



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. G 84 OF 2021

BETWEEN: LINDAMAE CUNNINGHAM PLAINTIFF  
AND: SAMUEL MENZIES SMALL DEFENDANT

To: Mr. Samuel Menzies Small  
27 West Lane  
Off Pedro Castle Road  
Savannah, P.O. Box 309  
Grand Cayman KY1-1602  
Cayman Islands

WRIT OF SUMMONS

THIS WRIT OF SUMMONS 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 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 First plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 17<sup>th</sup> day of May 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.

STATEMENT OF CLAIM

1. The Plaintiff was at all material times a pedestrian on the Government public road that pass the Defendant's home located at 27 West Lane, Off Pedro Castle Road, Savannah, Grand Cayman (hereinafter referred to as (the Defendant's home)).
2. The Defendant was at all material times the owner and/or the person in control of the two ferocious dogs bit and injured the Plaintiff.
3. The Defendant is the sole owner of the said home located at 27 West Lane, Savannah and described on the land register as Registration Section Savannah, Block 28D, Parcel 268.
4. On or around 30<sup>th</sup> November, 2020 at around 9:00 a.m., whilst the Plaintiff was walking along the public main road pass the Defendant's home going about her business, two of the Defendant's dogs rushed out from the Defendant's yard through the open drive way and sprang onto the Plaintiff.
5. Both dogs sprang on the Plaintiff and caused her to fall to the ground. Both dogs bit her several times all over her body.
6. The Defendant did nothing to stop the dogs from getting out of his home. After the dogs bit the Plaintiff several times, the Defendant's stepson came out from the yard and held one of the dogs and the Defendant held the other dog.
7. The Defendant shouted at the Plaintiff and told her to move away quickly whilst he and his stepson held onto the two dogs.

8. The Plaintiff was very terrified so that she left her handbag behind on the said public road. The Defendant saw when the handbag was later collected from the road by the Plaintiff's friend.
9. The Defendant was standing at the gate of his said home and saw when his two dogs rushed out of his yard and attacked and bit the Plaintiff several times. He did not offer any assistance whatsoever to the Plaintiff, instead, the Defendant got very upset and angry with the Plaintiff.
10. The Defendant is liable in damages whether the Plaintiff was on private or public road.
11. As a result of the Defendant's negligence, the Plaintiff has suffered pain, suffering, loss of amenities of life and damages.

#### PARTICULARS OF NEGLIGENCE

12. The Defendant was negligent in that he:-
  - (a) Failed to erect a proper gate to prevent his dogs from going onto the public road and bite the Plaintiff several times over her body;
  - (b) Failed to keep his dogs under proper or any control at all;
  - (c) Allowed his dogs to run loose without a lead;
  - (d) Watched as the dogs were attacking and biting the Plaintiff.
  - (e) Did nothing to stop and/or prevent the dogs from biting the Plaintiff; and
  - (f) Failed miserably to render assistance to the Plaintiff after the dogs bit her several times and caused her injuries.
13. The Plaintiff suffered the following injuries as a result of the Defendant's two dogs attacking and biting her several times.

PARTICULARS OF INJURIES

1. multiple dog bite wounds
2. 4 puncture wounds to left elbow
3. 1.5 cm gaping wound to the left elbow
4. 2 cm laceration to the left palm
5. Bite wound to the posterior aspect of the chest on the left
6. Bruises to left elbow
7. 3.5 cm gaping bite wound to the posterior aspect of the right leg
8. 4.5 cm gaping laceration to the posterior aspect of the right leg
9. Multiple puncture wounds between right knee and leg lateral aspect
10. 3 puncture wounds to right thigh
11. Punctured wounds to left side of buttocks
12. Sprain to left hand
13. Black and blue areas on leg
14. Permanent scarring to various parts of her upper and lower limbs and back

BREACH OF STATUTORY DUTY

14. The Defendant is in breach of Section 39 of the Animal Law 2015 (Revision) which states:

*“39. The owner of every dog shall be liable in damages for injuries done to any person, or any cattle or sheep, by his dog, and it shall not be necessary for the party seeking such damages to show a previous mischievous propensity in the dog, or the owner’s knowledge of such propensity or that the injury was attributable to neglect on the part of such owner. Such damages shall be recoverable in any court of competent jurisdiction.”*

