

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC 13 OF 2020

BETWEEN:

*IAN GALLAGHER*

AND:

*WAYNE BODDEN*



Plaintiff

Defendant

PLAINT



To the Defendant  
*Andrew Drive,  
Snug Harbour,  
Grand Cayman*

**THIS PLAINT** 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 service of this **Plaint** 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 KY1-1106, Cayman Islands, the accompanying Acknowledgment of Service form stating therein whether you intend to contest this action. If you intend to defend the action, in whole or in part, you must set out **full particulars of your defence** in the space provided in the Acknowledgement of Service form.

If you fail to satisfy the claim or fail to return the Acknowledgement of Service form containing full particulars of your defence, the Plaintiff may apply for a **default Judgment** without any further notice to you.

Issued this *20th* day of *January* 2020

See overleaf for particulars of the Plaintiff's claim

## PARTICULARS OF CLAIM

(Here set out in numbered paragraphs the grounds upon which the Plaintiff claims that the Defendant is indebted to him or is liable to pay damages to him)

### THE CONTRACTS

1. By an oral contract on the *9<sup>th</sup> April 2019* between the Plaintiff and the Defendant for the purchase of a *1993 Jeep YJ Registration No. 161 383* ("the vehicle"), the Defendant agreed to supply the vehicle to the Plaintiff, and the Plaintiff agreed to pay the Defendant *\$9300* (Cayman Islands Dollars) (all currencies below are Cayman Islands Dollars).
  
2. The terms of the contract were that the Defendant would:
  - i. Transfer title of the vehicle to the Plaintiff no later than the *17<sup>th</sup> May 2019*;
  
  - ii. Deliver the vehicle in full working condition, and inclusive of the items set out in the terms below, no later than the *17<sup>th</sup> May 2019*.
  
3. The terms of the oral contract were that the vehicle to be purchased by the Plaintiff would include the following new items on delivery:<sup>1</sup>
  - i. *Sport bar style rollover bar*;
  
  - ii. *Fender flares (Bushwacker Flat Style)*;

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<sup>1</sup> See Appendix 1 for details of these items

- iii. *Soft bikini style roof top in addition to the hard top;*
- iv. *35" All terrain tyres;*
- v. *Black seats (front and back) (Corbeau's Moab Reclining Seat);*
- vi. *Mickey Thompson Polished Classic III Wheels (used);*
- vii. *Stainless steel bumpers and steps (used);*

4. The terms of the contract were that, on delivery, the vehicle would retain the following items that were attached to it on the date of the contract, the 9<sup>th</sup> April 2019:

- i. *A reversing camera and monitor;*
- ii. *A high-end steering wheel;*
- iii. *Rear door saddle bags;*
- iv. *Rollover bar padding;*
- v. *Rear seat belts;*
- vi. *Rollover speaker column;*
- vii. *Backdoor wheel mount.*

5. On the 17<sup>th</sup> May 2019, further terms were agreed orally between the parties. It was agreed that:
  - i. The Defendant would provide a new set of tyres for the vehicle;
  - ii. The Plaintiff would pay \$200 for those tyres.
6. The Defendant failed to deliver the vehicle as agreed by the 17<sup>th</sup> May 2019.
7. Following the Defendant's failure to deliver the vehicle by the 17<sup>th</sup> May 2019, the Parties made a further agreement in writing.
8. Through this further **written contract**, the Defendant agreed to do the following by the following dates:
  - i. *By the 6<sup>th</sup> June 2019 the Defendant would collect and mount a set of 33" tyres, attach the sport bar, and deliver the vehicle to the Plaintiff;*
  - ii. *By the 7<sup>th</sup> June 2019 the Defendant would exchange the existing bumper for a stainless-steel bumper;*
  - iii. *By the 14<sup>th</sup> June 2019 the Defendant would deliver the fender flares, the black seats and the bikini top to the Plaintiff.*
  - iv. *By the 21<sup>st</sup> June 2019 the Defendant would replace the 33" tyres with 35" tyres.*

9. In exchange for the compliance with the terms set out above, the Plaintiff agreed to pay the Defendant in full satisfaction of the contract.

