

IN THE GRAND COURT OF THE CAYMAN ISLANDS

BETWEEN:

YVES GOSSELIN



CAUSE NO. 1 OF 2002



PLAINTIFF

AND
THE PERSONAL REPRESENTATIVE OF THE ESTATE OF MARLON MCLAUGHLIN,
DECEASED

DEFENDANT

WRIT OF SUMMONS

TO: The Personal Representative of the Estate of Marlon McLaughlin, deceased.

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, PO Box 495GT, 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 Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 4 February 2002.

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 Acknowledgement of Service are given with the accompanying form.

INDORSEMENT OF INSURER

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the Defendant named herein is Britam Insurance Brokers and Agents (Cayman) Ltd. The address for service is PO Box 2174 GT Grand Cayman, Cayman Islands.

INDORSEMENT AS TO CAPACITY

The Defendant, the personal representative of the estate of Marlon McLaughlin, is sued in a representative capacity being the representative of the estate of the deceased Defendant.

INDORSEMENT OF NATURE OF CLAIM

- 1) The Plaintiff is an individual resident in Quebec Canada. The Plaintiff was injured in a motor vehicle accident occurring on 3 April 1999 in the Cayman Islands and makes claim for injuries sustained and damages incurred as a result of said accident pursuant to the Torts (Reform) Law (1996 Revision).
- 2) On 3 April 1999, the Plaintiff was a passenger in a rented Hyundai Accent motor vehicle bearing registration number 53814 operated by Maurice Martial. M. Martial was driving northbound on Colliers Road in the district of East End.
At the same time, a motor vehicle operated by Marlon McLaughlin (hereinafter referred to as "McLaughlin"), deceased, was travelling southbound on Colliers Road in the district of East End.
- 3) McLaughlin was at all times the owner and operator of a Nissan Pulsar vehicle bearing registration number 67264.
- 4) McLaughlin negligently operated his vehicle and lost control of the vehicle crossing over the road causing his vehicle to collide with the vehicle operated by Martial.

PARTICULARS OF NEGLIGENCE

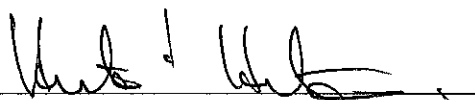
- a) McLaughlin was travelling in excess of a safe speed given the conditions of the road.
- b) McLaughlin failed to keep the motor vehicle under proper control.

- c) McLaughlin failed to exercise due care and skill in the management of his motor vehicle.
 - d) On the occasion in question he was an incompetent driver lacking any reasonable skill or self-command and ought not to have attempted to operate a motor vehicle.
 - e) McLaughlin failed to take reasonable care to avoid an accident, which he saw, or should have seen, was likely to happen.
 - f) McLaughlin was travelling in excess of the posted speed limit for the portion of Colliers Road where the accident occurred.
 - g) McLaughlin was operating a vehicle while he was legally impaired to operate a motor vehicle.
 - h) McLaughlin was operating a motor vehicle shortly after the consumption of alcohol, thus impairing his ability to operate a motor vehicle and to make decisions in respect of the operation of a motor vehicle.
 - i) McLaughlin failed to ensure that his motor vehicle could safely be operated or controlled at speeds at which he drove his vehicle.
- 5) As a result of the accident, the Plaintiff, Gosselin, suffered severe injuries which are summarised as follows:
- a) cerebral concussion;
 - b) fracture of left clavicle without displacement;
 - c) compound fractures of left radius and ulna (3 open fractures to cubitus, 1 open fracture to radius, 20 cm open wound);
 - d) fracture of right foot calcaneus;
 - e) compression fracture of L5 vertebra;
 - f) multiple fractures of left ribs
 - g) fracture of C3 vertebra without displacement;
 - h) fracture of right pelvic bone;
 - i) left pneumothorax;
 - j) small intestine perforation and peritonitis;
 - k) broken teeth;
 - l) 5.5 cm. cut above right eye with reduced scarring.

6) At the time of the accident, the Plaintiff was 43 years of age (date of birth 5 December 1955). He enjoyed excellent health and lived a full and busy life. Further, he was a senior executive in a major Canadian corporation. As a result of the negligence of the deceased, Marlon McLaughlin, the Plaintiff has suffered loss or damage as follows:

- a) loss of income;
- b) loss of professional opportunity;
- c) special damages for medical care and other expenses arising from the accident and his injuries;
- d) general damages for pain, suffering and loss of amenities;
- e) pre judgment post judgment interest in accordance with the Judicature Law (as amended) and
- f) such other loss as may later be claimed.

Dated: February 2002



Hunter & Hunter
Attorneys-at-Law for the Plaintiffs

TO: The Clerk of the Court
Court House
Grand Cayman

AND TO: The Personal Representative
Of the Estate of Marlon McLaughlin, Deceased

Filed by Hunter & Hunter Attorneys-at-Law for the Plaintiff whose address for service is 75 Fort Street, P.O. Box 190 GT, George Town, Grand Cayman (Ref:WAS/08936.001)

IN THE GRAND COURT OF THE CAYMAN ISLANDS

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YVES GOSSELIN

PLAINTIFF

AND

THE PERSONAL REPRESENTATIVE OF THE ESTATE OF MARLON
MCLAUGHLIN, DECEASED

DEFENDANT

ACKNOWLEDGEMENT OF SERVICE

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.

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

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

YES

NO

Service of the Originating Summons 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 principal office.

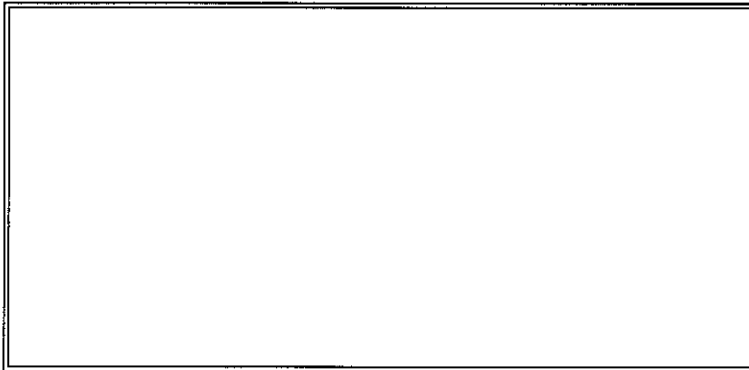
Please complete overleaf

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

Hunter & Hunter
75 Fort Street
The Huntlaw Building
P.O. Box 190 GT
Grand Cayman
Cayman Islands

Ref: WAS/08936.001

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



DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF ORIGINATING SUMMONS

The accompanying form of *Acknowledgement 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.

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 Court's Office.
2. If you wish to defend claims made in the originating summons, or intend to attend the proceedings and to participate in them so far as necessary (although not necessarily in an adversarial manner) you should tick the "Yes" box in paragraph 2 of the acknowledgment of service.
3. 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.
4. 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 Originating Summons*)".
5. 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.
6. 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.
7. 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.
8. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
9. A Defendant acting in person may obtain help in completing the form at the Courts Office.