

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 566 OF 1999

BETWEEN: CHRIS ANDERSON PLAINTIFF

AND: FEL SEYMOUR trading as DEFENDANT
FEL'S CAR WASH

WRIT OF SUMMONS

To: Fel Seymour
PO Box 429
George Town
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 495G, George Town, Grand Cayman, 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 Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 17th day of September 1999.

NOTE – This Writ may not be served later than 4 calendar months (of, 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 Acknowledgement of Service are given with the accompanying form.

STATEMENT OF CLAIM

1. The Defendant is a Caymanian and trades as Fel's Car Wash. He has a place of business on Sound Way, George Town.
2. On or about 27th June 1997 the Plaintiff gave permission to an employee of the Defendant to drive his Honda Acura motor car registration no. 55850 from his place of employment to the Defendants place of business, for the sole purpose of having his car washed.
3. The Defendant's employee drove the Plaintiff's motor vehicle in a southerly direction along North Sound Road towards Crewe Road. Upon reaching the junction of North Sound Road and Sound Way, the Defendant's employee turned into Sound Way and collided with a Chevy Lumina motor vehicle registration no. 56751 being driven by one Carol Yates in a northerly direction along North Sound Road. The Plaintiff's vehicle also collided with a Honda Civic motor vehicle registration no. 64515 which was being driven by one Charles Watler in an easterly direction along Sound Way. At the time of the collision the said Honda motor vehicle was stationary at the junction of Sound Way and North Sound Road.
4. The said collision was caused by the negligence and or breach of statutory duty under Section 52 and 55 of the Traffic Law (Revised) of the Defendant's servant.
5. The Defendant's servant in the course of his employment was negligent and in breach of the said statutory duties by:-

- (a) failing to drive in such manner as to have full control of the vehicle being driven by him at all times.
 - (b) failing to keep any or a proper look out or to heed the presence of other vehicles.
 - (c) driving at a speed excessive in the circumstances.
 - (d) failing to apply his brakes in time or at all and or to steer or control the Plaintiff's vehicle as to avoid said collisions.
 - (e) failing to exercise any or any proper care and attention when using the Plaintiff's vehicle.
6. By reason of the Defendant's servant's negligence and or breach of statutory duty the Plaintiff has suffered loss and damage. The Plaintiff indemnified the said Carol Yates and Charles Watler in respect of the damage to their vehicles.

PARTICULARS OF SPECIAL DAMAGES


Carol Yates –	
Damage to vehicle	CIS\$ 1502.00
Loss of use	<u>119.76</u>
	CIS\$1,621.76
Charles Watler	
Damage to vehicle	CIS\$ 1,110.00
Loss of use	<u>70.00</u>
	CIS\$1180.00
	Total <u>CIS2,801.76</u>

7. The Plaintiff claims interest pursuant to Section 34(i) of the Judicature Law (1995 Revision) at the prescribed rate and for such periods as the Court thinks fit.

AND THE PLAINTIFF CLAIMS:

- (i) Special damages
- (ii) Interest pursuant to Section 34(i) of the Judicature Law (1995 Revision)
- (iii) Costs

Dated this 17th day of September 1999


C.S. GILL & CO.
Attorneys-at-Law for the Plaintiff

BETWEEN: CHRIS ANDERSON PLAINTIFF

AND: FEL SEYMOUR trading as FEL'S CAR WASH 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)
[] yes

Service of the Writ is acknowledged accordingly

(Signed)

[Attorney] for

[Defendant in person]

Address for service:

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.

C.S. GILL & CO.
4th Floor Genesis Building
PO Box 945
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]

**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, PO Box 495G, 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 14 days after the time for the 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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for 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.

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 of 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.