

Amended 13th August 2018 pursuant to Order 20 rule 1 GCR

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 109 OF 2018

BETWEEN:

MAY DOUGLAS (1)
WILFRED McCATRIC DOUGLAS (2)

Plaintiffs

AND:

ROY BENT

Defendant



AMENDED WRIT OF SUMMONS



TO: **ROY BENT**
17 GLIDDEN LANE
WEST BAY
GRAND CAYMAN
CAYMAN ISLANDS

THIS **WRIT OF SUMMONS** has been issued against you by the above-named Plaintiffs 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, PO 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 12th day of June 2018

Re-issued this 14 day of August 2018

NOTE – This Amended 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.

AMENDED STATEMENT OF CLAIM

1. The Second Plaintiff is the husband of the First Plaintiff and the registered owner of the Plaintiffs' car (the "Sportage"). On 22nd May 2018, the First Plaintiff drove the KIA "Sportage" motor vehicle License number 165 820 along Balsam Close, West Bay and stopped at the intersection of Balsam Close and West Church Street. The First Plaintiff, intending to turn right from Balsam Close in a southerly direction along West Church Street, looked to her right, to her left and to her right again before pulling out, the way being clear, and making her right-hand turn crossing over the northbound lane of West Church Street and into the southbound lane thereof.
2. The First Plaintiff in making the maneuver aforesaid took an extra degree of care because of the poor weather; unusually hard and driving rain.
3. The First Plaintiff had worked full-time at 81 West Church Street for four years and seven months at the date of the collision and had used the intersection in question without incident at least twice every weekday (approximately 2,389 times) in that period: the intersection is the only vehicular means of access to 81 West Church Street and the West Bay Post Office.
4. While executing her maneuver aforesaid the Defendant so negligently drove his Honda motor-car license number 142 831 along West Church Street in a northerly direction approaching the said intersection with Balsam Close that that he collided with the rear right wing of the Second Plaintiff's vehicle.

PARTICULARS OF NEGLIGENCE

- (a) Driving too fast in the circumstances. Given the relevant distances and the location of the collision the Defendant must have been travelling at a speed at least 50% greater than the permitted maximum speed of 30 mph when in the extreme weather conditions then prevalent even the maximum speed was not safe.

- (b) Failing to keep any or any proper look-out or to have any or any sufficient regard for other traffic that was or might reasonably be expected to be at the junction of these roads.
- (c) Cutting the corners of the curves on the relevant stretch of West Church Street and so to do crossing over the central line so he could take, for him, a straight and direct/shorter route rather than slow to a speed to be able to drive only in his lane and manage the curves in the road.
- (d) Failing to give any or any adequate warning or signal of his approach.
- (e) Failing to stop, to slow down, to swerve or in any other way so to manage or control his motorcar as to avoid the collision.
- (f) In fact “clipping” the rear panel of the Second Plaintiff’s vehicle because he was steering not to travel safely in his lane but to cut as close as possible to and/or cross over the middle line just prior to the point of the collision to enable his cutting of the curve in front of the West Bay Post Office. For the avoidance of doubt the First Plaintiff avers that had the Defendant been driving at a speed to be able to remain and with the intention to remain in his lane without cutting the curve at the point of the said intersection, he would have not collided with the Second Plaintiff’s vehicle.
- (g) Hitting the vehicle at such speed and in such a direction so as to spin her vehicle clockwise.
- (h) Hitting the Second Plaintiff’s vehicle as aforesaid with such force and speed that the airbags in his (the Defendant’s) vehicle deployed whereas those in the Second Plaintiff’s vehicle did not.

5. By reason of these matters the First Plaintiff sustained injuries and has suffered loss and damage.

PARTICULARS OF PERSONAL INJURIES

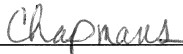
The First Plaintiff was knocked unconscious for approximately one minute. She awoke still in her vehicle and was tended by the crew of the attending ambulance and was put in a hard neck collar and taken to George Town Hospital Emergency Room. The First Plaintiff was attended by Dr. Regina Turner and was diagnosed as having strained muscles in her neck and back as a result of the accident. She was prescribed muscle relaxants and pain- reliever medication to be taken over the course of one week. The First Plaintiff was advised to rest at home and to be off work until 26 May 2018.

PARTICULARS OF SPECIAL DAMAGES

- | | |
|--|---------------|
| 1. Damage to the said Kia Sportage | CIS\$9,718.80 |
| 2. Cost of alternative transport pending repair of the vehicle | |
| 3. Medical care, prescription medication | |
| 4. Further and better particulars will be provided at discovery. | |

AND THE PLAINTIFFS claim:

1. damages;
2. interest in accordance with section 34 of the Judicature Law (1995 Revision);
3. further and applicable other relief as this Honourable Court deems just; and
4. costs.



Chapmans
Attorneys for the Plaintiffs

Dated: 12th June 2018
Re-dated 14th August 2018

This Amended **Writ** and Amended **Statement of Claim** was issued by Chapmans, Attorneys-at-Law for and on behalf of the Plaintiffs whose address for service is that of Chapmans, 81 West Church Street, P.O. Box 742, Grand Cayman KY1-1303 (Our Ref: 1338-0001JC/LCC)

**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 installments or otherwise.

See over for notes for guidance

Please complete overleaf

Notes for Guidance

1. Each Defendant (if there is 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 109 OF 2016

BETWEEN:

MAY DOUGLAS (1)
WILFRED MCCATRIC DOUGLAS (2)

Plaintiffs

AND:

ROY BENT

Defendant

**ACKNOWLEDGMENT OF SERVICE
OF AMENDED 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).....
Defendant / Attorney for the Defendant

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 of his name, address and reference, if any, in the box below.

CHAPMANS
Attorneys-at-Law
81 West Church Street
P.O. Box 742
West Bay KY1 -1303
CAYMAN ISLANDS
(Ref: 1338-0001JC/LCC)

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]