

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

CAUSE NO: OF 2020

BETWEEN:

SHAUN WHYTE

PLAINTIFF

AND:

SHERRIE-LEE EHMAN

DEFENDANT



WRIT OF SUMMONS

TO: The Defendant
Sherrie-Lee Ehman

And as a Noticed Party To: Island Heritage Insurance Company Limited
Island Heritage House
128 Lawrence Boulevard
P.O. Box 2501
Grand Cayman KY1-1104

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 31 Brinkley Drive, George Town 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 day of October 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 rider of a bicycle and the Defendant was the driver of a Ford Expedition motor vehicle bearing registration number 159 020.

2. On 9 November 2017 at approximately 5pm, the Plaintiff was sitting on his bicycle on the side of the southbound shoulder of Esterley Tibbetts Highway. The Defendant travelling in the same direction, was involved in a collision with several motor vehicles, prior to colliding with the Plaintiff and failing to stop dragging the Plaintiff's left leg along the road.

3. At all material times the Defendant was insured to drive the Ford Expedition registration 159 020 with Island Heritage Insurance Company Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).

4. The accident was caused by the negligence of the Defendant.

Particulars of Negligence

5. The Defendant was negligent in that she:
 - (a) failed to keep any or any proper look out;
 - (b) failed to see the Plaintiff in time or at all;
 - (c) failed to apply her brakes whether in time or at all;
 - (d) failed to steer or control her vehicle so as to avoid the said collision;
 - (e) failed to stop her vehicle after colliding with the Plaintiff;
 - (f) failed to take all reasonable care in the circumstances.

6. The Plaintiff will rely on the doctrine of *res ipsa loquitur*.

7. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

Conviction for Careless Driving

8. The Plaintiff intends to adduce evidence that the Defendant was convicted of the offence of careless driving contrary to S77(1) of the Traffic Law 2011 at the Summary Court, George Town, Grand Cayman on the 13th March 2019, as a result of her driving, resulting in the collision.

Particulars of Injury

9. The Plaintiff, whose date of birth is the 26 September 1994, was 23 years old at the date of the accident.
10. Following the accident, the Plaintiff was taken to George Town Hospital by ambulance having suffered a deep degloving injury to his left foot/ankle and an injury to his left hip. He was given morphine and other pain-relieving medications. He underwent extensive imaging and was referred to the Orthopaedic department.
11. On the 10 November 2017 he underwent an operation for exploration of his injury and debridement and vacuum assisted closure. He was also assessed as having suffered a small avulsion of the tip of the medial malleolus. He was referred for plastic surgery consultation.
12. In the absence of any local plastic surgeon being able to treat the injury, the Plaintiff was referred overseas and elected to travel to Jamaica for continued care. He flew to Jamaica on the 13 November 2017 where he was transferred to the University Hospital of the West Indies.
13. He was admitted as an inpatient and prescribed strong pain-relieving medication. He underwent a skin graft using skin from his thigh.
14. He remained in hospital and a backslab was applied to his ankle. He was advised to remain on bed rest.
15. He was discharged after 4 days as an inpatient and went to reside with his Aunt in Claringdon. He was advised to keep the foot elevated. He continued to receive treatment as an outpatient including extensive physiotherapy.
16. Thereafter, he used crutches for a number of months post-accident.

17. In addition to his ankle injury, he also damaged his teeth.
18. The plaintiff continues to suffer discomfort with his foot, he remains under the care of the University Hospital of the West Indies and is having physiotherapy. He suffers from swelling and continued sores and has difficulty walking.
19. He is due to undergo further surgery to remove five bone fragments from his ankle.
20. Further particulars of the Plaintiff's injury and treatment will be provided at a later date by way of a schedule of loss and the Plaintiff will rely on a medicolegal report.

Particulars of Special Damage

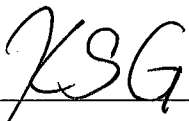
21. The Plaintiff has suffered loss and incurred expenses as a result of the accident.
22. The Plaintiff's particulars of special damage will be supplied at a later date by way of a schedule of loss including but not limited to past and future claims for cost of medical treatment, loss of earnings, travel and gratuitous care.

Statement as to Interest

21. 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 November 2017 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.

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**ACKNOWLEDGMENT OF SERVICE
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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.

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

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

yes

no

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

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
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.