

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 93/ OF 2000

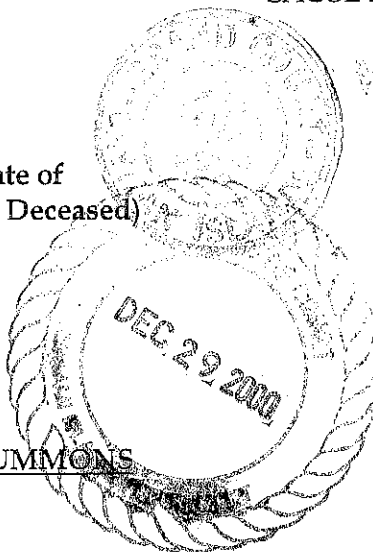
BETWEEN: CLAUDIA WELDS
(Administratrix of the Estate of
Vince Donovan Christian, Deceased)

PLAINTIFF

AND: COLIN MOHAMMED

DEFENDANT

WRIT OF SUMMONS



To: Colin Mohammed
Windjammer
Little Cayman

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiffs in respect of the claim set out on the next page.

Within Fourteen days [14] 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 29th day of December, 2000.

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.

STATEMENT OF CLAIM

1. The Plaintiff is the Administratrix of the Estate of Vince Donovan Christian (deceased), having been granted Letters of Administration by the Grand Court of Cayman Islands in Suit No. P&A No. 26 of 2000 on the 26th day of April, 2000. She brings this action for the benefit of the dependants of the deceased, under the Torts (Reform) Law (1996 Revision), and for the benefit of the estate of the deceased under the Estates Proceedings Law (1995 Revision).

2. The Defendant was at all material times the registered owner and driver of a Nissan 200 ZX motor vehicle bearing registration numbers 76842 ("the Defendant's motor vehicle"). The Defendant's motor vehicle was at all material times insured by Dyll Insurance Company Limited, whose local agents are the Cayman Insurance Centre Limited.

3. On the 10th January, 2000 at approximately 10:45 p.m., the deceased was steering an Oldsmobile motor car bearing registration numbers 34779 ("the Oldsmobile"). The Oldsmobile was being towed by a Ford Ranger pick-up truck bearing registration numbers 62181 ("the Ford Ranger"), which at the material time was being driven by Lennon Christian. On reaching the area of Palm Dale along Crewe Road in George Town, Grand Cayman, the towing rope snapped and both the Ford Ranger and the Oldsmobile came to a stop. Lennon Christian and Darvin Ebanks, a passenger in the Ford Ranger, walked to the rear of the Ford Ranger in order to re-connect the towing rope. The deceased exited the Oldsmobile and was standing to the front left of it. Both the Ford Ranger and the Oldsmobile were facing the direction of George Town. The Defendant who was travelling in the direction towards George Town, so negligently drove or controlled the Defendant's motor vehicle that he caused the same to collide with the rear of the Oldsmobile which was

stationary at the time. The Oldsmobile in turn hit the deceased throwing him unto a nearby fence post. The impact caused the deceased severe injuries as a consequence of which he died at the George Town Hospital on 11th January, 2000.

4. The deceased's death was caused by the negligence of the Defendant in the driving, management and control of the Defendant's motor vehicle.

PARTICULARS

- (a) Colliding with the rear of the Oldsmobile which was stationary at the material time;
 - (b) Driving whilst his ability to do so was impaired by alcohol;
 - (c) Driving too fast in all the circumstances;
 - (d) Failing to see or to heed the presence of the Oldsmobile and/or the Ford Ranger which were both stationary on the roadway;
 - (e) Losing control of the Defendant's motor vehicle;
 - (f) Failing to stop, to slow down, or to steer or control the Defendant's motor vehicle so as to avoid the said collision.
5. The Plaintiff will rely, so far as may be necessary, upon the conviction of the Defendant by way of a plea of guilty by the Defendant before the Grand Court of the Cayman Islands on or about the 25th day of July, 2000 to the offence of driving a motor vehicle while intoxicated.
 6. The said conviction is relevant to the issue of negligence herein and the Plaintiff proposes to rely upon the same under the provisions Section 39 of the Evidence Law (1995 Revision).

