

IN THE GRAND COURT OF THE CAYMAN ISLANDS

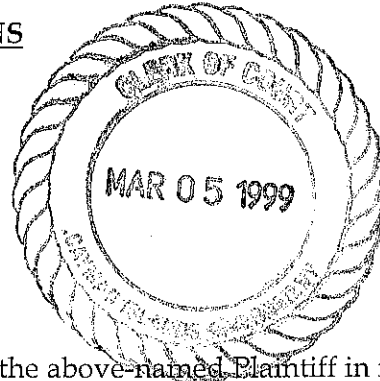
CAUSE NO. 158 OF 1999

BETWEEN: JAMES M. BODDEN II PLAINTIFF

AND: VIRGINIA EBANKS DEFENDANT

WRIT OF SUMMONS

To: Virginia Ebanks
North Side,
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, 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 5th day of March, 1999.

NOTE - This Writ may not be served later than 4 calendar months beginning with the date of issue unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledge of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Plaintiff is a Caymanian Real Estate Broker who at all relevant times, was and is a resident of the Grand Cayman.
2. The occupation of the Defendant is unknown. However, it is believed that the Defendant lives at North Side and at all material times was insured by Britam Insurance Brokers & Agents (Cayman) Ltd.
3. At approximately 3.30 p.m. on the 7th March, 1996 the Plaintiff was driving his 1985 Cadillac Eldorado motor car, registration number 46 048 along Red Bay Road in the direction of George Town, in the vicinity of the entrance to Selkirk Drive, Red Bay, Grand Cayman. Whilst the Plaintiff's motor car was stationary and awaiting to turn into the said Selkirk Drive, a Chevrolet motor car driven by the Defendant collided with the rear of the Plaintiff's motor car causing an accident.
4. The said accident was caused by the negligence and breach of duty of care of the Defendant. As a result of the Defendant's negligence and breach of duty of care the Plaintiff suffered severe personal injuries and loss and damage for which the Defendant is responsible.

PARTICULARS OF NEGLIGENCE

- (a) The Defendant failed to keep any or any proper look out;
- (b) The Defendant was driving at a speed which was excessive in the circumstances;
- (c) The Defendant failed to observe or heed the presence of the Plaintiff's motor car;

- (d) The Defendant failed to brake or control the said motor car or to apply her brakes adequately or at all so as to avoid colliding with the Plaintiff's motor car;
 - (e) The Defendant failed to steer her motor car so as to avoid colliding with the Plaintiff's motor car;
 - (f) The Defendant drove without due care and attention;
 - (g) The Plaintiff will rely on the doctrine of res ipsa loquitur;
5. The Defendant pleaded guilty to the offence of careless driving (and/or driving without due care and attention) contrary to Section 69 of the Traffic Law 1991 on the 30th day of May, 1996 and was fined \$100.00 or 7 days imprisonment in default. The Plaintiff will rely upon the said conviction at the trial of the civil case.
6. By reason of the negligence of the Defendant the Plaintiff, who is now aged 48 years (having been born on the 15th November, 1951) has suffered pain, injury, loss and damage.

PARTICULARS OF PLAINTIFF'S INJURIES

The Plaintiff has suffered multiple severe injuries as a result of the accident:-

- (a) The Plaintiff suffered a whip lash type injury causing severe neck pain, radiating to the back of the skull and head pains. The Plaintiff has suffered a loss of motion in his cervical spine. X-rays revealed, inter alia, a left rotary sub-luxation of the C-2 area. The Plaintiff was diagnosed as having cervical sub-luxation, bi-lateral myofascitis in the upper dorsal area with at tending cervical spasms, diffuse idiopathic hyperostosis and cephalalgia. The Plaintiff continues to suffer loss of mobility of in the neck, head, shoulders and arms.

- (b) The Plaintiff suffered a blow to the head and eye area. As a result of the accident the Plaintiff has suffered reduced visual acuity in the right due to early/moderate cataract formation. The Plaintiff has been informed that he will require cataract surgery sometime in the future. The Plaintiff has been advised that post traumatic surgery is known to have a higher complication rate with a consequent increased risk of loss of vision from surgery. The Plaintiff had suffered from diabetes for approximately 14 years prior to the accident and the Plaintiff has been advised that cataract surgery in diabetic patients increases significantly the risk of developing proliferative diabetic retinopathy which can be a blinding disease. The Plaintiff has also been advised that a complications from cataract surgery include retinal detachment, glaucoma, infection, corneal failure and cystoid macula oedema.
- (d) The Plaintiff shortly after the accident suffered a "silent heart attack". As a direct result of the accident the Plaintiff suffered ankle swelling, increased shortness of breath on exertion and difficulty lying flat. The Plaintiff suffered tightness in the jaw and upper abdominal pains. The Plaintiff's general practitioner noted dramatic electro cardiogram changes suggesting a diagnosis of sub-endocardial myocardial infarction with right sided heart failure.
- (e) For all the above reasons the Plaintiff's prognosis is guarded and he continues to suffer serious disability. The injuries suffered by the Plaintiff are believed to be permanent. There is a real risk that as a result of the Defendant's negligence he may develop serious deterioration in his physical condition in the future.

PARTICULARS OF SPECIAL DAMAGE

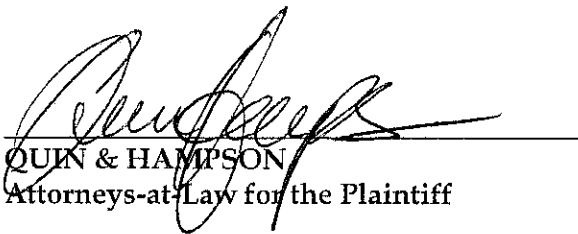
- (a) Medical expenses - Particulars of these will be provided in due course.
- (b) Other out of pocket expenses - Particulars of these will be provided in due course.
- (c) Loss of earnings - To be assessed.

7. Further the Plaintiff claims interest on any sum found to be due to him Pursuant to the Judicature Law and/or the Grand Court Rules and/or the Judgement Debts (Rates of Interest) Rules 1999.

In the premises the Plaintiff claims:-

1. Damages.
2. Interest thereon.
3. Costs.

DATED this 5th day of March, 1999.


QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff

To: The Clerk of Court

And to: The Defendant,
Virginia Ebanks,
North Side,
Grand Cayman.

And by way of notice to: Britam Insurance Brokers & Agents (Cayman) Ltd.

This Writ of Summons is filed by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiff herein whose address for service is Harbour Centre, Third Floor, P.O. Box 1348, George Town, Grand Cayman.

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 495, 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 installments or otherwise.

See over for notes for guidance

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 his 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.

BETWEEN: JAMES M. BODDEN II PLAINTIFF
AND: VIRGINIA EBANKS 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 the Defendants whereby they 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 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.

Messrs. Quin & Hampson
Attorneys-at-Law
Third Floor, Harbour Centre
P.O. Box 1348
George Town,
GRAND CAYMAN

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]