



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

CAUSE NO: 60 OF 2021

BETWEEN:

DARREN KIRCHMAN

PLAINTIFF

AND:

MATTHEW LEVY

DEFENDANT

WRIT OF SUMMONS

TO: The Defendant
Matthew Levy

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 30 Gun Bluff Drive, East End, 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 March 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.

This Writ and Statement of Claim is issued by KSG Attorneys at Law for the Plaintiff whose address for service is 4th Floor, Harbour Centre, 42 North Church Street, George Town, Grand Cayman. P.O. Box 2255 GT, KY1-1107.
Kirchman v Levy

STATEMENT OF CLAIM

1. At all material times the Plaintiff was the driver of a Honda Fit motor vehicle bearing registration number 162 117.
2. The Defendant was at all material times the owner and driver of a Honda Accord motor vehicle bearing registration number 177 303.
3. At all material times the Defendant's vehicle was insured with Cayman First Insurance Ltd who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).
4. On 28th March 2018, the Plaintiff was driving in a westerly direction along Sea View Drive, Frank Sound when the Defendant turned right out of Frank Sound Road into the path of the Plaintiff's correctly proceeding vehicle, causing a collision.
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.

Conviction for Careless Driving

9. 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 14th July 2018, as a result of his driving, resulting in the collision.

Particulars of Injury

10. The Plaintiff, whose date of birth is 4th January 1978, was 39 years old at the date of the accident.

11. The collision was high impact and caused the airbag in the Plaintiff's vehicle to be deployed and he was immediately aware of pain all to his chest. He was treated by emergency medical personnel at the scene of the accident and subsequently attended George Town Hospital for further treatment.
12. The Plaintiff sustained the following injuries:
 - (a) Chest injury with shortness of breath;
 - (b) Brachial Plexus injury;
 - (c) Right shoulder pain including rotator cuff tear;
 - (d) Right and left arm pain;
 - (e) Neck pain;
 - (f) Back pain;
 - (g) Headaches;
 - (h) Nerve damage;
 - (i) Post-traumatic stress disorder.
13. The Plaintiff was initially treated at George Town Hospital in relation to his injuries. He received significant further treatment at the hospital and was also referred to other health care providers in the Cayman Islands including Health City Cayman Islands, Dr Quartly, Cayman Physiotherapy, RVC, Align and Infinite Mindcare for continued treatment.
14. He was also referred for specialist treatment overseas including at, Kendall Regional Medical Center, Burn Centers of Florida, Inc and Mayo Clinic where he underwent surgery on his right arm/shoulder.
15. He continues to undergo treatment for his injuries.
16. The Plaintiff has been severely restricted in his ability to perform his job as a Police Officer and has been on modified duties since the accident.
17. The Plaintiff was involved in an earlier motor vehicle accident in 2013 in which he sustained a right axillary nerve injury.
18. 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

19. The Plaintiff has suffered loss and incurred expenses as a result of the accident.
20. 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 loss of income, medical treatment, travel, equipment 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 28th March 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.

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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

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.

[Empty box for defendant's Attorney indorsement]