

**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**



CAUSE NO: *39* OF 2019

**BETWEEN:**



**JORDAN MYLES**

**AND:**



**PLAINTIFF**

**KERN DELROY THOMPSON**

**DEFENDANT**

**WRIT OF SUMMONS**

**TO:** Kern Delroy Thompson

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of 97 Strawberry Drive, George Town, Grand Cayman 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 *13<sup>th</sup>* day of March 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:  
Cayman First Insurance  
Cayman First Centre  
17 Vibert Bodden Drive  
George Town  
Grand Cayman

## **STATEMENT OF CLAIM**

1. At all material times the Plaintiff was the rider of a Yamaha Crypton motorcycle registration 148 518 and the Defendant was the driver of a Chevrolet Astro van registration 150 830.
2. On the 15 March 2016 at approximately 5.10pm, the Plaintiff was travelling along Eastern Avenue, George Town in a Southerly direction and the Defendant was exiting from the Car Park of BritCay House. The Plaintiff was filtering down the outside of a line of slow-moving traffic. As he proceeded past the line of traffic, suddenly and without warning the Defendant emerged out of the car park, intending to turn to the right and in doing so collided with the Plaintiff's motorcycle and the Plaintiff was thrown from the motorcycle, across the road injuring his leg and foot.
3. At all material times the Defendant's vehicle was insured with Cayman First Insurance Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).

### **Particulars of negligence**

4. The accident was caused by the negligence of the Defendant in that he;
  - 4.1 failed to keep any or any proper look out;
  - 4.2 failed to see the Plaintiff's motorcycle in time or at all;
  - 4.3 failed to adequately or at all to heed or act upon the presence, path, position and approach of the Plaintiff's motorcycle;
  - 4.4 emerged out of the minor road into the major road without looking to his right immediately before or as he commenced so doing or alternatively only looking to his left when so doing;
  - 4.5 failed to stop and wait in the minor road before attempting or commencing to emerge into the major road;
  - 4.6 failed to apply his brakes whether in time or at all.
5. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

### **Particulars of General Damage**

6. The Plaintiff's date of birth is the 29<sup>th</sup> May 1998 and at the date of the accident he was 17 years old.
7. Immediately after the accident, the Plaintiff was taken to the Accident and Emergency Department at George Town Hospital by ambulance.
8. He suffered an open fracture of his left leg with severe soft tissue injury and 8cm of bone loss. He underwent surgery on his left leg and was stabilized.

9. He was referred overseas for expert management and plastic surgery on the leg. He was transferred to Jackson Memorial Hospital via Air Ambulance the day after the accident.
10. He has undergone extensive surgeries on his leg in order to save it, involving metalwork and a skin graft.
11. He remained an inpatient at Jackson Memorial Hospital for 3 months.
12. He was discharged with a walker with limited ability to weight bear and with significant medication.
13. He has undergone 22 operations on his leg to date and continues to have treatment at Jackson Memorial Hospital and requires a further operation to remove the metalwork which is scheduled for June 2019.
14. The Plaintiff suffers continued significant discomfort in his leg and foot and walks with a limp. He also suffers from anxiety following the accident.
15. At the time of the accident the Plaintiff was employed as an electrician. He has been unable to return to full time employment.

**Particulars of Special Damage**

16. The Plaintiff's particulars of special damage will be forwarded in due course by way of a Schedule of Loss including but not limited to claims for costs of medical treatment, past and future loss of earnings, travel, gratuitous care and loss of opportunity on the open labor market.
17. The Plaintiff will claim interest pursuant to section 34 of the Judicature Law (2017 Revision) at half the rate as prescribed under the Judgment Debts (Rates of Interest) Rules (as amended) from the 15<sup>th</sup> March 2016 to Trial.

**AND THE PLAINTIFF claims:**

1. General and Special Damages
2. Interest in accordance with the Judicature Law (2017 Revision)
3. Costs



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**KSG Attorneys-at-Law**  
**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 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**

## 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.

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**PLAINTIFF**

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**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.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

yes

no

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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

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Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

**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.

KSG Attorneys-at-Law  
4<sup>th</sup> Floor Harbour Centre  
42 North Church Street  
PO Box 2255  
George Town  
KY1-1107  
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.

[Empty box for defendant's attorney indorsement]