**PLAINTIFF'S PERFORMANCE OF THE CONTRACT**

10. In performance of the contract, the Plaintiff made the following payments to the Defendant:

- i. *9<sup>th</sup> April 2019 - \$500;*
- ii. *12<sup>th</sup> April 2019 - \$1000;*
- iii. *17<sup>th</sup> April 2019 - \$3000;*
- iv. *5<sup>th</sup> May 2019 - \$1200;*
- v. *12<sup>th</sup> May 2019 - \$1000;*
- vi. *6<sup>th</sup> June 2019 - \$1300;*
- vii. *16<sup>th</sup> August 2019 - \$1300.*

11. The Plaintiff had paid to the Defendant the total amount due under the contract by the *16<sup>th</sup> August 2019*, namely *\$9300*.

12. In addition, the Plaintiff paid the \$200 for the new tyres referred to at paragraph 7(ii) above.

13. Furthermore, in reliance on the contract, the Plaintiff paid \$270 to tax the vehicle for one year and \$420 to insure the vehicle for one year.

### **DEFENDANT'S BREACH OF CONTRACT**

14. In actual and repudiatory breach of contract, the Defendant has not delivered the vehicle to the Plaintiff as agreed.

15. In further actual and repudiatory breach of the contract, the Defendant has not delivered the items described above.

### **LOSS AND DAMAGE**

16. As a result of the Defendant's actual and repudiatory breach of the contract, the Plaintiff has suffered loss and damage:

*i. \$9500 paid by the Plaintiff in performance of all of his obligations under the contract;*

*ii. 1 year vehicle Tax                      \$270*

*iii. 1 year vehicle Insurance              \$420.*

17. Further, the Plaintiff claims interest on such sums that are found due to it at such a rate and for such a period as the court thinks fit.

18. The Defendant has failed to respond to the letter before action sent by the Plaintiff on the 18<sup>th</sup> October 2019.

AND the Plaintiff claims:

1. The sum of \$9,900.00
2. Interest in the sum of \$207.90 calculated at the prescribed rate from 9<sup>th</sup> April 2019 to date.
3. Interest to continue until this matter is settled.
4. Fixed costs of \$325.00, alternatively costs to be assessed.

Ian Gallagher

Plaintiff's Signature

Plaintiff's address for service

Rupert Wheeler,  
Samson Law Associates  
4<sup>th</sup> Floor, 42 North Church Street,  
George Town, Grand Cayman,  
KY1-1107, PO BOX 2255

Telephone: 949-0123 | Email: [rwheeler@samsonlaw.ky](mailto:rwheeler@samsonlaw.ky)

No. 2

Acknowledgment of Service  
IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC \_\_\_\_\_ OF 20\_\_

BETWEEN:

*IAN GALLAGHER*

Plaintiff

AND:

*WAYNE BODDEN*

Defendant

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**ACKNOWLEDGEMENT OF SERVICE**

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1 State Defendant's name and address -

*Mr Wayne Bodden  
Andrew Drive,  
Snug Harbour,  
Grand Cayman*

2 State whether the Defendant intends to contest the action.

Yes

No

3 If you do not intend to contest the action, do you want time in which to pay the claim?

Yes

No

4 If you do intend to contest the action, in whole or in part, you must set out full particulars of your defence overleaf.

