatment costs, care and assistance, loss of earnings, travel expenses and medication costs.

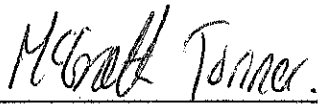
Particulars of Special Damage

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

17. 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); and
3. Costs.



McGrath Tonner

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 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

Please complete overleaf

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.

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

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