



**GRAND COURT
OF 2023**

CAYMAN ISLANDS

BETWEEN

MICHAEL CLARKE

PLAINTIFF

AND

CARLOS BERZUNZA

DEFENDANT

WRIT OF SUMMONS

**To: The Defendant
CARLOS BERZUNZA**

**And as a Noticed Party To: Saxon Motor & General Insurance Co. Ltd.
14 Saturn Close
Eastern Avenue
P.O. Box 1094
Grand Cayman KY-1102**

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff of 109 Sandalwood Crescent, Walkers Road, George Town, Grand Cayman 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 September 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.

This Writ and Statement of Claim is Issued by Brady Attorneys at Law whose address for service is 2nd Floor, Anderson Square, 64 Shedden Road, P.O. Box 1671, George Town Grand Cayman, KY1-1109, Cayman Islands.

STATEMENT OF CLAIM

1. At all material times the Plaintiff was the owner and driver of a Dodge Ram motor vehicle bearing registration **131 863** and the Defendant was the driver of a Mitsubishi Motor car bearing registration number **126 531**.
2. On 21st September 2020 at about 11:15am the Plaintiff was driving in the left hand lane along Bodden Town Road, Bodden Town in the vicinity of Seaview Road heading in an easterly direction when the Defendant negligently drove from the left hand soft shoulder onto the road way and into the path of the Plaintiff's correctly proceeding vehicle causing a collision.

PARTICULARS OF NEGLIGENCE

3. The Defendant was negligent in that he:
 - (a) failed to keep any or any proper look out;
 - (b) failed to give way;
 - (c) failed to see the Plaintiff in time or at all;
 - (d) pulled out onto a major road when it was unsafe to do so;
 - (e) failed to apply his brakes whether in time or at all;
 - (f) failed to steer or control his vehicle so as to avoid the said collision;
4. The Plaintiff will rely on the doctrine of res ipsa loquitor.
5. By reason of the aforesaid, the Plaintiff has suffered personal injury, loss and damage.

PARTICULAR OF INJURY

6. The plaintiff's date of birth is the 28 May 1962 and at the date of the accident he was 58 years old.
7. Following the accident, the Plaintiff was transported to the Health City where he underwent a full assessment including MRI's and x-rays and treatment for 2 days until he was discharged. He was diagnosed as having suffered the following injuries to his back:

(a) Cervical Spine

- i. Posterocentral and left paracentral bulge and right paracentral herniation of the C5/6 disc;
- ii. Mild compression of the right C6 nerve roots;
- iii. Posterocentral & bilateral paracentral and bilateral lateral herniation of C6/C7 disc;
- iv. C7 nerve root compression;
- v. Cervical spondiolysis

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(b) Lumbar Spine

- i. Posterocentral and bilateral paracentral and bilateral lateral herniation of L5/S1 disc;
 - ii. S1 nerve root compression;
 - iii. Posterocentral and bilateral paracentral and bilateral lateral protrusion of L4/L5 disc;
 - iv. Nerve root compression of L5 with annular tear; and
 - v. Lumbar Spondylosis
8. The injuries suffered have significantly debilitated the Plaintiff due to recurring back pain and numbness in his feet. As a result, he is unable to sit or stand or walk for long periods, as he used to do, without pain.
9. Since being assessed the Plaintiff has undergone recommended physiotherapy at Health City on several occasions.
10. His latest MRI showed Spinal Canal Stenosis at level L4/L5 and either spinal injection, as a first option, and thereafter surgery was recommended involving the Laminectomy L4/L5, Discectomy L4/L5 & L5/S1 and posterior lumbar-sacral fusion L4/L5.
11. Since the accident the Plaintiff has been unable to return to work as he used to. Prior to the accident the Plaintiff worked alone doing Building maintenance and repairs and as an auto technician. Since the accident the Plaintiff had to employ someone to assist him in his duties and he has had to work significantly less work hours.
12. The Plaintiff's social life has also been significantly affected since the accident. He still suffers back pain and numbness in his feet and struggles to lift any heavy items due to the pain.
13. The Plaintiff's medical treatment and expense are continuing.

PARTICULARS OF SPECIAL DAMAGE

14. The Plaintiff's particulars of special damage will be supplied at a later date by way of a schedule of damages including but not limited to claims for medical treatment, loss of earnings, travel and gratuitous care.

AND THE PLAINTIFF CLAIMS:

1. General Damages;
2. Special Damages;
3. Handicap on the Labour Market;

4. Future medical expenses;
5. Interest in accordance with the Judicature Law (2017 Revision);
6. Costs;
7. Any other relief this court deems necessary

A handwritten signature in blue ink, appearing to read "Brady", is written over a horizontal dotted line.

BRADY

Attorneys-at-Law 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.

CAYMAN ISLANDS

IN THE GRAND COURT
CIVIL DIVISION
CAUSE NO. OF 2023

BETWEEN

MICHAEL CLARKE

PLAINTIFF

AND

CARLOS BERZUNZA

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)

This Writ and Statement of Claim is issued by Brady Attorneys at Law whose address for service is 2nd Floor, Anderson Square, 64 Shedden Road, P.O. Box 1671, George Town Grand Cayman, KY1-1109, Cayman Islands.

yes no



Service of the Writ is acknowledged accordingly

(Signed).....

Attorney for

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.

BRADY
Attorneys-at-Law
2nd Floor, Anderson
Square, 64 Shedden
Road, P.O. Box 1671,
George Town Grand
Cayman, KY1-1109,
Cayman Islands.

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

[Empty box for defendant's attorney indorsement]

This Notice of Proceedings is issued by Brady Attorneys at Law whose address for service is 2nd Floor, Anderson Square, 64 Shedden Road, P.O. Box 1671, George Town Grand Cayman, KY1-1109, Cayman Islands.