

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 37 OF 2002

BETWEEN:

- (1) SHIRLEY PARKER
- (2) JAMES BOGUES

Plaintiffs

- and -

LEONARD BUSH

Defendant

TO: LEONARD BUSH  
Batabano Road  
Mount Pleasant  
West Bay  
Grand Cayman

**Indorsement as to insurers of motor vehicles  
pursuant to GCR O.6, r.4:**

This Writ includes a claim for damages arising out of the use of a motor vehicle which is insured by Colin Luke & Assoc. (Insurance) Ltd., PO Box 144GT, Swara House, West Bay Road, Grand 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 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, PO Box 495 GT, 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 15th day of January, 2002.

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.

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IMPORTANT

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

**STATEMENT OF CLAIM**

1. The First Plaintiff, Shirley Parker, is retired and resides at 825 Boynton, Apartment 15F, Bronx, New York, USA.
2. The Second Plaintiff, James Bogues is retired and resides at 109-46 134<sup>th</sup> Street, South Ozone Park, New York, USA.
3. The Defendant, Leonard Bush, is a bus driver and resides on Batabano Road, Mount Pleasant, West Bay, Grand Cayman.
4. At all materials times, the Plaintiffs were fare-paying passengers in a Dodge motor vehicle, registration number 62 688 owned by Robert Hunter and being driven by the Defendant. The Defendant was operating the vehicle with the consent of Robert Hunter.
5. On or about 26<sup>th</sup> August 1999 at approximately 12.52 pm, Defendant was driving the said motor vehicle south along West Bay Road, approaching the intersection of West Bay Road and Lawrence Boulevard. As he approached the intersection, the Defendant lost control of the vehicle, causing it to hit the curb, go onto the sidewalk, knock over the "give way" sign and collide with the Texaco sign on the corner.
6. The said collision was caused by the negligence of the Defendant.

**PARTICULARS OF NEGLIGENCE OF THE DEFENDANT**

- (a) Failing to exercise care and attention when using a road;
- (b) Failing to have due regard to the safety and comfort of his passengers and other road users and the preservation and protection of public and private property;
- (c) Failing to drive in such a manner as to have full control of the vehicle at all times;

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- (d) Failing to keep a watch on the road behind as well as in front of his vehicle;
  - (e) Failing to manage the vehicle as to be able to stop within the limit of vision available at any given time;
  - (f) Driving a motor vehicle on a road dangerously or recklessly, or at a speed or in a manner or in a condition which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the roadway or place and the amount of traffic which is actually at the time, or which might reasonably be expected to be, on the road;
  - (g) Driving a motor vehicle on a road without due care and attention, or without reasonable consideration for other persons;
  - (h) Driving a motor vehicle when under the influence of drugs or alcohol to such an extent that his efficiency as a driver was impaired;
  - (i) Driving on a road in excess of the maximum speed prescribed for the Islands generally or for the place where the vehicle was being driven;
  - (j) Driving a motor vehicle without valid registration; and
  - (k) Driving a motor vehicle without a valid Certificate of Roadworthiness.
7. As a result of the said collision and the negligence of the Defendant, the Plaintiffs have suffered injury, loss and damage and loss of amenity.

**PARTICULARS OF INJURIES**  
**SUSTAINED BY THE FIRST PLAINTIFF**

- (a) Comminuted fractured left tibial plateau;
- (b) Residual lateral compartment narrowing resulting from fracture;
- (c) Deformity of condyle resulting from fracture;
- (d) Early arthritic changes resulting from fracture;
- (e) Injury to left ankle;

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- (f) Injury to left foot;
- (g) Abrasions to left knee;
- (h) Abrasions to right knee;
- (i) Soft tissue injury to right lower leg;
- (j) Contusion to sternum; and

The First Plaintiff will refer at the trial of this matter to the medical records of George Town Hospital and Mt. Sinai Medical Centre and the reports of Dr. Sekhar dated 27<sup>th</sup> August 1999 and Dr. Magliato dated 9<sup>th</sup> October 2000, 2<sup>nd</sup> December 2000, and 2<sup>nd</sup> June 2001, and further and/or updated records and reports at the time of trial.

**PARTICULARS OF INJURIES**  
**SUSTAINED BY THE SECOND PLAINTIFF**

- (a) Lumbar compression fracture at L2/L3 impinging on right and left L2 spinal nerves;
- (b) Early degenerative changes at L2 and L3;
- (c) Chronic lumbar syndrome;
- (d) Cervical spine strain;
- (e) Herniated disc at L5/S1 with stenosis and neuro compromise;
- (f) Aggravation of previous bilateral hip replacement;
- (g) Aggravation of pre-existing back condition;
- (h) Bilateral paraspinal muscle tenderness; and
- (i) Permanent partial disability

The Second Plaintiff will refer at the trial of this matter to the MRI of his lumbar spine conducted on 4<sup>th</sup> September 1999, and the reports of Island Orthopaedics & Sports Medicine dated 1<sup>st</sup> September 1999 and 29<sup>th</sup>

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September 1999, and further and/or updated records and reports at the time of trial.

8. The Plaintiffs claim interest pursuant to s. 34(1) of the Judicature Law (1995 Revision) at the prescribed rate for such periods as the Court thinks fit.

AND THE PLAINTIFFS claim:

- (i) Damages;
- (ii) Interest pursuant to s. 34(1) of the Judicature Law (1995 Revision); and
- (iii) Costs.

Dated this 15<sup>th</sup> day of January, 2002.

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Boxalls  
Attorneys for the Plaintiffs

This WRIT OF SUMMONS and STATEMENT OF CLAIM is issued by Boxalls, Attorneys for the Plaintiffs, whose address for service is: PO Box 1234 GT, 3<sup>rd</sup> Floor, Queensgate House, South Church Street, George Town, Grand Cayman, British West Indies (Reference: 2075-0001/JCC).

**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 495GT, 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.*

BETWEEN:

(1) SHIRLEY PARKER  
(2) JAMES BOGUES

Plaintiffs

- and -

LEONARD BUSH

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.

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**1. State the full name of the Defendant by whom or on whose behalf the service of the Writ of Summons is being acknowledged.**

LEONARD BUSH

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**2. State whether the Defendant intends to contest or otherwise participate in the proceedings (*tick appropriate box*).**

yes

no

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**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

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**Service of the Writ of Summons is acknowledged accordingly.**

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**Attorney for the Defendant**

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 principal office.

Indorsement by Plaintiffs' Attorney of his name, address and reference, if any, in the box below.

Boxalls  
Attorneys-at-Law  
PO Box 1234GT  
George Town  
Grand Cayman, Cayman  
Islands  
British West Indies  
(Reference: 2075-0001/JCC)

Indorsement by Defendant's Attorney (or by Defendant if defending in person) of his name, address and reference, if any, in the box below.

## 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 of 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.