**Service of the Plaintiff is acknowledged accordingly.**

\_\_\_\_\_  
Defendant's Signature

DATED this *20th* day of *January*, 20*20*

See Overleaf

**PARTICULARS OF DEFENCE**

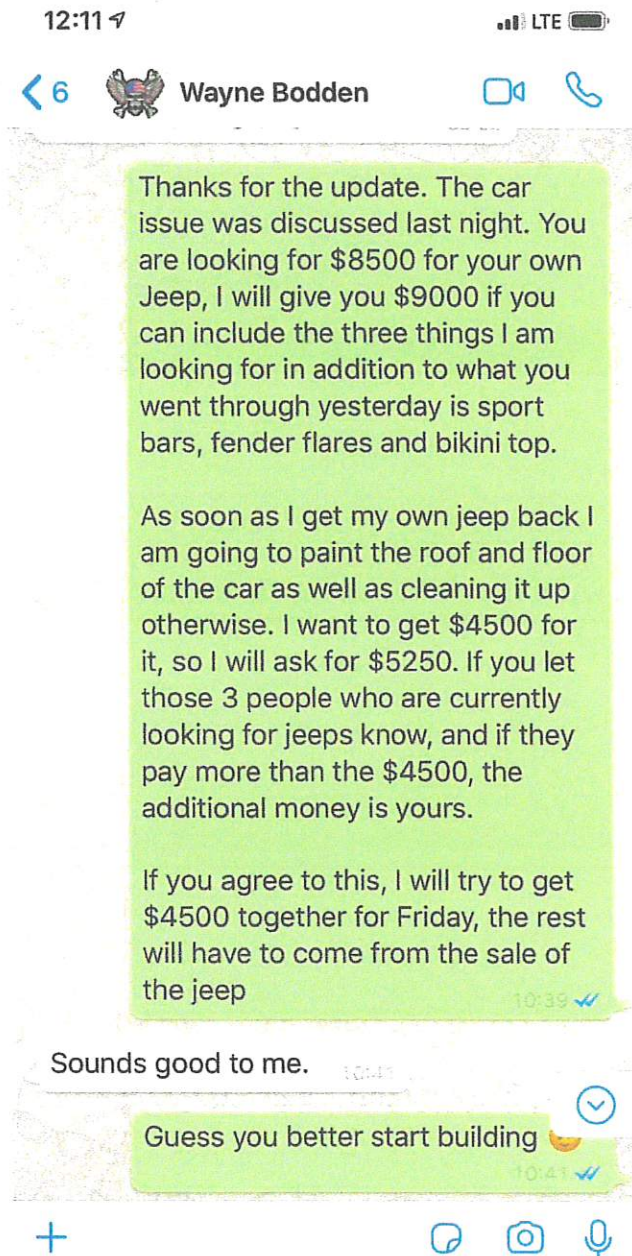
(Here set out in numbered paragraphs the grounds upon which the Defendant says that he is not liable to the Plaintiff, or is not liable for the full amount claimed)

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Defendant's Signature

REMINDER - This form must be taken or sent to the Court Office, PO Box 495, Grand Cayman KY1-1106 Cayman Islands within 14 days of receipt otherwise a default Judgment may be entered against you.

This deal to purchase a 1993 Jeep YJ was struck on the 9th of April this year. Through a torrent of consecutive lies and at \$8,000 KYD I am no closer to receiving this vehicle.



***This is the transcript of a text I sent to him on 30th of May:***

Wayne, I have been courteous since the beginning of this process. Who would spend two full months wages on a car they hadn't even driven? I have done what you have asked of me and went above and beyond financially based on our friendship.

Letter before action

IAN GALLAGHER  
-AND-

WAYNE BODDEN

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AFFIDAVIT OF SERVICE

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I, **Sheldon Williams**, of The Security Centre Limited, Cayman Technology Centre, 115 Printers Way, Grand Cayman, Cayman Islands **MAKE OATH AND SAY** as follows:

1. I am employed by The Security Centre Limited and I hold a position in the special services department.
2. The facts I depose to are within my knowledge and are true or, where not within my own knowledge are true to the best of my information and belief and derived from the sources referred to.
3. Ian Gallagher instructed The Security Centre to serve the documents dated 18<sup>th</sup> October 2019 ("The Document") on Wayne Bodden
4. On 18<sup>th</sup> October 2019 at approximately 5:24pm I personally served the Documents on Wayne Bodden at 212 Andrew Drive, George Town Cayman Islands.
5. I was able to identify the Defendant as he identified himself to me.

Sworn before me at }  
George Town, Grand Cayman, }  
Cayman Islands }  
This 21<sup>st</sup> day of October 2019 }

S. Williams  
Sheldon Williams

Maria McLean  
Notary Public

Before me, Maria McLean, a Notary Public,  
In and for the Cayman Islands.

This 21<sup>st</sup> day of October 2019

Maria McLean  
(My Commission expires on 31st January 2020)



These are the terms as agreed between Wayne Bodden & Ian Gallagher, 6th, June, 2019.

Today, upon receipt of \$1300 we will go straight to the tyre store to pick up a set of 33" tyres, get them mounted on the wheels.

When we get that done, we get the sport bar attached and I take the car away.

Tomorrow, we will exchange the bumper with the stainless set.

Next Friday, 14th of June, I receive the fender flares, seats & the bikini top.

Friday 21st of June, the 33" will be replaced with 35" tyres.

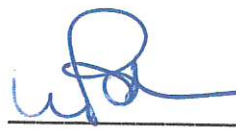
\$9300  
\$6700 -

\$2300  
\$1300 - Thursday 6th (33" tyres, MT wheels, Sports Bar)  
Friday 14th (Bumpers and steps)

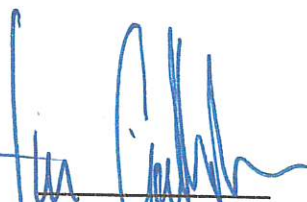
\$1000  
\$ 700 - Friday 14th (Bikini Top & Fender Flares)

\$ 300 Friday 21st (Swap out 33"s for the 35"s)

Upon signing of this document \$8,000 CI has been received.  
\$9,300 CI will be the total price to be paid as per schedule.

