



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

CAUSE NO: OF 2024

BETWEEN:

ESMENA LOUISE CODNER

Plaintiff

AND

ANDRE KELANDO TULLOCH

Defendant

WRIT OF SUMMONS

To: Andre Kelando Tulloch
91 Rock Hole Road
George Town
Grand Cayman
Cayman Islands

And as a Noticed Party to: Saxon Insurance Company
14 Saturn Close
George Town
Grand Cayman KY1-1102

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 fourteen (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, 61 Edward Street, George Town, 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 within the time stated, or if you 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 this 15th day of July 2024

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 issued unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Services are given with the accompanying form.

STATEMENT OF CLAIM

1. At all material times, the Plaintiff, Esmena Louise Codner of 5 Gwent Way, George Town, Cayman Islands, was the owner and operator of a Toyota Raize, with motor vehicle registration number: 218 075.
2. The Defendant, Andrew Kelando Tulloch, of 91 Rock Hole, George Town, Cayman Islands, was at all material times the operator of a 2003 Chevrolet Silverado, with motor vehicle registration number: 118 422, being owned by George Rodricketts Wilks.
3. On or about 11 October 2022 at approximately 1:48pm, the Plaintiff was lawfully travelling southbound along Hospital Road and stopped at the 4-way stop of Hospital Road and Smith Road (the “Junction”). The Defendant was travelling eastbound along Walkers Road on approach to the Junction. The Defendant failed to stop at the Junction and crossed directly into the Plaintiff’s path causing an unavoidable collision.
4. As a result of the collision, the Plaintiff suffered injuries and attended to the George Town Hospital for treatment.
5. The said collision was caused by the Defendant’s negligence and/or breach of statutory duty under Sections 67 and 68 of the *Traffic Act* (2023 Revision).

PARTICULARS

The Defendant was negligent and is guilty of the breach of his statutory duties by:

- a) Attempting to make a turn when it was unsafe to do so;
- b) Failing to give the right of way to all approaching vehicles;
- c) Failing to drive at a speed and in a manner and at a distance from other vehicles as to be able to stop in an emergency without being involved in a collision;
- d) Failing to exercise due care and attention when using the road and failing to have due regard to the safety of other road users;

- e) Failing to see the Plaintiff in time or at all;
 - f) Failing to apply his brakes whether in time or at all;
 - g) Failing to avoid obstructing other vehicles while the vehicle is moving;
 - h) Failing to manage the vehicle so as to be able to stop within the limit of vision available at any given time;
 - i) Failing to drive in a way so as to avoid the possibility of collision with any other road user, irrespective of the relative size or condition of the intersection or adjoining roads;
 - j) Failing to stop, to slow down, to swerve, or do anything to manage or control his vehicle so as to avoid the collision;
 - k) Failing to comply with all traffic signs and signals;
 - l) Acting recklessly with disregard for the safety of others;
 - m) Failing to keep any proper look out in front of him;
 - n) Failing to maintain lane discipline;
 - o) Failing to exercise reasonable skill and care to be expected of a reasonably skillful and careful driver in the circumstances; and
 - p) Failing to comply with the road code.
6. Further or alternatively, the Plaintiff will rely on the doctrine of *res ipsa loquitur* in that the Defendant collided with the right side of the Plaintiff's motor vehicle.
7. By reason of the Defendant's negligence and breach of duty, the Plaintiff sustained injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

8. The Plaintiff, whose date of birth is 9 May 1942, was 80 years old at the date of the collision. The collision was high impact and as a result of the force of the impact, the Plaintiff's vehicle was damaged to the extent that the vehicle is no longer roadworthy. Immediately following the collision, the Plaintiff attended the George Town Hospital for treatment of her injuries.
9. The Plaintiff suffered multiple 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. Whiplash injury;

- b. Pain to chest and right shoulder;
 - c. Chronic pain to head and neck;
 - d. Lower back pain and muscle spasms;
 - e. Loss of cervical lordosis;
 - f. Anxiety;
 - g. Flashbacks; and
 - h. Post Traumatic Stress Syndrome.
10. The Plaintiff continues to suffer from several of the above injuries and is impacted by them on a daily basis. Full particulars of the Plaintiff's injuries and the impact of them upon her will be provided prior to trial.

PARTICULARS OF SPECIAL DAMAGE

11. 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 a schedule of loss, including but not limited to claims for loss of vehicle, medical treatment, gratuitous care, interest and costs. Full particulars of the Plaintiff's special damages and losses, which are continuing, will be provided prior to trial.
12. The Plaintiff claims pre and post judgment interest on special damages from the date of loss pursuant to section 34 of the *Judicature Act (2021 Revision)* and in accordance with the *Judgment Debts (Rates of Interest) Rules* (as amended).
13. The Plaintiff claims pre and post judgment interest on general damages from the notice of the claim pursuant to section 34 of the *Judicature Act (2021 Revision)* and in accordance with the *Judgment Debts (Rates of Interest) Rules* (as amended).

AND THE PLAINTIFF CLAIMS:

- A. General damages;
- B. Special damages;

- C. Pre-judgment and post-judgment interest on special damages from the date of loss pursuant to the *Judicature Act* (2021 Revision) and the *Judgment Debts (Rates of Interest) Rules* (as amended); or
- D. At such rate this Honourable Court deems fit;
- E. Pre-judgment and post-judgment interest on general damages from the date of notice of the claim pursuant to the *Judicature Act* (2021 Revision) and the *Judgment Debts (Rates of Interest) Rules* (as amended); or
- F. At such rate this Honourable Court deems fit; and
- G. Costs.

Dated this 15th day of July 2024



BROADHURST LLC
Attorneys-at-Law for the Plaintiff

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

INDORSEMENT AS TO INSURER OF MOTOR VEHICLE

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the vehicle of the Defendant named herein is Saxon Insurance Company, 14 Saturn Close, George Town, Grand Cayman KY1-1102, Cayman Islands.

INDORSEMENT AS TO INTEREST

Pre-judgment and post-judgment interest on special damages from the date of loss pursuant to the *Judicature Act* (2021 Revision) and the *Judgment Debts (Rates of Interest) Rules* (as amended).

Pre-judgment and post-judgment interest on general damages from the date of notice of the claim pursuant to the *Judicature Act* (2021 Revision) and the *Judgment Debts (Rates of Interest) Rules* (as amended).

**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 Plaintiff (or on the Plaintiff 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 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 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.

Please complete overleaf

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 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 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 2024

BETWEEN:

ESMENA LOUISE CODNER

Plaintiff

AND

ANDRE KELANDO TULLOCH

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 [] No []

Service of the Writ is acknowledged accordingly

(Signed) _____

[Attorney] for

[Defendant in Person]

Address for service:

Please see 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 Plaintiff’s Attorney (or by Plaintiff if suing in person) of his name, address and reference, if any, in the box below.

**BROADHURST LLC
ATTORNEYS-AT-LAW
4th FLOOR MONACO TOWERS
54 EDWARD STREET
GEORGE TOWN
P.O. BOX 2503
GRAND CAYMAN
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.