

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 285 OF 2002

BETWEEN:

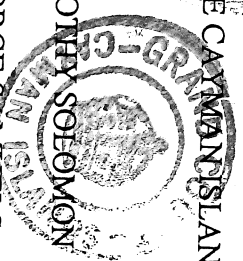
TIMOTHY SOLOMON

PLAINTIFF

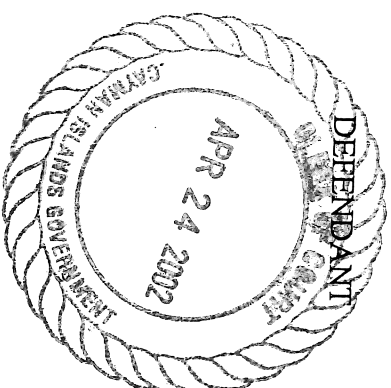
AND:

GEORGE SAMUELS

DEFENDANT



To: George Samuels
Shamrock Road
Savannah, Grand Cayman



WRIT OF SUMMONS

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 service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Courts Office, P.O.Box 495, G.T., 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 fail to 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 at George Town this 28th day of April, 2002.

NOTE: This Writ may not be served later than four (4) calendar months (or if leave is required to effect service out of the jurisdiction, six (6) months) beginning with the day 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. Caymanian who resides at 43 Ryan Road, in George Town, Caym . The defendant resides on Shamrock Road, in Savannah, Grand Caym
2. On or about 25th April, 1999, at approximately 9:45 a.m., the plaintiff was driving a motor vehicle in the east bound lane of Shamrock Road in the vicinity of the east entrance to the Hurley's Supermarket car park.
3. On the same date and at the same time, the defendant was driving a motor vehicle in the center west bound lane of the said Shamrock Road, in the same vicinity, in the direction of George Town.
4. There were other vehicles in front of the defendant's automobile, heading in the same direction as he was, all of which had stopped and were stationary.
5. The defendant failed to notice that the traffic in front of him had come to a halt. When he realised that the vehicles in front of him were stationary, it was too late for the defendant to stop safely and he veered to the right into the east bound lane of Shamrock Road immediately in the path of the plaintiff's vehicle. The

defendant's automobile almost immediately collided with the vehicle driven by the plaintiff.

6. The defendant's negligence was the sole cause of the collision described above ("the collision").

PARTICULARS OF NEGLIGENCE

- (a) The defendant failed to discharge his duty of care towards other vehicles travelling on the same public road as he was and, in particular, his duty of care to the plaintiff.
- (b) The defendant was driving in the right hand lane at the time of the collision.
- (c) The defendant failed in his duty to keep to the left half of the road on which he was travelling.
- (d) The defendant failed to discharge his duty to drive in such a manner as to have full control of his vehicle at all times.

- (e) The defendant failed in his duty to drive in such a manner and at such a distance from other vehicles as to be able to stop without being involved in a collision.
- (f) The defendant failed in his duty so to manage his vehicle as to be able to stop within the limit of vision available to him at the relevant time.
- (g) The defendant failed in his duty to keep a watch on the road in front of the vehicle which he was driving.
- (h) The defendant failed in his duty to pay attention, or sufficient attention, to the traffic in front of his vehicle.
- (i) The defendant failed in his duty to stop and to give prior warning of his decision to enter the right lane of the road on which he was travelling prior to doing so.
- (j) The defendant failed in his duty to observe, and watch for, traffic coming in an easterly direction, i.e. towards him.

7. The Defendant was charged with the offence of careless driving as a result of the collision. He pleaded guilty thereto before the Summary Court on the 25th October, 1991 and was fined C1\$150.00. His driver's license was ordered endorsed.

8. The plaintiff sustained serious injuries as a result of the collision.

PARTICULARS OF INJURIES

The plaintiff suffered injuries to his leg and hip as a result of the collision. He was ambulanced to the George Town Hospital, treated and released. It appears that his true physical condition was overlooked at the George Town Hospital because a few weeks after the accident, he started to feel pains in his right leg and right hip and had to return to the George Town Hospital. An x-ray of the back was performed and the plaintiff was later told by the physician who ordered the X-ray to go and seek physiotherapy, which was initially done at the said hospital.

The plaintiff has had nine therapy sessions with a chiropractor but this has not helped him much. Further x-rays of the hip and leg were performed at the Chrissie Tomlinson Memorial Hospital with the physician recommending additional therapy. He has been unable to continue treatment due to lack of funds. There has been a marked qualitative change in the plaintiff's life, and

lifestyle as a result of the accident.