7. By reason of the matters aforesaid the deceased, who was born on 15th April, 1967 and was therefore 32 years old on the date of his death, was killed and the dependants and the estate of the deceased have suffered loss and damage.

**PARTICULARS PURSUANT TO SECTION 5 OF THE
TORTS (REFORM) LAW (1996 REVISION)**

- (a) The names of the persons for whose benefit this action is brought are:
- (i) Alyssa Ruth Christian, the daughter of the deceased, whose date of birth is the 24th day of October, 1989; and
 - (ii) Brianne Lorna Christian, the daughter of the deceased, whose date of birth is the 23rd of September, 1991.

Each of the persons whose name is set out above was dependent upon the deceased at the time of his death.

- (b) The nature of the claim in respect of which damages are sought are as follows:
- The deceased at the time of his death was a healthy and happy man, age 32 as aforesaid. He was in the employ of Thompson Shipping Company Limited at the time of his death and had been so employed for four (4) years. He was earning the sum of CI\$2,350.00 per month. He was employed in the Claims Department and was being trained to take over the Out Bound Department of Thompson Shipping Company Limited. He was highly regarded by his employers and was seen as having great potential for advancement in the company. Pursuant to a Court Order in divorce proceedings, the deceased was required to pay the sum of US\$540.00 per month towards the support of his two dependent children. In addition to the court ordered child support, the deceased made other contributions to the support of his children and in 1999, the year immediately preceding his death, his additional contribution in respect of both children amounted to US\$755.00. The deceased participated in a

pension plan and a health insurance scheme at his place of employment and also saved regularly.

8. Further, on behalf of the estate of the deceased, the Plaintiff claims funeral expenses.

PARTICULARS

Casket	-	CI\$3,895.00
Professional services by funeral home	-	CI\$ 295.00
Embalming and complete care of remains	-	CI\$ 295.00
Use of cooler per day (2 days @ \$90.00 per day)	-	CI\$ 180.00
Removal from place of death to funeral home	-	CI\$ 75.00
Hearse and staff for funeral service	-	CI\$ 250.00
Lowering device	-	CI\$ 80.00
Register guest books (3 books @\$20.00 each)	-	CI\$ 60.00
Vault	-	<u>CI\$1,200.00</u>
		<u>CI\$6,330.00</u>

9. The Plaintiff will claim interest on any sum found to be due by the Defendant in accordance with Section 34 of the Judicature Law (1995 Revision) at the rate of 7 7/8% per annum from the 11th January, 2000 to the 31st March, 2000 and at the rate of 8% per annum from the 1st April, 2000 to the date of judgment or sooner payment or at such other rate as to this Court is just and reasonable in the circumstances.

AND THE PLAINTIFF CLAIMS:

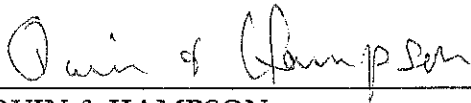
- (a) Damages under the Torts (Reform) Law (1996 Revision) for the benefit of the children of the deceased;
- (b) Damages under the Estate Proceedings Law (1995 Revision) on behalf of the estate of the deceased;

- (c) Interest pursuant to Section 34 of the Judicature Law (1995 Revision);
- (d) Costs;
- (e) Such further or other relief as to this Honourable Court seems just.

STATEMENT REGARDING INSURER

The Defendant is insured by Dyoll Insurance Company Limited, whose local agents are the Cayman Insurance Centre Limited of P.O. Box 10056 APO, Cayman Business Park, Thomas Russell Way, Grand Cayman.

Dated this 29th day of December 2000



QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff

To: The Clerk of the Court

And to: Colin Mohammed
Windjammer
Little Cayman

THIS WRIT was issued by Messrs. Quin & Hampson, Attorneys-at-Law for the Plaintiff whose address for service and correspondence is P.O. Box 1348, Third Floor, Harbour Centre, George Town, Grand Cayman, B.W.I.

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 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: CLAUDIA WELDS
(Administratrix of the Estate of
Vince Donovan Christian, Deceased)

PLAINTIFF

AND: COLIN MOHAMMED

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:

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.