

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: ²²⁵ OF 2018

BETWEEN:

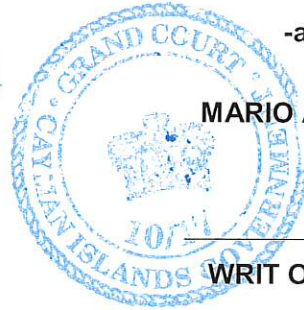
GURWIN DARWIL TOMLINSON

PLAINTIFF

-and-

MARIO ANTUNEZ

DEFENDANT



WRIT OF SUMMONS

TO: **Mario Antunez**, 25 Indian Summer Link Road, Bodden Town, Grand Cayman, Cayman Islands

And to: **Cayman First Insurance Company Limited**, 3rd Floor, Harbour Place, 103 South Church Street, PO Box 2171, Grand Cayman 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 21st day of November 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.

THIS WRIT was issued by HSM Chambers on behalf of the Plaintiff whose address for service is 68 Fort Street, George Town, PO Box 31726, Grand Cayman KY1-1207, Cayman Islands.

STATEMENT OF CLAIM

1. At all material times, the Plaintiff was the driver of a Suzuki SX4 motor vehicle, with license plate number 148799.
2. On the 21st November 2014, at approximately 11.30pm, whilst driving in the company of his wife and daughter, the Plaintiff parked his vehicle to the side of the East Way Arterial Road, towards the direction of George Town; all passengers remained inside and the vehicle was approximately 10 feet off the carriageway.
3. The Plaintiff's vehicle had been stationary for about 15 minutes, when suddenly and without warning, it was hit with significant force by a car being driven by the Defendant. The defendant's vehicle was a Mitsubishi Pajero, license plate number 148336.
4. The Defendant had been travelling in the direction of George Town and had careered off the carriageway. The impact to the Plaintiff's vehicle was such that it was written-off by insurers.
5. The Plaintiff checked that his family were not badly injured and then called 911. About 10 minutes later, both the Police and Ambulance Service attended the accident scene.
6. In the meantime, the Plaintiff checked the Defendant who appeared to be intoxicated and unsteady on his feet. His vehicle was damaged, but not to the extent of the Plaintiff's vehicle.
7. As a result of this accident, which was caused by the Defendant, the Plaintiff has suffered personal injury, loss and damage.

PARTICULARS OF NEGLIGENCE

8. The defendant was negligent in that he:
 - (a) Drove too fast in the circumstances;
 - (b) Failed to heed the presence of the Plaintiff's vehicle which was stationary and safely off-road;
 - (c) Failed to brake, steer, swerve or otherwise manoeuvre his vehicle to as to avoid the collision that occurred;
 - (d) Drove when he was intoxicated.
9. The Plaintiff avers that the Defendant was charged and convicted of the offences of careless driving and driving whilst under the influence of alcohol in the Summary Court on a date unknown. The Plaintiff intends to rely upon these convictions in support of his allegation that the Defendant drove negligently.

PARTICULARS OF INJURY

10. The Plaintiff sustained severe pain and symptoms to his neck and back, for which he continues to receive treatment. At this juncture, prognosis for recovery is guarded but there is likely to be permanent discomfort to the Plaintiff.

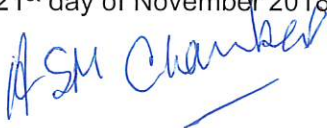
PARTICULARS OF SPECIAL DAMAGE

11. The Plaintiff shall provide a Schedule of past and future loss in due course, but in summary, such losses shall include, *inter alia*:
- (a) Past and future loss of earnings
 - (b) Past and future medical treatment and expenses
12. Further, the Plaintiff claims interest upon such damages as may be awarded under the provisions of Section 34 of the Judicature Law.

AND THE PLAINTIFF claims:

- 1. General Damages;
- 2. Special Damages;
- 3. Pre-judgment interest in accordance with the Judicature Law
- 4. Post-Judgment interest in accordance with the Judicature Law
- 5. Further and/or other relief; and
- 6. Costs

Dated this 21st day of November 2018



HSM Chambers
(Attorneys for the Plaintiff)

To: the Clerk of the Court

And to: the Defendant

And to the Defendant's insurers:
Cayman First Insurance Company Limited
3rd Floor, Harbour Place,
103 South Church Street
PO Box 2171, Grand Cayman
Cayman Islands

THIS WRIT was issued by HSM Chambers on behalf of the Plaintiff whose address for service is 68 Fort Street, George Town, PO Box 31726, Grand Cayman KY1-1207, Cayman Islands.

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

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.

Please complete the Acknowledgement of Service of Writ of Summons overleaf

BETWEEN:

GURWIN DARWIL TOMLINSON

PLAINTIFF

-and-

MARIO ANTUNEZ

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 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.....

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.

HSM Chambers
68 Fort Street
George Town
Grand Cayman KY1-1207
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.