

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION

CAUSE NO: 7 OF 2019

BETWEEN:

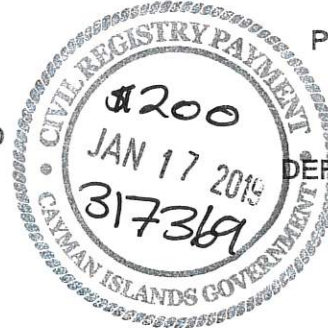
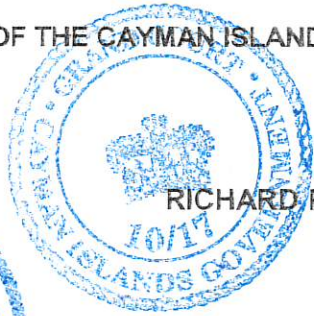
RICHARD POWERY

AND:

RENE IZQUIERDO-LOREZO

PLAINTIFF

DEFENDANT



WRIT OF SUMMONS

TO: Rene Izquierdo-Lorezo

C/o Stuarts Walker Hersant Humphries, Kensington House, 69 Dr. Roy's Drive, 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 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 17th day of January 2019

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:

STATEMENT OF CLAIM

1. At all material times the Plaintiff was the owner and driver of a Toyota Hi-Ace, registration (174-090) and the Defendant was the driver of a motor vehicle, registration 168-313.
2. On 11 February 2018, Defendant was travelling along Watercourse Road, Grand Cayman. The Defendant was travelling in the opposite direction to the Plaintiff along Watercourse Road.
3. Whilst negotiating a bend along Watercourse Road, the Defendant veered onto the Plaintiff's side of the road, collided into the front driver's side of the Plaintiff's vehicle.
4. At all material times the Defendant was insured to drive vehicle registration 168-313 under an insurance policy incepted with Island Heritage Insurance. The policy issued 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. The Plaintiff understands that the Defendant was subsequently charged with driving under the influence of alcohol following the accident.

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 of his vehicle;
 - d) failed to see the Plaintiff's vehicle whether in time or at all;
 - e) failed to apply his brakes whether in time or at all;
 - f) failed to ensure that his vehicle remained on the correct side of the road;
 - g) Put the Plaintiff and other road users at risk;
 - h) res ipsa loquitur
7. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of General Damage

8. Following the accident the Plaintiff was immediately aware of injuries to his head, face, neck, back, both shins and right shoulder.

9. The Plaintiff has suffered the following injuries as a result of the accident:
 - a) Laceration to the upper right eye;
 - b) Cuts and permanent scarring to the face;
 - c) Glass fragment embedded in the forehead;
 - d) Intermittent headaches;
 - e) Vitreous separation causing blurred vision;
 - f) Pain suffered in the neck;
 - g) Pain suffered in the back;
 - h) Lacerations/cuts and bruising to both lower limbs/shins;
 - i) Exacerbation of chronic right shoulder impingement and AC joint arthritis;
 - j) Thoracic pseudoaneurysm;
 - k) Intermittent short term memory loss;
 - l) Flashbacks of the accident; and
 - m) Travel anxiety.

10. The Plaintiff was initially taken to George Town Hospital to receive medical treatment for his injuries. He subsequently received further medical treatment for several months at Health City, Grand Cayman.

11. The Plaintiff requires further medical treatment, particularly in relation to his head and thoracic aortic injuries. However, he is not in a position to fund such treatment. This has naturally prolonged the Plaintiff's recovery period.
12. The Plaintiff continues to suffer from his injuries which has also resulted in difficulties sleeping. His ability to work has also been severely affected by his ongoing injuries.
13. The Plaintiff relies on medical records and reports documenting his symptoms, treatment and prognosis.
14. In addition to Pain, Suffering and Loss of Amenity, the Plaintiff also pursues claims for care and assistance, medical treatment costs, medication expenses, loss of earnings, travel expenses and future medical treatment costs which will be fully particularized in due course.

Particulars of Special Damage

15. 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.
16. 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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BETWEEN:

RICHARD POWERY

PLAINTIFF

AND:

RENE IZQUIERDO-LOREZO

DEFENDANT

SCHEDULE OF SPECIAL DAMAGES

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

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

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 Waugh

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

