

No. 1
Plaint

IN THE SUMMARY COURT OF THE CAYMAN ISLANDS

CAUSE NO. SC OF 2021

BETWEEN:

THEO CUMMINGS

PLAINTIFF

AND:

(1) ONEAKA EBANKS

(2) JERMAINE RODNEY

RESPONDENTS



PLAINT

TO: Ms. Oneaka Kadisha Ebanks
434 Stepping Stone Dr 6
North Side
Cayman Islands

AND TO: Mr. Jermaine Robert Rodney
2092 Shamrock Rd 4
Bodden Town
Cayman Islands

AND Caribbean Alliance Insurance
85 North Sound Road
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 the service of the **PLAINT** on you, counting the day of service, you must either satisfy the claim of return to the Court Office, P.O. Box 495, George Town, Grand Cayman, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings. If you intend to defend action, in whole or in part, you must set out full particulars of your defence in the space provided in the acknowledgment of service form.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein full particulars of your defence, the Plaintiff may proceed with the action and judgement may be entered against you forthwith without further notice.

Issued this ___ day of _____ 2021.

NOTE: - This Writ may not be served later than 4 calendar months (or, if leave is require to effect service out of the jurisdiction, 6 months) beginning with the date of issue renewed by order of the Court.

IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff, Mr. Theo Cummings, born on the 15th day of September 1993, was at all material times the driver of his employer's International Truck bearing registration number 137699 and a lawful road user.
2. The 1st Defendant, Ms. Oneaka Ebanks, was at all material times the driver of the motor vehicle bearing registration number 169067 and the permitted driver and/or agent and/or servant and/or employee of the 2nd Defendant.
3. The 2nd Defendant, Mr. Jermaine Rodney, was at all material times the owner of the said motor vehicle bearing registration number 169067.
4. On or about the 2nd day of September 2020, Mr. Cummings was lawfully driving the International Truck bearing registration number 137699 along Bobby Thompson Way and approaching the stop light at the intersection of Bobby Thompson Way and Smith Road, when the 1st Defendant so negligently drove, managed and/or controlled the motor vehicle bearing registration number 169067, owned by the 2nd Defendant, that she caused and/or permitted the said motor vehicles to twice collide violently, thereby causing Mr. Cummings to suffer injuries, loss and damage and to incur expenses.
5. The accident was wholly caused and/or alternatively contributed to by the negligence of the 1st Defendant:

PARTICULARS OF NEGLIGENCE OF THE 1ST DEFENDANT

- (a) Driving and/or operating the motor vehicle bearing registration number 169067 without keeping any or any proper look out or having any or sufficient regard for other road users, particularly Mr. Cummings;
- (b) Failing in time or at all to observe or heed the presence of the said International Truck;
- (c) Improperly managing, steering and/or controlling the motor vehicle bearing registration number 169067 so as to cause the said motor vehicles to collide;
- (d) Failing to maintain sufficient control of the motor vehicle bearing registration number 169067;

- (e) Operating the motor vehicle bearing registration number 169067 in a negligent and/or inattentive manner so as to expose other road users and in particular Mr. Cummings to the risk of harm, loss and damage;
 - (f) Failing to stop, slow down, swerve or to manage or control the motor vehicle bearing registration number 169067 in any other way so as to avoid a collision between the motor vehicle bearing registration number 169067 and the said International Truck;
 - (g) Negligently attempting to overtake/cut across the said International Truck when it was unsafe to do so and without regard for the safety of Mr. Cummings;
 - (h) Failing to wait until it was safe to overtake the International Truck before doing so;
 - (i) Negligently reversing the motor vehicle bearing registration number 169067 towards the International Truck when it was unsafe to do so and without regard for the safety of Mr. Cummings;
 - (j) Failing to wait until it was safe to reverse the motor vehicle bearing registration number 169067 before doing so;
 - (k) Negligently colliding into the said International Truck;
 - (l) Driving without due care and attention;
 - (m) Driving in an aggressive manner and/or at an improper speed in the circumstances.
6. Due to the 1st Defendant's negligence, Mr. Cummings has suffered injuries as a result of which he has had to undergo medical treatment and been put to expense:

PARTICULARS OF INJURY

- (a) Whiplash injury to neck, thoracic and lumbar spine
- (b) Bruised chest bone
- (c) Muscle spasm
- (d) Hyperlordosis of the cervical spine
- (e) Loss of the normal lordosis of the lumbar spine
- (f) Mild lower thoracic facet degenerative disease
- (g) Minimal lower cervical facet degenerative disease
- (h) Mild lumbar facet degenerative changes

Further particulars of the Plaintiff's condition are contained in the Medical Report of Dr. Matthias Herzig dated the 4th day of September 2020 and other medical documents attached in the schedule.

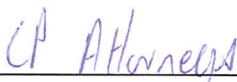
PARTICULARS OF SPECIAL DAMAGE

	KYD\$
CTMH Doctors Hospital 09/09/20	830.76
CTMH Doctors Hospital 03/09/20	653.48
CTMH Doctors Pharmacy	334.94
Loss of wages (12 days from the 3 rd – 14 th of September 2020 @ KYD\$176.00/day)	2,112.00
Police Report	104.00
TOTAL	4,035.18

7. Further, Mr. Cummings claims interest upon such damages and amount found due pursuant to **Section 34** of the **Judicature Law 2017** or otherwise at such rate as this Honourable Court deems fit.

AND the Plaintiff claims:

- (a) General damages;
- (b) Special damages;
- (c) Interest;
- (d) Costs;
- (e) Such further and/or other relief as this Honourable Court may deem fit.



CP ATTORNEYS
ATTORNEYS-AT-LAW FOR THE PLAINTIFF

This **Plaint** is filed by **CP Attorneys**, Attorneys-at-Law for and on behalf of the **Plaintiff**, whose address for service is 325 Owen Robert's Drive, 2nd Floor, Andy's Rent-A-Car, P.O. Box 561, Grand Cayman KY1-1602, Cayman Islands, Telephone 345-322-8088, 345- 917-9685.

DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICES 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 must file a Defence within 14 days of being served with Plaintiff.
3. If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgement 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 is 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 28 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 (.....)" his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorized 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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AND:

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(2) JERMAINE RODNEY

DEFENDANTS

ACKNOWLEDGMENT OF SERVICE OF PLAINT

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 Plaint is being acknowledged and address.

2. State whether the Defendant intends to contest the proceedings (circle appropriate answer)

Yes

No

3. If you do not intend to contest the action, do you want time to pay the claim? (circle the correct answer)

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 on overleaf.

Service of this Plaint is acknowledged accordingly

(Signed) _____

Defendant/Attorney for the Defendant

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DEFENDANTS

PARTICULARS OF DEFENCE

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

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 communication 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 Plaintiffs if suing in person) of his name, address and reference, if any, in the box below.

CP Attorneys
325 Owen Robert's Drive
2nd Floor, Andy's Rent-A-Car
P.O. Box 561
Grand Cayman KY1-1602
Cayman Islands

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