

Writ of Summons (O.6, r.1)



IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

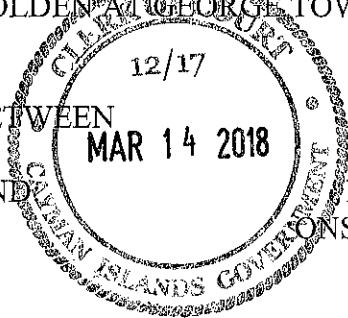
CAUSE NO. *46* OF 2018

BETWEEN AYSHA MUNROE

PLAINTIFF

AND MARK DELORY MCLAUGHLIN
ON-SITE CONCRETE SUPPLY LTD

1ST AND 2ND DEFENDANTS



SPECIALLY ENDORSED WRIT OF SUMMONS

TO: 1ST DEFENDANT: MARK MCLAUGHLIN, 134A Fairbanks Road, Grand Cayman, Cayman Islands.

AND TO: 2ND DEFENDANT; ONSITE CONCRETE SUPPLY LTD, registered office -- 243 North Sound Road, PO Box 511 KY1-1106, Grand Cayman, Cayman Islands.

TO: The Defendant's insurers: Cayman First Insurance Company limited, 3rd Floor, Harbour Place, 103 South Street, P.O. Box 2171, Grand Cayman, Cayman Islands, KY1-1105, Cayman Islands.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff 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 495G, 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this *14* day of March 2018

NOTE - This Writ may not be served later than 4 calendar 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. On Wednesday, 25th March 2015, at approximately 5:28 pm, the Plaintiff was travelling in her husband's Honda Accord, registration number 140660, in an Easterly direction on Shamrock Road. The Plaintiff looked into her rearview mirror and saw there was a concrete mixing motor truck, Freightliner, registration number 150142, which she estimated was more than two to three car lengths in the distance behind her.
2. The Plaintiff put on her indicator to make a right turn into the Pre-school "Rite Start Day Care and Pre-School" at #1548 Shamrock Road. On slowing down to make the right turn, she noticed that a car was coming towards her from the east at a speed that would not have allowed her to make and complete the right turn in time.
3. The Plaintiff therefore applied her brakes and came to a complete stop. At the same time and whilst checking her rearview mirror again, she saw the truck behind her approaching at what she thought was the normal speed. The Defendant's motor vehicle did not stop. The Defendant's vehicle collided with the rear of the Plaintiff's motor vehicle and pushed her motor vehicle into the path of the oncoming motor vehicle that was approaching from the opposite direction.
4. The Plaintiff was rendered unconscious as a result of the first impact.
5. After the Plaintiff's vehicle came to a halt, she remembers getting out of her vehicle and laying on the ground.
6. The collision was caused by the negligence of the 1st Defendant.

Particulars of Negligence

- a) Failing to keep any or any proper look-out or to have any or any sufficient regard for traffic that was immediately preceding it or might reasonably be expected to stop or slow down in front of it.
 - b) Failure to see the Plaintiff in sufficient time to avoid colliding with her or at all.
 - c) Failure to stop, to slow down, to swerve, or in any way so to manage or control the motor vehicle as to avoid the collision.
7. On 2 March 2016 the Defendant was convicted in the Summary Court sitting at George Town, Grand Cayman, on his plea of guilty of careless driving of a concrete mixing motor truck, Freightliner, registration number 150142 contrary to section 77 of the Traffic Law (R2011) and was fined \$200.00. The said conviction is relevant to the issue of negligence and the Defendant intends to rely on it as evidence in this action.

8. Further it is averred that the facts of the accident speak for themselves as being an occurrence which cannot normally happen without negligence.
9. By reason of these matters, the Plaintiff sustained injuries and she has suffered loss and damage.

Particulars of Injuries

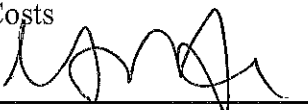
10. As a result of the accident, the Plaintiff has suffered various injuries including chest pains, difficulty breathing, as well as pain in the right hip and bruising to her right arm and hand. The paramedics came on the scene and noted that her blood pressure was low. She was taken to the hospital and hospitalized for one day. The Plaintiff will also rely on the medical report of Mr. J Akinwunmi dated 10 July 2015 and Dr. Amanda Vandyk DPT dated 22 April 2015

Particulars of Special Damage

1.	3/2/2105	Valu-Med Pharmacy	Nebulizer	\$218.05
2.	3T Cayman	MRI C Spine		\$1,613.70
3.	Synergy	Evaluation		\$194.32
4.	Sports supply -	Child's Scooter		\$285.00
5.	Cellular Phone			\$425.00
6.	Desk-Filing Shelves			\$20,000
7.	C.I.Health Services Authority			\$6,523.53
8.	"			\$1,130.05
9.	Cayman Neurosurgeon Int Group			\$210.00
10.	Loss of Income (8 months estimate (4 x \$1.5K x 8 = US48,0000))			- CI\$38K

AND the Plaintiff claims

- (i) Damages
- (ii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.
- (iii) Costs



Clyde H. Allen, Chambers

THIS WRIT was issued by Clyde H. Allen, Chambers on behalf of the Plaintiff whose address for service is P.O. Box 31076 SMB, 2nd Floor, Suite 10, Jack & Jill Building, 19 Fort Street, KYI-1205, George Town, Grand Cayman, Cayman Islands.

Acknowledgement of service of writ of summons (0.12, r.3)

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 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 Acknowledgement 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 judgement 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 the 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 liquidation 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 stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make or 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 Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of the 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 deferent 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 authorized 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.

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.

Clyde Allen
Clyde H. Allen, Chambers,
Attorneys-At-Law
PO Box 31076SMB
Jack & Jill Bldg, KY1-1205
Grand Cayman
Cayman Islands

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

[Empty box for defendant's attorney indorsement]