



(0.6, r.1)



GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2023

BETWEEN:

MICHELLE INGRAM

PLAINTIFF

AND:

McGRATH TONNER
(a Firm)

DEFENDANT

WRIT OF SUMMONS

TO: McGrath Tonner (A firm)
5th Floor Genesis Building
Genesis Close
George Town, Grand Cayman, Cayman Islands

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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this day of February 2023.

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.

ENDORSEMENT

The Plaintiff claims against the Defendant, a firm of Attorneys-at-Law, to recover damages in that the Defendant negligently failed in its duties to represent the Plaintiff in respect of her claim for personal injuries sustained by her in a motor-vehicle accident on or about the 31st March 2014 in that the said Defendant failed to adhere to the requirement under Section 15 (2) (b) of the Motor Vehicle Insurance (Third Party Risks) Law (2012 Revision) which states that it is a condition precedent to liability of an insurer for an accident involving one of its insured that before or within 30 days after the commencement of proceedings relating to that accident that notice must be given to the insurer of the bringing of proceedings against the insured and further that the Defendant failed in its duty to progress the claim against the Third Party in a professional timely and efficient manner in consequence of which the Third Party successfully applied to the Grand Court to dismiss the action filed against the Third Party on the basis of substantial delay in progressing the proceedings, coupled with the Defendant’s failure to comply with Section 15 (2) (b) of the Motor Vehicle Insurance (Third Party Risks) Law (2012 Revision), resulting in the Grand Court dismissing the Plaintiff’s claim against the Third Party on or about the 23rd day of February 2022. The Plaintiff claims damages against the Defendant in the circumstances.

AND THE PLAINTIFF CLAIMS:

- 1. Damages.
- 2. Interest
- 3. Costs.
- 4. Special Damages

Dated the 30th day of December 2022



MURRAY & WESTERBORG
Plaintiff’s Attorneys-at-Law

THIS WRIT was issued by Murray & Westerborg, Attorneys-at-Law for and on behalf of the Plaintiff, whose address for service is that of her said Attorneys-at-Law, The Second Floor (South West Wing) Cayman Shipping Centre Building, 10 Shipping Lane, George Town, Grand Cayman

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2023

BETWEEN: MICHELLE INGRAM PLAINTIFF

AND: McGRATH TONNER (a Firm) DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff was at all material times a resident of the Cayman Islands and a client of the Defendant.
2. The Defendants are and were at all material times a firm of Attorneys-at-Law practising from the Fifth Floor of the Genesis Building, Genesis Close, George Town, Grand Cayman, Cayman Islands.
3. On or about the 31st day of March 2014 the Plaintiff sustained serious personal injury as a consequence of a motor vehicle accident in which the vehicle that she was driving was violently impacted in the rear by a vehicle driven by a Third Party.
4. Between the date of the accident and on a date and month in 2017 she unsuccessfully attempted to negotiate the settlement of her claim with the Third Party’s Insurance Company.
5. On a date and month in 2017, prior to the expiration of the Statutory period of Limitation for personal injuries resulting from a motor-vehicle accident the Plaintiff retained the services of the Defendant to represent her in her claim against the Third Party. It was a term of the said engagement that the Plaintiff’s fee would be calculated at the rate of 25% of what she collected in Judgement against or Settlement by the Third Party and/or his Insurers.
6. On the 29th day of March 2017 the Defendants filed a Writ of Summons in the Grand Court of the Cayman Islands seeking damages for personal injury on behalf of the Plaintiff against the Third Party, being Grand Court Cause No. 159 of 2017.
7. The said Writ of Summons was not served on the Third Party or his Insurers, CG BritCay, but instead a “Letter Before Action” dated 6th June 2017 was written to the Third Party by the Defendant, well outside the 30 days prescribed under Section 15 (2) (b) of the Motor Vehicle Insurance (Third Party Risks) Law (2012 Revision) for notification of a filed claim to be brought to/served on the Third-Party Insurers.

