

IN THE GRAND COURT OF THE CAYMAN ISLANDS

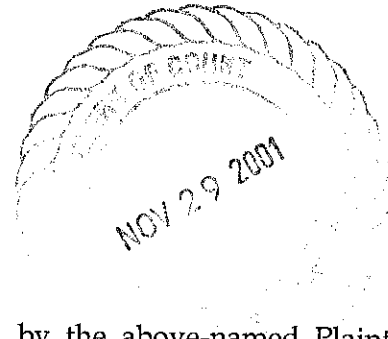
CAUSE NO. 740 OF 2001

BETWEEN LOFTER BLAIR VALGARDSON PLAINTIFF

AND RODNEY L. CHESTNUT DEFENDANT

WRIT OF SUMMONS

To: Rodney L. Chestnut
288 Mahogany Way
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 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 November, 2001

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 a Canadian national and a chiropractor who, up to the 27th day of March, 2001, practised as a chiropractor in the Cayman Islands.
2. The Defendant was at all material times the owner and driver of a Mitsubishi Lancer motor car bearing registration number 59 998 ("the Defendant's car").
3. On the 27th day of March, 2001 at about 9:20 a.m. the Plaintiff was riding his bicycle southerly along West Bay Road, that is, in the direction of George Town. The Plaintiff was riding on the extreme left hand side of the carriageway. Upon the Plaintiff reaching the entrance of the West Shore Centre, and with the Plaintiff proceeding as carefully as the circumstances of the traffic warranted at the time, the Defendant, who was driving his car in a northerly direction, turned right to enter the West Shore Centre, from the central turning line, across the line of traffic proceeding south and collided with the Plaintiff's bicycle, causing the Plaintiff to fall violently to the ground.
4. The collision was caused solely by the negligence by the Defendant in the driving, management and control of his motor car.

PARTICULARS OF NEGLIGENCE

- (a) Turning right across the path of traffic proceeding in the opposite direction without ensuring that it was safe to do so.
- (b) Failing to exercise all necessary caution in order to turn across the path of oncoming traffic.
- (c) Failing to see the Plaintiff in time or at all in order to avoid the collision.
- (d) Failing to warn the Plaintiff of his intention to turn right and across the Plaintiff's path thereby giving the Plaintiff an opportunity to avoid the collision.

- (e) Driving too fast having regard to all of the circumstances.
 - (f) Turning right into West Shore Centre from a position where, and in a manner which, it was impossible for the Plaintiff to have seen his motor car or to know that the Defendant was turning across the Plaintiff's path.
 - (g) Failing to stop, swerve or otherwise manoeuvre his car in time to avoid the collision.
5. As a consequence of the above premises, the Plaintiff has suffered very severe personal injury, has been put to expense and has suffered loss and damage.


PARTICULARS OF INJURY

- (a) The Plaintiff, whose date of birth is 9th October, 1950, is a right hand dominant chiropractor who requires maximum range of extension and supination in his right wrist in order to perform his job with any degree of effectiveness. He suffered a severely comminuted fracture of the distal and articular surfaces of the right radius.
- (b) The Plaintiff's fracture is of the type known as a "Smith's fracture". He was hospitalised at the George Town Hospital for one day and there he underwent a surgical operation in which a volar buttress plate and k-wires were inserted and the arm was placed in a short arm cast.
- (c) The k-wires were moved on 7th May, 2001 and on 28th May, 2001 the Plaintiff underwent a surgical operation in which the remaining internal fixation plate was taken off the radius; a realignment osteotomy was made and a further internal fixation plate was applied. These procedures were performed in Canada.

STATEMENT REGARDING INSURER

The Defendant is insured by British Caymanian Insurance Co. Ltd. BritCay House, 236 Eastern Avenue, P.O. Box 74, George Town, Grand Cayman.

DATED this 29th day of November, 2001



QUIN & HAMPSON
Attorneys-at-Law for the Plaintiff

To: The Clerk of the Court

And to: Rodney L. Chestnut
688 Mahogany Way
Grand 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.

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SCHEDULE OF DRAWINGS

May, 1999	\$5,500.00
June, 1999	\$6,138.75
July, 1999	\$9,413.29
August, 1999	\$8,220.18
September, 1999	\$7,082.26
October, 1999	\$4,138.49
November, 1999	\$6,329.72
December, 1999	\$7,460.78
January, 2000	\$7,963.90
February, 2000	\$6,458.05
March, 2000	\$9,696.11
April, 2000	\$8,567.43
May, 2000	\$8,026.86
June, 2000	\$9,436.14
July, 2000	\$5,640.56
August, 2000	\$9,532.59

September, 2000	\$5,492.72
October, 2000	\$6,551.31
November, 2000	\$6,998.77
December, 2000	\$2,126.72
January, 2001	\$6,557.68
February, 2001	\$4,185.55
March, 2001	\$12,146.94

FILED 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.

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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.