At present, the plaintiff suffers from a numbness in his right leg and pain in his hip. He is unable to bend repeatedly or sit for any period of time and after extended sitting he has to shift to his left side, stretch the leg all the way out before the pain in his to right leg eases him a bit..

Prolonged walking exacerbates the situation. He also suffers from bladder problems which were not present prior to the accident.

The plaintiff requires proper diagnosis, the first step to recovery or partial recovery. One of his physicians has recommended that he needs to undergo a battery of test and examination, including an MRI, which he cannot afford.

It is hoped that with the proper treatment, the plaintiff will respond positively and thus improve his quality of life.

9. The plaintiff was prior to the collision gainfully employed in his own business of cabinet making. His income immediately prior to the collision, averaged between CI\$150-200.00 per day or CI\$3000-\$4,000.00 per

month. The business is now closed as he is unable to fully operate it as a result of his injuries.

10. The plaintiff has incurred medical expenses as a result of the said injuries.

PARTICULARS OF SPECIAL DAMAGES

(a) Medical expenses	CI\$ 975.00
(b) Medical Report	unknown
© Loss of income	CI\$2,200.00

11. The plaintiff also claims from the defendant damages for pain, suffering and loss of amenities resulting from the injuries which he sustained in the collision as well as psychological damages.

12. The plaintiff also claims from the defendant future medical expenses and future loss of income.

13. To date the plaintiff has not been compensated at all for the injuries which he sustained.

AND THE PLAINTIFF CLAIMS FROM THE DEFENDANT

- (a) DAMAGES
- (b) PRE-JUDGMENT INTEREST according to statute or the law.
- (c) POST-JUDGMENT INTEREST according to statute or law.
- (d) FURTHER and/or other relief.
- (e) COSTS

Dated this 23rd of April, 2002.



Morris M Garcia

attorney-at-law for the plaintiff.

To: The Clerk of the Court

And to: The Defendant
George Samuels
Shamrock Road
Savannah
Grand Cayman

STATEMENT REGARDING INTEREST

- (i) The prescribed rate of interest was 7% per annum up to March 31, 2000, 8% per annum from 1st April 2000 to May 31, 2001, 6 1/4% from June 1, 2001 to November 31, 2001 and 4 1/2% from December 1, 2001 to date.
- (ii) The date which the plaintiff wishes the interest to be calculated is, in the case of special damages, the dates on which they were paid and, in the case of general damages, the dates on which they were sustained.
- (iii) The plaintiff is unable to state the total amount of interest claimed as his claim is not liquidated.

INDORSEMENT AS TO INSURER

The motor vehicle which the plaintiff was driving at the time of the collision and the motor vehicle which the defendant was driving at that time were both insured with Colin Luke & Associates (Insurance) Ltd, whose address is Swara House, West Bay Road, PO Box 144 GT, Grand Cayman, Cayman Islands, BWI.

THIS WRIT OF SUMMONS was issued by Morris M Garcia, the attorney-at-law for the plaintiff, whose address for service is that of her said attorney-at-law, Nevlaw Building, Sheddon Road, PO Box 1185 GT, George Town, Grand Cayman, Cayman Islands, British West Indies.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2002

BETWEEN: TIMOTHY SOLOMON

PLAINTIFF

AND: GEORGE SAMUELS

DEFENDANT

ACKNOWLEDGMENT OF SERVICE OF THE 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 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 sum, 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

_____ no

PLEASE COMPLETE OVERLEAF

Service of the Writ is acknowledged accordingly.

(Signed) _____

[Attorney] for:

[Defendant in person]

Address for service:

Notes on address for service

Attorneys: 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 acting in person) of his name, address and reference, if any, in the box below:

Morris M Garcia
Attorney-at-law
P.O.Box 1185GT
Grand Cayman

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

**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 495, George Town, Grand Cayman.

2. A defendant who states in his Acknowledgement of Service that he intends to contest the proceedings must also serve a defence on the attorney for the plaintiff (or on the plaintiff acting in person).

If a Statement of Claim is endorsed on the Writ (ie. 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 a Statement of Claim is not endorsed 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 (ie 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 affidavit of his means. The affidavit should state any offer which the defendant desires to make for the payment of the money by installments 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 a 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.