

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 32 OF 2021

BETWEEN:

BALDWIN TROY MARTIN DAY

PLAINTIFF

-and-

HENRY MERREN

DEFENDANT



WRIT OF SUMMONS

TO: Henry Merren, 15 Simmons Way, George Town, Grand Cayman, Cayman Islands.

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 156 Fairbanks Road, 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 495, 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 February 2021.

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:

Guardian Group, Guardian General Insurance Limited,
Newtown Centre,
30-34 Maraval Road,
Newtown 190133,
Port of Spain,
Trinidad and Tobago, c/o Hampsons & Co Attorneys

And as a Noticed Party to:
Balderamos Insurance Services Ltd,
256 Crighton Building, Suite #103,
Crewe Road, KY1-1203, Cayman Islands.

STATEMENT OF CLAIM

1. At all material times the Plaintiff, Mr Troy Baldwin (d.o.b. 7th July 1976), was the driver of a Mitsubishi Lancer motor vehicle with registration number 155346.
2. At all material times the Defendant was the driver of a silver Audi A4 motor vehicle with registration number 165804 ("the Audi A4").
3. On the 24th March 2016, the Plaintiff was driving on Goring Avenue, Grand Cayman. The Defendant was travelling directly behind the Plaintiff's vehicle. As the Plaintiff began to turn into Walkers Road, the Defendant's vehicle collided with the rear of the Plaintiff's vehicle.
4. At all material times the Defendant's vehicle was insured with Guardian General Insurance Limited who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).

PARTICULARS OF NEGLIGENCE

5. The accident was caused by the negligence of the Defendant in that he:
 - 5.1. Drove too fast;
 - 5.2. Failed adequately or at all in time or at all to see, heed or act upon the presence of the Plaintiff's vehicle in front of him;
 - 5.3. Failed to keep any or any proper lookout;
 - 5.4. Failed to stop, slow down to swerve or otherwise manage to control his vehicle to avoid the Plaintiff's vehicle;
 - 5.5. Drove into the Plaintiff's vehicle;
 - 5.6. Failed to take any or any adequate care for the safety of the Plaintiff;
 - 5.7. Failed to apply his brakes whether in time or at all;

5.8. In the premises, failed to take reasonable care for the safety of the Plaintiff and exposed the Plaintiff to a foreseeable and unnecessary risk of injury.

6. As a result of the Defendant's negligence the Plaintiff has suffered pain, injury, loss and damage.

PARTICULARS OF GENERAL DAMAGE

7. The Plaintiff's date of birth is 7th July 1976 and at the date of the accident he was 39 years old.

8. The Plaintiff suffered injuries, including to his back, arm, neck, and shoulder.

9. The Plaintiff attended the Cayman Island Hospital following the collision.

10. The Plaintiff continues to suffer pain, discomfort and loss of amenity. He remains handicapped in his social and domestic activity and upon the open labour market.

11. The Plaintiff suffered damage to his motor vehicle.

PARTICULARS OF SPECIAL DAMAGE

12. 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 labour market.

STATEMENT REGARDING INTEREST

13. The Plaintiff seeks pre- and post-judgment interest from the date that the said sum became due at the rate of 2 3/8% per annum on the sum due and owing until payment and in accordance with the provision of the Judicature Law (2017 Revision) and the Judgment Debt (Rates of Interest) Rules as amended from time to time.

14. Interest is claimed from the 24th March 2016 and is to be assessed.

INDORSEMENT AS TO INSURERS OF MOTOR VEHICLES

15. The name and address of the insurer of the vehicle driven by the Defendant is Guardian Group, Guardian General Insurance Limited, Newtown Centre, 30-34 Maraval Road, Newtown 190133, Port of Spain, Trinidad and Tobago.

16. The name and address of the insurance broker is Balderamos Insurance Services Ltd, 256 Crighton Building, Suite #103, Crewe Road, KY1-1203, Cayman Islands.

And the Plaintiff claims:

- General and Special Damages
- Interest
- Costs
- Further or other relief



KSG

Attorneys-at-Law 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 installments 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.

BETWEEN:

BALDWIN DAY

PLAINTIFF

AND:

HENRY MERREN

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.

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 the Plaintiff

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.

Endorsement 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 KY1-1107
George Town
Grand Cayman

Endorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.