

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 608 OF 2003  
Legal Aid Certificate No. 74/01

BETWEEN:

JOHN CHRISTIAN WILLCOX

PLAINTIFF

AND

JEREMY DWAYNE MCFARLANE

DEFENDANT

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WRIT OF SUMMONS

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TO: Jeremy Dwayne McFarlane  
Unit 11  
Tropical View Apartments  
Cayman Brac, 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, 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 1<sup>st</sup> September 2003.

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 Cayman General Insurance Company Ltd. The address for service is PO Box 2171 GT Grand Cayman, Cayman Islands.

## STATEMENT OF CLAIM

- 1) The Plaintiff is British national who at the time of the accident material to this proceeding was a resident of Cayman Brac, Cayman Islands. The Plaintiff is currently a resident of the United States. His address for service is in care of his attorneys, Hunter & Hunter, P.O. Box 190 GT Grand Cayman, Cayman Islands.
- 2) The Defendant is an individual who at the times material to issues in this proceeding was a resident of the Cayman Islands.
- 3) On 22 December 2000 an accident occurred involving the Plaintiff and the Defendant the details of which are as follows:
  - a. at approximately 6:48 p.m., the Plaintiff was riding his bicycle on travelling east to west on South Side Road in Cayman Brac. While riding his bicycle the Plaintiff was struck by a vehicle operated by the Defendant, a Toyota Supra bearing registration No. 38637 (hereinafter referred to as "the Defendant's vehicle"), causing damage to his bicycle and injury to himself.
  - b. The Defendant's vehicle was registered to an Erbin Tibbitts Jr.
  - c. Locally, the approximate scene of the accident is known as "south side vicinity of Garston Grant's residence".
  - d. The speed of the Defendant's vehicle was sufficient to knock the Plaintiff from his bicycle and throw or carry him approximately 75 feet from the initial point of impact.
  - e. The weather and visibility conditions reported at the time of the accident were good.
  - f. The Plaintiff was utilising bicycle lights at the time of the accident and that he was operating his bicycle on the correct side of the road.

- g. The Defendant caused the accident and was convicted of a Careless Driving on 17 May 2001.
- 4) The Plaintiff makes claim for injuries sustained and damages incurred as a result of the said accident pursuant to The Torts (Reform) Law (1996 Revision). The Plaintiff states that the Defendant negligently operated the Defendant's vehicle and as a result of such negligence caused the above described accident.

#### **PARTICULARS OF NEGLIGENCE**

- a) The Defendant was travelling in excess of a safe speed given the road and visibility conditions;
  - b) The Defendant failed to keep the motor vehicle under proper control.
  - c) The Defendant 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) The Defendant failed to take reasonable care to avoid an accident, which he saw, or should have seen, was likely to happen.
  - f) The Defendant failed to ensure that his vehicle windshield was adequately transparent in order to properly and safely operate his vehicle.
  - g) The Defendant unsafely attempted to wipe the windshield of his vehicle while continuing to operate his vehicle causing distraction to his driving and impairing his ability to safely operate his vehicle or respond to the existence of the Plaintiff on the road.
- 5) As a result of the accident, the Plaintiff suffered severe injuries which are summarised as follows:

#### **PARTICULARS OF INJURIES**

- a) Lacerations to the head;

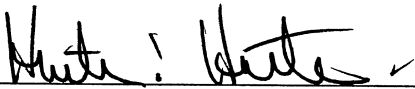
- b) Both Shoulders broken and dislocated shoulder;
  - c) Broken and displaced left pelvis;
  - d) Broken and displaced right pelvis
  - e) Broken left fibula and tibia;
  - f) Lacerations to right knee;
  - g) Spinal fractures.
- 6) At the time of the accident, the Plaintiff was 32 years of age (date of birth 2 March 1968). He enjoyed excellent health and lived a full and busy life. As a result of the negligence of the Defendant, 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) losses for paid and unpaid assistance;
  - f) pre judgment post judgment interest in accordance with the Judicature Law (as amended) and
  - g) such other loss as may later be claimed or set out in the Statement of Claim
- 7) The Plaintiff will provide specific details of the claim for special damages prior to trial.
- 8) As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.

#### **AND THE PLAINTIFF CLAIMS**

- 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. Losses for paid and unpaid assistance;
- F. Pre-judgment post-judgment interest in accordance with the Judicature Law (as amended) and
- G. Such other loss as may later be claimed;
- H. Costs on behalf of the Legal Aid Fund
- I. Such Further and Other relief as this Honourable Court deems appropriate.

Dated: September 2003



Hunter & Hunter  
Attorneys-at-Law for the Plaintiff

TO: The Clerk of the Court  
Court House  
Grand Cayman

AND TO: The Defendant

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/08954.001)