

IN THE GRAND COURT OF THE CAYMAN ISLANDS

Cause No. 470 of 1998 .

Between:

VIVISEL DALEY

Plaintiff

- and -

GILBERT RANKINE

1st Defendant

- and -

TURNEY RANKINE

2nd Defendant

WRIT OF SUMMONS

To: Gilbert Rankine
The 1st Defendant
George Town
Grand Cayman

And To: Turney Rankine
The 2nd Defendant
c/o Bank of Butterfield
Butterfield House
George Town
Grand Cayman



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 495, G.T. 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 to return the Acknowledgement 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 the 5th day of August, 1998.

Note - This Writ may not be served later than 4 calender 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.

STATEMENT OF CLAIM

1. The Plaintiff was at all material times the owner and operator of a bicycle which was destroyed in an accident in which the 1st Defendant was the operator of Toyota Hilux, license number 17722, which caused the said accident.
2. The 2nd Defendant was at all material times, the owner of a Toyota Hilux, license number 17722, which was being driven by the 1st Defendant.
3. On the 1st day of July, 1996, at approximately 1:30 pm, the Plaintiff was riding his bicycle on the Red Bay Road, in Grand Cayman.
4. The Plaintiff suddenly, without warning, was struck from the rear by the vehicle driven by the 1st Defendant.
5. The said collision was caused by the negligence of the 1st Defendant.

PARTICULARS OF NEGLIGENCE

- (1) Driving too fast;
 - (2) failing to keep a proper look out and/or to observe or heed the presence of the Plaintiff;
 - (3) Failing to apply his brakes in time or at all and/or so to steer his vehicle so as to avoid the collision;
 - (4) Failure to pay due care and attention to other users of the road;
 - (5) Failure to operate his vehicle in a prudent and safe manner giving due care and attention to other users of the road.
6. By reason of the Defendants said negligence the Plaintiff sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

The Plaintiff has suffered the following injuries at the time of and after the accident:-

- (1) Unconsciousness for sometime after the accident;
- (2) Bruising to the face and neck;
- (3) Swelling of the face and neck;
- (4) Fairly deep and extensive wounds to his lower back; and
- (5) Pains in his lower back.

PARTICULARS OF SPECIAL DAMAGE


Dr. Steve Tomlinson's Fee	\$45.00
Dr. Steve Tomlinson's Medical Report	\$30.00
Edmar's Pharmacy	\$11.73
Police Report	\$25.00
Loss of Earnings (6 wks. \$720.00 per wk.)	<u>\$4,320.00</u>
Total Special Damages	\$4,431.73
Pain and Suffering	<u>\$5,000.00</u>
Total Damages	<u>\$9,431.73</u>

7. Further, pursuant to the Judicature Law, the Plaintiff is entitled to and claims interest on the amount found to be due at such a rate and for such period as the Court shall think fit.

AND THE PLAINTIFF claims:

1. Special damages in the sum of \$9,431.73;
2. Interest in accordance with the Judicature Law in such amounts as the Court deems just;
3. Such further and other relief; and
4. Costs

Dated this 5th day of August, 1998.



Collins Broadhurst & Furniss
Attorneys-at-Law for the Plaintiff

This Writ & Statement of Claim has been issued by **Collins Broadhurst & Furniss** whose address for service is 40 Linwood St., P.O. Box 2503, G.T. , Grand Cayman, Cayman Islands, B.W.I.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, G.T. Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 not endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 within 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for fourteen 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.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement 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.

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Cause No. 470 of 1998 .

Between:

VIVISEL DALEY

Plaintiff

- and -

GILBERT RANKINE

1st Defendant

- and -

TURNNEY RANKINE

2nd Defendant

ACKNOWLEDGEMENT 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 []

Service of the Writ is acknowledged accordingly

(signed) _____

[Attorney] for

[Defendant in Person]

Address for service:

Please see over leaf.....

Notes on address for service

Attorney: where 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 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.

COLLINS BROADHURST & FURNISS
Attorneys-at-Law
40 Linwood St.
P.O. box 2503 G.T.
Grand Cayman
Cayman Islands, B.W.I.

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