

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 837 OF 2002

BETWEEN:

KELLY DUNAWAY

Plaintiff

- and -

BRYANT DIXON

Defendant

WRIT OF SUMMONS

TO: BRYANT DIXON
22 Windsor Park Road
George Town
Grand Cayman

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

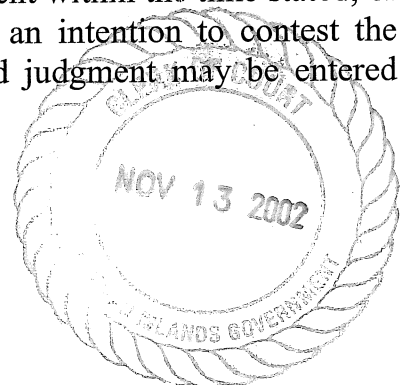
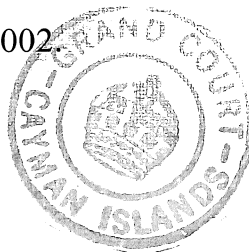
This Writ includes a claim for damages arising out of the use of a motor vehicle which is insured by **Motor & General Insurance Company of PO Box 1094 GT, 320 Shedden Road, George Town, Grand Cayman, Cayman Islands.**

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 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 12th day of November 2002



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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.

IMPORTANT

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

STATEMENT OF CLAIM

1. The Plaintiff is a labourer who is currently residing in Nanaimo, British Columbia, Canada, and has an address for service of P.O. Box 1234 GT, George Town, Grand Cayman, Cayman Islands.
2. At all material times, the Plaintiff was a legal resident of the Cayman Islands and resided at 25 Moon Bay Condos, Pease Bay, Bodden Town, Grand Cayman.
3. At all material times, the Plaintiff was operating his motor cycle, bearing licence plate number 80297, and the Defendant was operating a pickup truck, bearing licence plate number 58866, and towing a boat.
4. On or about 21st February 2001, at approximately 5.50 pm the Plaintiff was travelling east on Bodden Town Road at approximately 30 mph behind the Defendant. The Defendant signaled left, but then turned right, into the Plaintiff's path causing a collision the force of which threw the Plaintiff from his motorcycle.
5. The said collision was caused by the negligence of the Defendant.

PARTICULARS OF NEGLIGENCE OF THE DEFENDANT

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- (a) Towing a vehicle in a manner which is likely to cause danger to other users of the road;
- (b) Failing to ensure that all signal lights on vehicle were in proper working order;
- (c) Failing to exercise care and attention when using a road;
- (d) Failing to have due regard to the safety of other road users;
- (e) Failing to drive in such a manner as to have full control of his vehicle at all times;
- (f) Failing to keep a watch on the road behind as well as in front of his vehicle;
- (g) Failing to give proper warning of his intention to turn right by means of the prescribed hand or traffic indicator signals;
- (h) Failing to drive in such a way as to avoid the possibility of collision with the Plaintiff where an intersection or road junction was without a traffic sign or signal giving priority to any road;
- (i) 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;

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- (j) Driving a motor vehicle on a road without due care and attention, or without reasonable consideration for other persons; and
- (k) Driving on a road at a speed in excess of the maximum speed prescribed for the Islands generally or for the place where the vehicle was being driven.

6. As a result of the said collision and the negligence of the Defendant, the Plaintiff has suffered injury, loss and damage and loss of amenity.

PARTICULARS OF INJURY

- (a) Comminuted fracture of left scapula causing tenderness and deformity of left shoulder;
- (b) Dislocated acromio-clavicular joint;
- (c) Left shoulder impingement secondary to weakness of scapular stabilizing muscles;
- (d) Altered biomechanics;
- (e) Joint capsule tightness;
- (f) Fractures of left ribs 3 through 7;

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- (g) Mild stretch injury of the brachial plexus causing tingling and numbness of left little and ring fingers;
- (h) Multiple superficial abrasions;
- (i) Contusion injury to left foot;
- (j) Neck strain; and
- (k) Headaches.

The Plaintiff will refer at the trial of this matter to the medical records of George Town Hospital and Dr. R.M. Morback, and the medical reports of Dr. R.M. Morback dated 11th April 2002, Dr. A. Hutchinson dated 6th December 2001, Summit Injury Management dated 17th October 2001, Dr. Robert Hannon dated 5th November 2001, Dr. K.C. Sekhar dated 2nd May 2001, and Suzette Little, Physiotherapist dated 1st May 2001, and further and/or updated reports at the time of trial.

PARTICULARS OF SPECIAL DAMAGES

- (a) Medical expenses, specific particulars to be provided on discovery;
- (b) Past wage loss; and
- (c) Future wage loss.

A full Schedule of Special Damages will be filed prior to trial.

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7. The Plaintiff claims interest pursuant to s. 34(1) of the Judicature Law (1995 Revision) at the prescribed rate and for such periods as the Court thinks fit.

AND THE PLAINTIFF claims:

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

Boxalls

Boxalls,
Attorneys for the Plaintiff

IN THE GRAND COURT OF THE CAYMAN ISLANDS

837
CAUSE NO. OF 2002

BETWEEN:

KELLY DUNAWAY

Plaintiff

- and -

BRYANT DIXON

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 of Summons is being acknowledged.**

BRYANT DIXON

-
2. **State whether the Defendant intends to contest or otherwise participate in 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 of Summons is acknowledged accordingly.

Attorney for the Defendant

Address for service:

Notes on address for service:

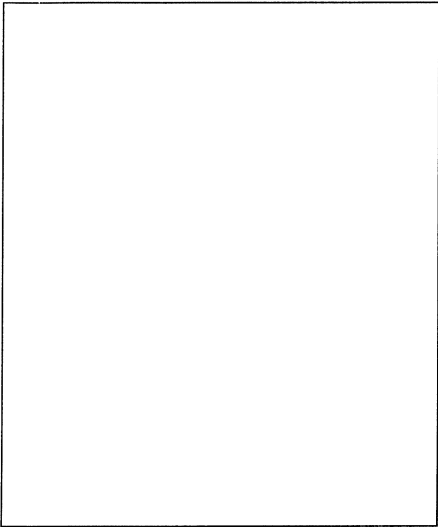
Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

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.

Indorsement by Plaintiff's Attorney (or by Plaintiff is suing in person) 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: 0057- 0025/WJH)

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

A large, empty rectangular box with a thin black border, intended for the indorsement by the defendant's attorney or the defendant.

**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 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.