

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO. OF 2022

BETWEEN:

RAYA EMBURY-BROWN, AN INFANT BY HER MOTHER AND NEXT FRIEND

FIRST PLAINTIFF

NOAH EMBURY-BROWN, AN INFANT BY HIS MOTHER AND NEXT FRIEND

SECOND PLAINTIFF

SEAN MICHAEL MACDONALD

FIRST DEFENDANT

AND

MANGO JAM CHARTERS LTD.

SECOND DEFENDANT



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WRIT OF SUMMONS

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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 fourteen (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, 61 Edward Street, George Town, Grand Cayman, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or 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 10<sup>th</sup> day of August 2022

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 Acknowledgement of Service are given with the accompanying form.

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GENERAL INDORSEMENT

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The First Plaintiff and the Second Plaintiff are infants suing by their mother and Next Friend, Magda Embury. The Plaintiffs' father, the late Emmanuel Ezekiel Brown ("Emmanuel"), was killed as a result of a boat collision on 11 August 2019.

On 11 August 2019, the First Defendant was the driver and/or captain of a boat described as "Pepper Jelly" which boat was owned by the Second Defendant and/or the First Defendant. The First Defendant negligently operated the "Pepper Jelly" boat at a speed and in a manner that was reckless and/or without due care and attention and in doing so the First Defendant caused the death of Emmanuel.

AND THE PLAINTIFFS CLAIM:

- (a) General damages;
- (b) Special damages;
- (c) Pre-judgment interest in accordance with Section 34 of the *Judicature Act* (2021 Revision);
- (d) Post-Judgment interest in accordance with Section 34 of the *Judicature Act* (2021 Revision);
- (e) Costs; and
- (f) Such further and other relief as this Court deems just.

Date this 10<sup>th</sup> day of August 2022



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MAGDA EMBURY  
81 WEST CHRUCH ST.  
GEORGE TOWN  
GRAND CAYMAN  
PO BOX 10161  
KY1-1002

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SEAN MICHAEL MACDONALD  
FIRST DEFENDANT

AND

MANGO JAM CHARTERS LTD.  
SECOND 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 Defendant:

Address for Service:

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 his 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:

MAGDA EMBURY  
81 WEST CHRUCH ST.  
GEORGE TOWN  
GRAND CAYMAN  
PO BOX 10161  
KY1-1002

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

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 495, 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

## 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.