15. The Defendant is further in breach of Section 40 of the Animal Law 2015 (Revision) which states:-

*“40. (1) If a dog is dangerously out of control in a public place, the owner and, if different, the person for the time being in charge of the dog, commit an offence.*

*(2) If a dog is dangerously out of control in a public place and while so out of control injures any person, the owner and, if different, the person for the time being in control of the dog, commits an aggravated offence.*

...

*(4) If the owner or, if different, the person for the time being in charge of a dog, allows it to enter a place which is not a public place but where it is not permitted*

*to be and while it is there it injures any person or there are grounds for reasonable apprehension that it will do so, he commits an offence, or, if the dog injures any person, an aggravated offence under this section.*

*(5) A person who commits an offence under subsection (1), (2) or (4) other than an aggravated offence is liable on summary conviction to imprisonment for six months and to a fine of four thousand dollars.”*

16. The Plaintiff was born on 14<sup>th</sup> November, 1957 and was 63 years old at the time of the incident. After the incident, she was taken to the Cayman Islands Health Services Authority where she was treated and released with medication and stitches and bandages to her wounds. She did several follow up appointments with her doctor at Health Services Authority for dressing and management of the dog bite wounds.
17. The Plaintiff continues to be traumatized every time she sees dogs or hears dogs barking. She continues to suffer from night mares as a result of the vicious attack she experienced with the Defendant's dogs.
18. The incident has left the Plaintiff scarred for life. She is terrified of dogs now and is afraid to walk on the road especially where dogs are in the homes that she has to pass.

#### Employment

19. The Plaintiff is a domestic helper and earns CI\$1,200 per month. She was off work for several months and to date has not been able to work on a full time basis due to severe injury to her right foot and hand.
20. After the accident, the Plaintiff was unable to carry out her duties as a domestic helper as well as her daily routine chores at home. She continues to have pain in her foot especially when standing or walking.

21. The Plaintiff's Process Server hand delivered a letter to the Defendant on 4<sup>th</sup> March, 2021 with a view of resolving the matter amicably, but to date, the Defendant has ignored the letter and have not responded to date. The Plaintiff has no alternative than to issue these proceedings through these courts.

Special Damages

Loss of income  
 Loss of pension  
 Medical expenses  
 Transportation to and from doctors and hospital  
 Home and/or nursing care

General Damages

Loss of future income  
 Loss of future pension  
 Future medical expenses  
 Future transportation to and from doctors and hospital  
 Future home care

22. The Plaintiff is entitled to, and claims interests pursuant to the Judicature Law on the amounts found to be due to him at such rate and for such period as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:

- (i) Damages
- (ii) Pre-Judgment and Post Judgment Interests
- (iii) Costs

Dated this 17<sup>th</sup> day of May, 2021

*Facey-Clarke & Associates Ltd.*  
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 Facey-Clarke & Associates Ltd.  
 Attorneys-at-Law for the Plaintiff

This Writ was issued by Facey-Clarke & Associates, Attorneys-at-Law for the Plaintiff herein whose address for service is that of his said Attorneys-at-law, George Town, Grand Cayman. For service or delivery of documents, please call 917 6351 and/or send email to mclarke@candw.ky

BETWEEN: LINDAMAE CUNNINGHAM PLAINTIFF

AND: SAMUEL MENZIES SMALL 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.

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

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

yes  no

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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

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Service of the Writ is acknowledged accordingly

(Signed).....  
Defendant (if in Person) or Attorney for the Defendant

**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.

Facey-Clarke & Associates Ltd Barristers & Attorneys-at-Law P.O. Box 2545, Grand Cayman KY1-1104 George Town, Grand Cayman Email: <a href="mailto:mclarke@candw.ky">mclarke@candw.ky</a> Tel: 345 917 6351 <b>For service and delivery of documents please call 917-6351</b>
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Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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