

IN THE SUMMARY COURT AT GEORGE TOWN

CAUSE NO. SC OF 2021

BETWEEN:

SAXON MOTOR & GENERAL INSURANCE COMPANY LIMITED

PLAINTIFF

AND:

THEO ANTHONY CUMMINGS

1<sup>ST</sup> DEFENDANT



SANTANGELO ALMARTINO BUSH  
aka SANNY BUSH

2<sup>ND</sup> DEFENDANT

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PLAINT

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To the Defendants:

**Theo Anthony Cummings**

33 Boltins Avenue, 24 Bonsal Crescent, and/or 35 Simion Crescent, West Bay, Grand Cayman.

**Santangelo Almartino Bush aka Sanny Bush**

22 Old Yard Lane, Bodden Town, 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 service of this **Plaint** on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, George Town, Grand Cayman, KY1-1106 the accompanying Acknowledgment of Service Form stating therein whether you intend to contest this action. If you intend to defend the 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 fail to return the Acknowledgment of Service form containing full particulars of your defence, the Plaintiff may apply for a **default judgment** without any further notice to you.

Issued this 27<sup>th</sup> day of September 2021.

**See overleaf for particulars of the Plaintiff's claim.**

## PARTICULARS OF CLAIM

1. The Plaintiff, Saxon Motor & General Insurance Company Limited, (“**Saxon**”) is a duly incorporated Cayman Islands company with a registered office located at DMS House, 20 Genesis Close, George Town and carries on business in the Cayman Islands as a Class “A” licenced general insurer in accordance with the provisions of s.4(3)(a) of the Insurance Act, 2010, and *inter alia* as an authorized insurer of motor vehicles pursuant to the provisions of the Vehicle Insurance (Third Party Risks) Act (2012 Revision).
2. The 1<sup>st</sup> Defendant, Theo Cummings, (DOB 15 September 1993) (“**Cummings**”) resides variously at 33 Boltins Avenue, 24 Bonsal Crescent, and 35 Simion Crescent, West Bay, Grand Cayman.
3. The 2<sup>nd</sup> Defendant, Santangelo Almartino Bush, also known as Sanny Bush (DOB 17 May 1994) (“**Bush**”), resides at 22 Old Yard Lane, Bodden Town, Grand Cayman.
4. On Thursday 28 September 2017 Bush, driving a 2007 BMW 320i rear-ended Cummings’ 2005 BMW 320i at 9:30 p.m. on 28 September 2017 at the mini roundabout at the intersection of North Sound Road, Dorcy Drive, and Kentsville Road (near Parkers Auto Parts) George Town (“**the accident**”)
5. Both vehicles as aforesaid were insured with Saxon with collision coverage and were written off with the result that Cummings recovered \$7,350.00 from Saxon for the loss of the 2005 BMW, and Bush recovered \$8,050.00 from Saxon for the loss of the 2007 BMW.
6. Saxon states that Cummings was a close friend and associate of Bush and the accident was staged and pre-arranged by Cummings with Bush with the intent of unlawfully profiting from the insurance proceeds received from Saxon on the vehicles insured by them under policies of motor vehicle insurance with Saxon, including as to collision coverage.
7. The payments made by Saxon to the Defendants and the settlements reached with the Defendants for the loss and damage to the vehicles, were based upon representations express or implied made by each of the Defendants, and upon which Saxon relied, that the accident was a genuine, bona fide accident.
8. Saxon pleads that in the premises the Defendants fraudulently misrepresented, and in breach of their duty of utmost good faith owed to it as insurer, that the accident was genuine and bona fide, and that Saxon is entitled in law to set aside any settlement reached with the Defendants by reason of these fraudulent misrepresentation and/or the breach of duty of utmost good faith, and to obtain return of the monies paid thereunder.
9. Saxon pleads further that the Defendants obtained payment of the monies as aforesaid by tortious deceit, and by Cummings working in tortious conspiracy with Bush, with the intent of obtaining payment of the insurance proceeds by falsely and deceitfully representing to Saxon that these vehicles were damaged in genuine accidents, and thereby inducing Saxon to make the payments whether under the third liability or collision coverage provisions of the policies of motor vehicle insurance issued by Saxon to each of the parties.
10. Saxon therefore seeks judgment against the Defendants in deceit, for monies had and received, and/or for tortious conspiracy as against:
  - (i) Cummings in respect of the 28 September 2017 accident in the sum of \$7,350.00;

- (ii) Bush in respect of the 28 September 2017 accident in the sum of \$8,050.00;
- (iii) Cummings and Bush jointly and severally as tortious co-conspirators in respect of the accident in the total sum of \$15,400.00;

11. The Plaintiff pleads and relies on s.34 of the Judicature Act (2021 Revision) and the Judgment Debts (Rates of Interest) Rules and pleads that it is entitled to pre-judgment and post-judgment interest at the prescribed rate of 2 $\frac{3}{8}$ % p.a. from the date of the respective tort i.e. 28 September 2017 at the per diem rates set out in the prayer for relief below.

**AND** the Plaintiff therefore claims judgment:

- (a) against Cummings in the sum of \$7,350.00 with interest at \$0.48 per diem from the above date;
- (b) against Bush in the sum of \$8,050.00 with interest at \$0.52 per diem from the above date; and/or
- (c) against Cummings and Bush jointly and severally in the sum of \$15,400.00 with interest at \$1.00 per diem from the above date;
- (d) Post-judgment interest from the date of judgment at the at the prescribed rate of 2 $\frac{3}{8}$ % p.a.;
- (e) Fixed costs of \$150.00, \$25.00 filing fee, and bailiff's \$60.00 fee for service pursuant to Summary Court Rule 11(1), or alternatively costs to be assessed, with interest thereon; and
- (f) Such further and other relief as to this Honourable Court may seem just.

**DATED** at Georgetown, Grand Cayman this 27<sup>th</sup> day of September 2021.

HAMPSON - CO.

Hampson and Company  
Attorneys for the Plaintiff

Plaintiff's address for service: Hampson and Company, Attorneys-at-Law, Apollo House East, 4<sup>th</sup> Floor, 87 Mary Street, George Town, P.O. Box 698 Grand Cayman KY1-1107

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**AND:**

**SANTANGELO ALMARTINO BUSH  
2<sup>ND</sup> DEFENDANT**

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**ACKNOWLEDGMENT OF SERVICE**

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1. State Defendant's name and address -

2. State whether the Defendant intends to contest the action.

Yes  No

3. If you do not intend to contest the action, do you want time in which to pay the claim?

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 overleaf.

**Service of the Plaintiff is acknowledged accordingly.**

\_\_\_\_\_  
Defendant's Signature

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**See Overleaf**

**PARTICULARS OF DEFENCE**

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

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Defendant's Signature

**REMINDER** - This form must be taken or sent to the Court Office, PO Box 495, George Town, Grand Cayman KY1-1106, within 14 days of receipt otherwise a default judgment may be entered against you.