

IN THE GRAND COURT OF THE CAYMAN ISLANDS
CIVIL DIVISION



CAUSE NO: *42* OF 2020

BETWEEN:

RAYMOND CALDER HYDES

PLAINTIFF

AND:

MICHAEL JERALD YONKER

DEFENDANT



WRIT OF SUMMONS

TO: The Defendant
Michael Jerald Yonker
288 Woodland Drive
Bodden Town
Grand Cayman

And as a Noticed Party To: Cayman First Insurance Company Ltd.
Cayman First Centre,
17 Vibert Bodden Drive
P.O. Box 2171
Grand Cayman KY1-1105

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 21 Nickel Lane, West Bay, Grand Cayman, Cayman Islands 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 *27th* day of February 2020

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 owner and driver of a 2015 Jeep Cherokee motor vehicle bearing registration number RCH 68.
2. The Defendant was at all material times the driver of a 2013 Dodge Ram motor vehicle bearing registration number 172 276 owned by Alric Vernon.
3. On 26th April 2018, the Plaintiff was driving in an easterly direction along Canal Point Road in the vicinity of Copper Falls Steak House when the Defendant exited the driveway of the said Copper Falls Steak House into the path of the Plaintiff's vehicle, causing a collision.
4. The Defendant left the scene of the accident.
5. The accident was caused by the negligence of the Defendant.

Particulars of Negligence

6. 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 give way to vehicles on the main road;
 - (d) failed to apply his brakes whether in time or at all;
 - (e) failed to steer or control his vehicle so as to avoid the said collision;
 - (f) failed to take reasonable care in all the circumstances.
7. The Plaintiff will rely on the doctrine of *res ipsa loquitur*.
8. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Particulars of Injury

9. The Plaintiff, whose date of birth is 13th January 1968, was 50 years old at the date of the accident.
10. The impact of the collision caused the airbag in the Plaintiff's vehicle to be deployed. The Plaintiff was flung to the right and then pulled back by his seatbelt hitting the door. The Plaintiff was rendered unconscious for a brief moment. Upon regaining consciousness, he became immediately aware of excruciating pain all over his body. He was treated by emergency medical personnel at the scene of the accident and was transported by ambulance to George Town Hospital for further treatment.

11. The Plaintiff sustained the following injuries:

- (a) laceration to the left arm;
- (b) pain in the neck and left hand
- (c) abrasions to the left side of face;
- (d) burn to the left hand;
- (e) pain and bruising to right leg;
- (f) headache;
- (g) nausea and dizziness;
- (h) soft tissue injuries;
- (i) paresthesia;
- (j) Cerebrovascular injury;
- (k) post-traumatic stress and anxiety

12. The Plaintiff was treated at George Town Hospital in relation to his injuries. He received further treatment at Health City Cayman Islands. He also received treatment from other health care providers in the Cayman Islands. He continues to undergo treatment for his injuries.

13. 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

14. The Plaintiff has suffered loss and incurred expenses as a result of the accident.

15. 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 cost of medication, loss of earnings, travel and gratuitous care.

Statement as to Interest

16. 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 26th April 2018 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 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.

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
4th 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]