

BETWEEN: LUCIANO CANZANELLA PLAINTIFF
AND: DONALD WEST FIRST DEFENDANT
AND: JACQUELINE PHILLIPS SECOND DEFENDANT

WRIT OF SUMMONS

TO: (1) Donald West
 c/o Box 1399
 George Town

 (2) Jacqueline Phillips
 14 Tropic Breeze
 Tropical Gardens
 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 Acknowledgment of Service stating therein whether you intend to contest these proceedings.

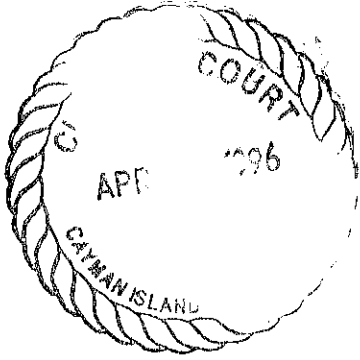
If you fail to satisfy or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiffs may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 26th day of April 1996.

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

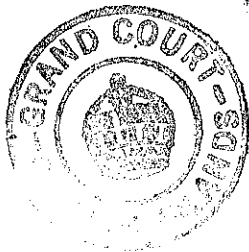
Directions for Acknowledgment of Service are given with the accompanying form.

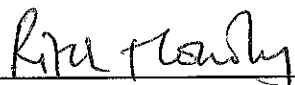


INDORSEMENT OF CLAIM

The Plaintiff's claim against the First and Second Defendant is for damages for personal injury, loss and damage, interest and costs arising out of the Second Defendant's negligent driving on 15th March 1995 and against the First Defendant for breach of statutory duty under S.3(1) of the Motor Vehicle Insurance (Third Party Risk) Law 1990 in permitting the Second Defendant to use her motor vehicle when there was not in force a policy of insurance in respect of third party risks.

DATED this 26th day of April 1996.



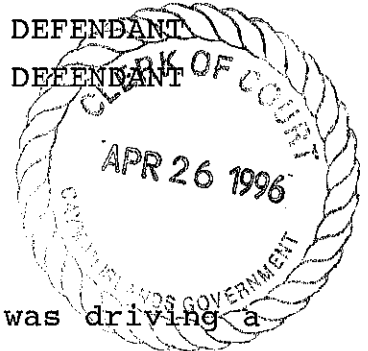


RITCH & CONOLLY
Attorneys-at-Law for
the Plaintiff

TO: The Clerk of the Court

This Writ was issued by Messrs Ritch & Conolly, Attorneys-at-Law for and on behalf of the Plaintiffs herein, whose address for

BETWEEN: LUCIANO CANZANELLA PLAINTIFF
AND: DONALD WEST FIRST DEFENDANT
AND: JACQUELINE PHILLIPS SECOND DEFENDANT



STATEMENT OF CLAIM

1. On the 15th day of March 1995, the Plaintiff was driving a scooter Registration No.31852 along North Sound Way towards New Sound Way in an Easterly direction when it became involved in a collision at the entrance to Paddington Place on North Sound Way with a Honda Civic car, Registration No.41653, owned by the First Defendant and being driven by his servant or agent (or with the permission of the First Defendant) by the Second Defendant on to the said North Sound Way from Paddington Place.
2. The said collision was caused by the negligence of the Second Defendant as servant or agent of the First Defendant.