8. On or about the 7th day of August 2017 Acknowledgment of Service in Grand Court Cause No. 159 of 2017 was filed on behalf of the Third Party.
9. On or about the 21st day of August 2017 a Defence was filed on behalf of the Third Party in Grand Court Cause No. 159 of 2017.
10. On or about the 18th day of September 2017 a Reply to the Defence in Cause No. 159 of 2017 was filed on behalf of the Plaintiff by the Defendant.
11. No further action was taken in the said Cause by the Defendant and on or about the 21st day of May 2019 the Plaintiff terminated her services with the Defendant and thereafter appointed new Attorneys-at-Law to represent her on or about the 11th June 2019.
12. Demand was made on the Defendant to forward the Plaintiff's files to her new set of Attorneys but to date the same has not been provided.
13. On the 25th March 2021 Attorneys for the Third Party wrote to the Plaintiff's Attorneys-at-Law indicating an intention to apply to the Court seeking a Declaration that the Third-Party Insurers were no liable to pay any Judgment entered against the Third Party as a result of a failure by the Plaintiff to give sufficient notice to them of the proceedings as required under Section 15 (2) (b) of the Motor Vehicle Insurance (Third Party Risks) Law (2012 Revision).
14. The Plaintiff was unaware that the requisite had not been provided to the Third Party's Insurers.
15. The Third Party's Attorneys subsequently filed Summons dated 28th October 2021 to have the Plaintiff's claim struck out as an abuse of process and/or for want of prosecution by reason of inordinate or inexcusable delay.
16. The said Summons was heard by the Court on the 27th January 2022 and on or about the 23rd day of February 2022 the Court made an Order in terms of the Third Party's Summons.
17. That implied in the Plaintiff's retainer of the Defendant were the following terms:
 - (a) that the Defendant's would carry out the Plaintiff's instructions with reasonable diligence; and
 - (b) that the Defendants would exercise reasonable care and skill and care in the performance of their duties pursuant to their retainer.

Particulars of Negligence

- (i) failing to progress the Plaintiff’s claim with reasonable diligence, in particular failing to comply with the requirements under Section 15 (2) (b) of the Motor Vehicle Insurance (Third Party Risks) Law (2012 Revision) and within a reasonable time after filing of the claim;
- (ii) thereby causing or permitting the Plaintiff’s claim against the Third Party to be struck out by the Court

18. By reason of the matters aforesaid the Plaintiff has suffered loss and damage for which the Defendants are liable.

Particulars of Loss and Damage

(a) The Plaintiff has lost the opportunity of recovering damages from the Third Party, which she had a reasonable prospect of recovering. The said damages, full particulars of which appear from the Statement of Claim endorsed on the Writ of Summons filed in Cause No. 59 of 2017, attached hereto, and which in summary comprised:

- (i) Damages for pain and suffering and loss of amenities;
- (ii) Items of special damages, including past and future loss of earnings.

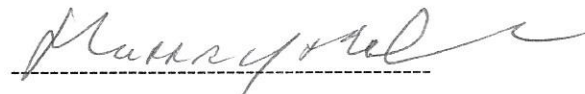
(b) The costs which the Plaintiff incurred in defending and resisting the strike out application made on behalf of the Third Party, including Counsel’s fees.

19. Further the Plaintiff is entitled to and claims interest pursuant to the Judicature Act on any sum which may be awarded herein for such period and at such rate as the Court shall think fit.

AND THE PLAINTIFF CLAIMS:

1. Damages
2. Interest pursuant to the Judicature Act.
3. Costs

Dated the 30th day of December 2022



Murray & Westerborg
Plaintiff’s Attorneys-at-Law

THIS STATEMENT OF CLAIM was filed by Murray & Westerborg, Attorneys-at-Law for and on behalf of the Plaintiff, whose address for service is that of her said Attorneys-at-Law, The Second Floor (South West Wing) Cayman Shipping Centre Building, 10 Shipping Lane, George Town, Grand Cayman

Acknowledgment of service of writ of summons (O.12, r.3)

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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2023

BETWEEN: MICHELLE INGRAM PLAINTIFF

AND: McGRATH TONNER (a Firm) 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 name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the 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 judgement entered by the Plaintiff (tick the box).

yes

Service of the Writ is acknowledged accordingly.

(Signed) [Attorney] for [Defendant in person] 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 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 case of a limited company, “residence means its registered 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:

Murray & Westerborg
Attorneys-at-law
2nd Floor (Southwest Wing
Cayman Shipping Centre Building
10 Shipping Lane
George Town, Grand Cayman
Cayman Islands
P.O. Box 10067
Grand Cayman, KY1-10001, Cayman Islands

Indorsement by Defendant’s Attorney (or by Defendant if acting in person, of his name, address and reference, if any, in the box below

[Empty box for Defendant's Attorney indorsement]