  
\_\_\_\_\_  
Wayne Bodden

06/06/19

  
\_\_\_\_\_  
Ian Gallagher

06/06/19

← Wayne receipt



Date 16th August, 2019,

This is to confirm receipt of \$1,300 CI for the 1993 Jeep YJ, Registration No. 161 383 bring the total payment to \$9,300 CI. The sum of \$9,000 agreed upon on April 2nd and the subsequent upgrading to the 35" tires.

  
Wayne Bodden

18 October 2019

By: email

[rwheeler@samsonlaw.ky](mailto:rwheeler@samsonlaw.ky)

Wayne Bodden

Our Ref: 01468-IanGallagher  
Sent by: Mail / Process Server  
Our Client: Ian Gallagher

Dear Sirs,

**Letter before Action – Money paid for 1993 Jeep YJ Registration NO. 161 383**

We act for Mr Ian Gallagher whose address is George Town Villas, Grand Cayman, Cayman Islands. We write to inform you that Mr Gallagher has instructed us to commence a claim against you in relation to the purchase of a 1993 Jeep YJ Registration NO. 161 383.

**Overview and basis of claim**

1. We are instructed that on the 9<sup>th</sup> April 2019, you and Mr Gallagher entered an oral contract for the purchase of a 1993 Jeep YJ Registration NO. 161 383 (“the vehicle”), Mr Gallagher being the prospective purchaser and you being the prospective seller.
2. Through the **oral contract** you both agreed that Mr Gallagher would pay you \$9300 for the vehicle. It was agreed that the vehicle would be in complete working order and would also include the following additional items:
  - i. Sport bar;

- ii. Fender flares;
  - iii. Bikini top;
  - iv. All terrain tyres;
  - v. Black seats (front and back).
3. At the time that the agreement was made, the vehicle included the following items, which were agreed to be part of the purchase:
- i. A reversing camera and monitor;
  - ii. A high-end steering wheel;
  - iii. Rear door saddle bags;
  - iv. Rollover bar padding;
  - v. Rear seat belts;
  - vi. Rollover speaker column;
  - vii. Backdoor wheel mount.
4. It was agreed that the vehicle would be delivered to Mr Gallagher in full working condition and inclusive of the above items, no later than the 17<sup>th</sup> May 2019.

5. On the 9<sup>th</sup> April 2019, Mr Gallagher paid you \$500 as an initial payment for the vehicle. He then made the following payments to you:
  - i. 12<sup>th</sup> April 2019 - \$1000;
  - ii. 17<sup>th</sup> April 2019 - \$3000;
  - iii. 5<sup>th</sup> May 2019 - \$1200;
  - iv. 12<sup>th</sup> May 2019 - \$1000;
6. In addition, on the 17<sup>th</sup> May 2019 Mr Gallagher paid you a further \$200 for a set of tyres (outside the scope of the original agreement).
7. On the 17<sup>th</sup> May 2019, you signed the title to the vehicle over to Mr Gallagher. However, by the 30<sup>th</sup> May 2019 the vehicle itself had not been delivered. In a text message sent that day, Mr Gallagher stated that he would pay the remaining balance of \$2600, as long as the vehicle was delivered as agreed within seven days (i.e. by the 6<sup>th</sup> June 2019).
8. On the 6<sup>th</sup> June 2019 you and Mr Gallagher entered into a **written contract**, which was signed by both parties. In that contract you agreed to do the following on the dates set out:
  - i. 6<sup>th</sup> June 2019 - Collect and mount a set of 33" tyres, attach the sport bar, and deliver the vehicle to Mr Gallagher;
  - ii. 7<sup>th</sup> June 2019 – Exchange the bumper with a stainless-steel bumper;

- iii. 14<sup>th</sup> June 2019 – Deliver the fender flares, seats and bikini top;
  - iv. 21<sup>st</sup> June 2019 – Replace the 33” tyres with 35” tyres.
9. It was agreed that he would make the following payments to you in exchange for the above:
- i. 6<sup>th</sup> June 2019 - \$1300;
  - ii. 14<sup>th</sup> June 2019 - \$1000;
  - iii. 21<sup>st</sup> June 2019 - \$300.
10. On the 6<sup>th</sup> June 2019 Mr Gallagher made the \$1300 payment. You both signed the contract, which also agreed that Mr Gallagher had paid \$8000 by that date.
11. On the 16<sup>th</sup> August 2019 Mr Gallagher paid the final instalment of the balance. You signed a receipt confirming this.
12. Despite Mr Gallagher paying you in full, you have failed to deliver the vehicle in the state agreed. You are therefore in breach of the contract.