PARTICULARS OF NEGLIGENCE

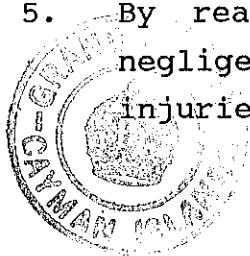
1. Driving from a minor road on to a major road, when it was unsafe to do so and/or without regard for traffic on the major road;
2. Failing to give any or any proper warning of her approach or her intention to turn right or to drive on to the said major road;
3. Failing to keep any or any proper lookout and/or to observe or heed the presence or approach of the Plaintiff;





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4. Failing to apply her brakes in time or at all and/or so to steer or control the said car so as to avoid the said collision;
 5. Emerging on to the said North Sound Way from Paddington Place without first ascertaining or ensuring that it was safe so to do;
 6. Failing to give way to the Plaintiff while he was driving along the major road;
 7. Failing to see the Plaintiff in sufficient time to avoid the said collision or at all.
3. At the time of the collision, the First Defendant was the registered owner of the said Honda Civic car, Registration No.41653 and in breach of his statutory duty under the Motor Vehicle Insurance (Third Party Risks) Law 1990 the First Defendant permitted the Second Defendant to use the said motor car on the road when there was not in force in relation to the use of the third party risks as complied with the requirements of S.4 of the said Law.
4. In the premises the First Defendant became and is liable to pay to the Plaintiff damages in respect of the personal injuries and other consequential loss hereafter pleaded.
5. By reason of the First and/or Second Defendant's said negligence, the Plaintiff has sustained severe personal injuries and has suffered loss and damage.





PARTICULARS OF INJURY

- (i) The Plaintiff who was born on the 11th August 1965 is now aged 30 years suffered a severe and significant injury to his left proximal humerus and shoulder area. He had a nasty proximal humeral fracture which was displaced. He also had a fracture of the most lateral aspect of the clavicle and a fracture of the left olecranon with some displacement.

- (ii) The Plaintiff's olecranon fracture was fixed with an open reduction and internal fixation. The elbow incision was placed posteriorly and when this wound was closed, the proximal humerus was opened by means of a standard deltopectoral incision which was of some length. The Plaintiff's biceps tendon was virtually shredded through and the ends of this were tagged.

- (iii) The Plaintiff remained in hospital from 15th March 1995 to 20th March 1995 and thereafter had to undergo a prolonged course of physiotherapy.

- (iv) The Plaintiff will require further operations in the future and is at an increased risk of developing osteoarthritis in his left elbow and further, the possibility of the Plaintiff getting into problems with significant osteoarthritis in the shoulder is in the neighbourhood of 50% over a period of ten to fifteen years.

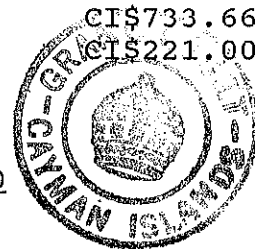
- (v) The Plaintiff is at a disadvantage on the labour market as a result of the injuries.



- (vi) The Plaintiff will suffer a continuing loss of earnings of approximately \$445.00 per month as a result of his injuries. The Plaintiff will assert that a multiplier of 14 is appropriate in the circumstances of this case.
- (vii) The Plaintiff will refer to the medical reports of Dr. McKillock and Dr. Sekhar in support of his claim.

PARTICULARS OF SPECIAL DAMAGES

1. Damage to crash helmet		CI\$200.00
2. Damage to clothing		CI\$100.00
3. Lost watch		CI\$400.00
4. Taxi fares		CI\$ 30.00
5. Scooter damage		CI\$107.00
6. Developing photographs		CI\$ 17.00
7. Hospital and physiotherapy expenses up to 5th June 1995		CI\$3,502.66
8. Physiotherapy expenses		CI\$169.00
9. Telephone calls to family and doctors in Canada, say		CI\$200.00
10. Medical Report of Dr. McKillock (US\$500.00)		CI\$410.00
11. Medical Report of Dr. Sekhar		CI\$ 60.00
12. Traffic Accident Report		CI\$ 25.00
13. Travel Expenses to Italy (airfare to London: US\$894.71 train to Italy: £ 170.00)		CI\$733.66 CI\$221.00
14. Past loss of earnings - 1st March 1995 to 15th May 1995 (full loss)		<u>CI\$2,460.00</u>



15th August 1995 to
16th September 1995 -
no claim because existing employers
paid the Plaintiff his usual earnings
although he was out working as a
general helper in the restaurant
performing limited tasks

