



**BY THE GRAND COURT OF THE CAYMAN ISLANDS  
CIVIL DIVISION**

**CAUSE NO: OF 2023**

**RICHARD MITCHELL**

Plaintiff

**-and-**

**BENJAMIN LENOX MCLAUGHLIN**

Defendant

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**WRIT OF SUMMONS**

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TO: Benjamin Lenox McLaughlin  
8 Cozy Court  
East End, Grand Cayman  
Cayman Islands

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff in respect of the claims 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 17<sup>th</sup> day of May 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.

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**STATEMENT OF CLAIM**

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1. At all material times, the Plaintiff, Richard Mitchell, was the owner and driver of a Nissan Skyline vehicle with registration number 175 138.
2. The Defendant, Benjamin Lennox McLaughlin was at all material times the driver of a Ford F-150 vehicle with registration number 117 325.
3. On or about the afternoon of the 23<sup>rd</sup> February 2021, the Plaintiff was lawfully driving his motor vehicle in a prudent and lawful manner along Shamrock Road, in George Town. When approaching the junction with Hirst Road, he was confronted with the Defendant's vehicle travelling towards him. The Defendant failed to observe the traffic and drove out from a minor road onto a major road and collided with the left side of the Plaintiff vehicle causing significant damage.
4. The collision was caused by the negligence of the Defendant and/or the breach of his statutory duties under Sections 67 and 68 of the *Traffic Act 2021*.

**PARTICULARS**

5. The Defendant was negligent and guilty of breach of the said statutory duties by:
  - a. failing to keep any or any proper lookout;
  - b. driving too fast in all the circumstances;
  - c. colliding with the Plaintiff's vehicle;
  - d. failing to exercise due care and attention when using the road and to have due regard to the safety of other road users;
  - e. failing to drive in such a manner to have full control of his motor vehicle at all times;
  - f. failing to stop at the stop sign;
  - g. failing to drive at a speed and in a manner and at a distance from other vehicles as to be able to stop without being involved in a collision;
  - h. failing to stop, to slow down, to swerve, or do anything to manage or control his vehicle so as to avoid the collision;
  - i. failing to see the Plaintiff in time or at all;
  - j. failing to apply his brakes whether in time or at all;
  - k. failing to steer or control his vehicle so as to avoid the said collision; and/or
  - l. failing to exercise reasonable skill and care to be expected of a reasonably skillful and careful driver in the circumstances; and/or

- m. failing to take reasonable care in all the circumstances.
6. Further or alternatively, the Plaintiff will rely on the doctrine of *res ipsa loquitur*. The Defendant having driven through a stop sign without stopping and colliding into the Plaintiffs' vehicle.

#### **PARTICULARS OF INJURIES TO THE PLAINTIFF**

7. The Plaintiff suffered injuries as a result of the collision and continues to suffer as a result of the injuries sustained. The injuries include, but are not limited to, the following:
- a. Avulsion fracture of the spinous process of L3;
  - b. multiple cuts and lacerations to his face;
  - c. pain in his gums;
  - d. left shoulder injury;
  - e. left hip injury;
  - f. blurred vision;
  - g. permanent scarring;
  - h. bruising all over his body;
  - i. headaches;
  - j. dizziness; and
  - k. driver anxiety.
8. The Plaintiff continues to suffer from his injuries.
9. At the time of the collision, the Plaintiff was employed as an electrician. He was unable to work for an extensive period and has since been incapable of working at the same capacity upon resumption of his employment. The Plaintiff has therefore suffered a past and future loss of income and earning capacity.

#### **PARTICULARS OF SPECIAL DAMAGES**

10. The Plaintiff has suffered loss and incurred expenses as a result of the collision which are ongoing. Full particulars of special damage will be supplied at a later date by way of schedules of damages, including but not limited to claims for loss of income, medical treatment, travel, equipment and gratuitous care, interest and costs.

**AND THE PLAINTIFF CLAIMS:**

- (1) Damages;
- (2) Pre-Judgment interest in accordance with Section 34 of the *Judicature Act* (2021 Revision);
- (3) Post-Judgment interest in accordance with Section 34 of the *Judicature Act* (2021 Revision);  
and
- (4) Costs;

Dated this 17<sup>th</sup> day of May 2023.



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**Broadhurst LLC**

Attorneys-at-Law for the Plaintiffs

This Writ of Summons and Statement of Claim is issued by Broadhurst LLC, Attorneys-at-Law for the Plaintiffs, whose address for service is 4<sup>th</sup> Floor, Monaco Towers, 54 Edward Street, P.O. Box 2503, Grand Cayman KY1-1104, Cayman Islands.

**INDORSEMENT AS TO INSURER OF MOTOR VEHICLE**

The Plaintiffs' claims arise out of the use of a motor vehicle on a public road. The insurer of the vehicle of the Defendant named herein is Cayman First Insurance Company, 17 Vibert Bodden Drive, George Town, Grand Cayman, KY1-1105, Cayman Islands.

**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, PO Box 495, George Town, 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 Plaintiffs (or on the Plaintiffs if acting in person).

If a Statement of Claim is 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 not 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 Plaintiffs 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 fourteen (14) days after his Acknowledgement, 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 installments 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 fourteen (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 is 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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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  
CIVIL DIVISION

CAUSE NO: OF 2023

RICHARD MITCHELL

Plaintiff

-and-

BENJAMIN LENOX MCLAUGHLIN

Defendant

ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS

If you intend to instruct an Attorney to act for you, give him/her 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  
[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 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.

*Endorsement by Plaintiffs’ Attorney (or by Plaintiffs if suing in person) of his name, address and reference, if any, in the box below.*

**BROADHURST LLC**  
ATTORNEYS-AT-LAW  
54 Edward Street, P.O. Box 2503  
George Town, Grand Cayman,  
Cayman Islands, KY1-1104

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