

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION

CAUSE NO: OF 2022



**BELINDA JOSEPH**

**(As Personal Representative of the Estate of Giovanni Berry)**

**PLAINTIFF**

**AND:**

**LEVAR WOOD**

**DEFENDANT**

**WRIT OF SUMMONS**

**TO:** Levar Wood

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff of 135 Victory Avenue, George Town 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 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 Acknowledgment of Service are given with the accompanying form.

And as a Noticed Party to:  
The Insurance Company of the West Indies Limited  
150 Smith Road  
George Town  
P.O. Box 461  
Grand Cayman KY1-1106

**STATEMENT OF CLAIM**

1. The Plaintiff is the mother of Giovanni Jerome Berry ("the Deceased") and is the personal representative of his estate with Letters of Administration having been granted to her on 4 March 2020.
2. The Plaintiff brings this action on behalf of herself, on behalf of the estate of the Deceased pursuant to the Estate Proceedings Law (1995 Revision) and on behalf of the dependents of the Deceased pursuant to the Torts (Reform) Law (1996 revision).
3. The Deceased was a male aged 27, date of birth 25 July 1992.
4. At all material times, the Deceased was the front seat passenger of a Nissan Skyline registration 182 542 being driven by the Defendant.
5. On the 1 September 2019 at approximately 12.20am, the Defendant was driving along Shamrock Road in a westerly direction towards Bodden Town at a high speed when in the vicinity of Doubloon Drive, he lost control of his vehicle, came off the roadway and collided with a wall on the Eastbound side of Shamrock Road.
6. The Deceased had to be cut from the vehicle. He was found to be unresponsive by Emergency Medical Services and was taken to George Town Hospital by ambulance. He was pronounced brain dead at 6pm later that day.
7. At all material times the Defendant's vehicle was insured with The Insurance Company of the West Indies Limited who had issued a policy of insurance relating to the vehicle in accordance with the Motor Insurance (Third Party Risks Law).

**Particulars of negligence**

8. The accident was caused by the negligence of the Defendant in that he;
  - a) failed to keep any or any proper look out;
  - b) failed to apply his brakes whether in time or at all;
  - c) failed to steer or control his vehicle;
  - d) drove too fast in all the circumstances;

The Plaintiff also relies on the doctrine of res ipsa loquitur.

9. By reason of the aforesaid, the Deceased died on the 1 September 2019. As a result of his death, his estate and dependents have suffered loss and damage.

**The Claim of the Estate pursuant to the Estate Proceedings Law (1995 Revision)**

1. The Deceased incurred expenses for his medical treatment at George Town Hospital.
2. The Estate incurred funeral and other expenses.

**The Dependency Claim pursuant to the Torts (Reform) Law (1996 revision)**

3. The claim under the Torts (Reform) Law (1996 Revision) is brought for the benefit of the following persons, as dependents of the Deceased.
  - a) The Plaintiff and mother of the deceased
  - b) The father of the deceased, Alfred Berry
  - c) The stepfather of the deceased, Eustace Joseph
  - d) The siblings of the deceased, Marlon Joseph, D'vonte Joseph, D'Janaeh Joseph, Santangelo Berry and Tacita Berry
  - e) The girlfriend of the deceased, Kerryann Allen (with whom he cohabited)
4. The Plaintiff will supply further particulars of losses and a schedule of loss in due course.
5. The Plaintiff will claim interest pursuant to section 34 of the Judicature Act (2021 Revision).

**AND THE PLAINTIFF claims:**

1. General and Special Damages
2. Interest in accordance with the Judicature Act (2021 Revision)
3. Costs



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**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.



**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  
4<sup>th</sup> 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.