16th Sept 1995 to 19th Oct. 1995
Away in Italy - no claim made even
though part of purpose of trip was
to see the family doctor

20th Oct. 1995 to say 20th April
1996 (partial loss of earnings)

CI\$2,670.00



CI\$5,130.00

(and continuing at the rate of
approximately CI\$445.00 per month

CI\$11,304.66

ADD FURTHER GENERAL DAMAGES

Estimate Future cost of operation and full time loss
of earnings (US\$)

- Removal of left humeral plate US\$1,000.00
- Removal of left elbow fixation device 350.00
- Arthroplasty 5,000.00
- Air fares to Miami or Canada (approx) 1,000.00
- Hotel expenses [\$150.00 x 7 days] 1,050.00
- Full loss of earnings for period
after operation (four weeks) 3,000.00

US\$11,400.00

OR

=====
CI\$ 9,348.00



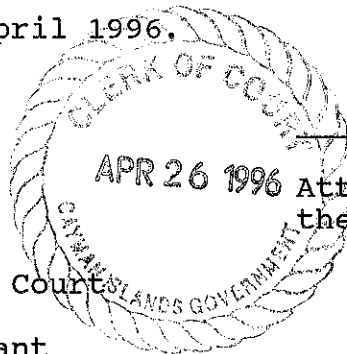
6. The Second Defendant was convicted on the 18th October 1995 by the Magistrate's Court of the Cayman Islands on her own plea of guilty of the offence of careless driving contrary to Section 66 of The Traffic Law (Revised) and driving without insurance contrary to Section 31 of the Traffic Law (Revised). The said convictions are relevant to the issue of negligence and/or breach of statutory duty and the Plaintiff intends to rely thereon as evidence in this action.

7. Further, the Plaintiff is entitled to and claims to recover interest pursuant to the Judicature Law (1995 Revision) on the amount found to be due at such rate and for such period as the Court shall think fit and costs.

AND THE PLAINTIFF CLAIMS:-

1. Damages
2. Interest pursuant to the Judicature Law (1995 Revision)
3. Costs

DATED this 25th day of April 1996.



Ritch & Conolly
RITCH & CONOLLY
Attorneys-at-Law for
the Plaintiff

TO: The Clerk of the Court

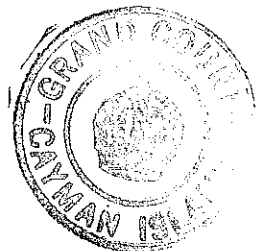
AND TO: The First Defendant
P.O. Box 1399,
Grand Cayman

For Personal Service

AND TO: The Second Defendant
14 Tropic Breeze
Tropical Gardens
Grand Cayman

For Personal Service

Filed by Messrs Ritch & Conolly, Attorneys-at-Law for and on behalf of the Plaintiff herein whose address for service is that of his said attorneys-at-law P.O. Box 1994, 3rd Floor, Royal Bank of Canada Building, George Town, Grand Cayman.



IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 226 OF 1996

BETWEEN: LUCIANO CANZANELLA PLAINTIFF

AND: DONALD WEST FIRST DEFENDANT
AND: JACQUELINE PHILLIPS SECOND 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 checkbox

no checkbox

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 checkbox

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:



Please complete overleaf

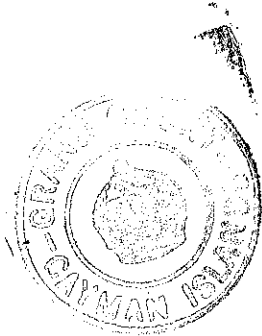
Notes on address for service

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.

RITCH & CONOLLY
P.O. BOX 1994,
GEORGE TOWN.



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]

Acknowledgment of service of writ of summons (O.12, r.3)

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 instalments or otherwise.

See over for notes for guidance

Please complete overleaf



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 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.