### **Relevant documents**

13. We enclose the following relevant copy documents:
- i. Contract dated 6<sup>th</sup> June 2019;
  - ii. Receipt dated 16<sup>th</sup> August 2019;

iii. Text message screenshots of correspondence between you and Mr Gallagher.

### **Demand for payment**

14. The purpose of this letter is formally to demand on behalf of Mr Gallagher that you immediately make repayment of the monies paid to you by him. **The total amount owed is \$9500**, which includes the \$9300 paid for the vehicle and the additional \$200 paid for the tyres described in paragraph 6 above.

15. In the circumstances, we must request a response to this letter within 14 days of receipt, which we consider to be a reasonable period for a full response to a claim of this nature.

Failure to respond to this letter and make payment in the allotted time will result in the commencement of legal proceedings against you (without further reference to you should that prove necessary). You should be aware that court proceedings will include a claim for interest, court fees, legal costs. Damages will also be sought for consequential loss sustained by Mr Gallagher.

Please contact us or Mr Gallagher directly to arrange payment. We await your response.

Yours faithfully,



**Samson Law Associates**

i Sport bar



Converted from the original roof bar.

ii Fender flares:



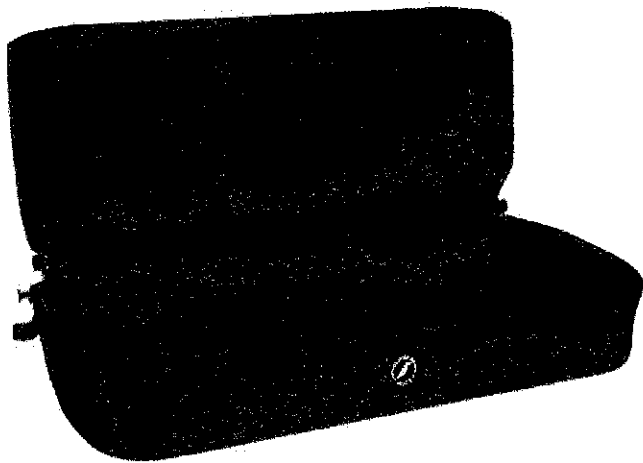
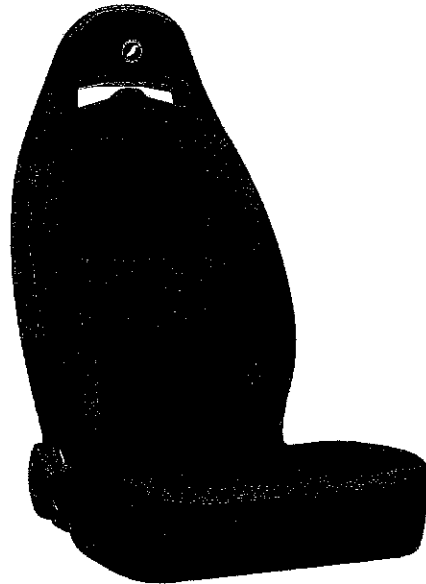
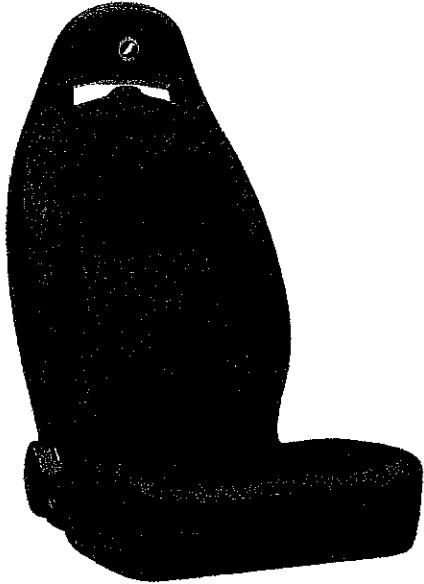
iii Bikini top;



iv All terrain tyres



v Black seats (front and back).



vi Micky Thompson wheels (used)



vii    Stainless steel bumpers

