

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



CAUSE NO: 166 OF 2019

**BETWEEN:**



**PHILLIP RITCH**

**PLAINTIFF**

**AND:**

**RANDOLPH SMITH**



**DEFENDANT**

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**WRIT OF SUMMONS**

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**TO:** The Defendant

And as a Noticed Party To: Saxon Motor & General Insurance Company Ltd  
14 Saturn Close  
Eastern Avenue  
P.O. Box 1094  
Grand Cayman KY1-1102

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of 10 Aunt Shannys Road, Northward, 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 3<sup>rd</sup> day of October 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.

### **STATEMENT OF CLAIM**

1. At all material times the Plaintiff was the rider of a Suzuki GSSR 1000 motorcycle registration 165 165 and the Defendant was the driver of a Ford Ranger motor vehicle bearing registration number 117 592.
2. On 9<sup>th</sup> October 2016 at approximately 12pm, the Plaintiff was driving in a westerly direction along North Side Road towards Rum Point. In the vicinity of Hutland Road the Defendant's vehicle turned into the path of the Plaintiff's vehicle causing the Plaintiff to collide with the front of the vehicle when trying to avoid the collision.

### **Particulars of negligence**

3. The Defendant was negligent in that he:
  - (a) failed to keep any or any proper look out;
  - (b) failed to see the Plaintiff in time or at all;
  - (c) failed to check his mirrors before commencing his maneuver;
  - (d) failed to indicate his intended maneuver;
  - (e) failed to apply his brakes whether in time or at all;
  - (f) failed to steer or control his vehicle so as to avoid the said collision;
  - (g) failed to maintain his vehicle within his own lane;
4. The Plaintiff will rely on the doctrine of res ipsa loquitur.
5. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

### **Particulars of Injury**

6. The Plaintiff, whose date of birth is 30 November 1992, was 24 years old at the date of the accident.
7. The Plaintiff was thrown off his vehicle and was immediately aware of significant pain in his left hip and leg and was unable to put any weight on his leg. He had numerous lacerations to his body and in particular to his left arm.
8. He was transported by ambulance to the Accident and Emergency Department at George Town Hospital. He underwent x-rays and a CT scan and was diagnosed as having sustained an acetabular fracture and multiple lacerations and bruising. He was admitted as an inpatient and provided pain management. His left arm was fitted with a left wrist brace.
9. His care was transferred to Cayman Orthopaedic Group in view of the seriousness of the injury.

10. He underwent surgery on the 14 October 2016, namely an open reduction, internal fixation of the left acetabular posterior wall fracture, bone graft and excision of fragments. He remained an inpatient until he was discharged on the 17 October 2016 with a wheelchair. He was bedridden for a number of weeks.
11. Six weeks post operation, he remained on crutches and was touch weight-bearing only. He was also suffering pain in his left knee.
12. He was referred to Cayman Physiotherapy and commenced treatment in November 2016 on a twice weekly basis.
13. He attended with Cayman Orthopaedic Group a year post surgery and was advised that there is an increased risk of degenerative changes in his hip and potential need for future surgery.
14. He reattended with Cayman Orthopaedic Group in June 2019 who confirmed a weakness in his muscles and some ossification in the abductor tendon.
15. The Plaintiff continues to suffer from pain in his hip regularly, specifically cramping. He continues to attend physiotherapy when required.
16. Prior to the accident he was very athletic and ran and went to the gym frequently, he now tries to continue attending the gym but struggles to perform many of the exercises due to weakness and does suffer some discomfort post exercise.
17. He is a mechanic and the physical nature of his work causes a lot of pain and difficulty every day.
18. Further particulars of the Plaintiff's injury and treatment will be provided at a later date by way of a schedule of damages.

#### **Particulars of Special Damage**

19. The Plaintiff's particulars of special damage will be supplied at a later date by way of a schedule of damages including but not limited to claims for medical treatment, loss of earnings, property damage, travel and gratuitous care.

#### **Statement as to Interest**

20. 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 9 October 2016 to trial.

**AND THE PLAINTIFF CLAIMS:**

1. General Damages;
2. Special Damages;
3. Interest in accordance with the Judicature Law (2017 Revision);
4. Costs;
5. Such further or other relief that his Honourable Court deems just.

*KSG*

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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**

**AND:**

**RANDOLPH SMITH**

**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.