

Writ of Summons (O.6, r.1)

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. 262 OF 2004

BETWEEN RICHARD DELGARDO
AND EDWARD SCOTT

PLAINTIFF
DEFENDANT

SPECIALY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: EDWARD SCOTT c/o Quin & Hampson Harbour Chambers, Third Floor, Harbour Centre, PO Box 1348, George Town, Cayman Islands, BWI.

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 495G, 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 20 day of May 2004

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. On 28 May 2004, the Plaintiff was riding his bicycle Reverand Blackman Road in the direction of West Bay Police Station when the defendant, so negligently drove a motor vehicle **Toyota Hilux registration number 83703** that it collided with the rear and right hand side of the plaintiff whilst riding his bicycle and knocked the plaintiff to the ground.

PARTICULARS OF NEGLIGENCE

- a Driving too fast.
- b Failing to keep any or any proper look-out or to have any or any sufficient regard for the cyclist in the road.
- c Colliding with the rear of the cycle being ridden by the Plaintiff.
- d Failing to see the plaintiff in sufficient time to avoid colliding with him or at all.
- e Failing to stop, to slow down, to swerve or in any other way so to manage or control the motor vehicle as to avoid the collision.

2. Further the Defendant was convicted on 13 December 2001 in the Summary Court sitting in George Town of the offence of careless driving, contrary to section 69 of the Traffic Law (2001 Revision). The said conviction is relevant to the issue of negligence and the Plaintiff intends to rely on it as evidence in this action.

3. By reason of the matters aforesaid, the Plaintiff suffered pain, sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

The Defendant's date of birth is 14 May 1977. The Plaintiff suffered personal injuries as a result of the accident for which he required immediate hospitalization on 28 May 2001. He was released from Hospital in October 2003. The Plaintiff suffered a laceration to the rear of his right arm for which he received treatment. The medical report of Dr. Gnanavolivu FRSC dated 26 February 2002 is attached and further particularizes the Plaintiff's claim.

PARTICULARS OF SPECIAL DAMAGE


Date	Description	Costs (CI\$)
May 2001 to date	medical expenses	1,427.43

AND the Plaintiff claims

- (i) Damages
- (ii) Special Damages of CI\$1,427.43.

(iii) Further, pursuant to The Judicature Law (1995 Revision), the Defendant is entitled to and claims interest on such sums as are found to be due at such rate and for such period as the Court shall think fit.

(iv) Costs

A handwritten signature in black ink, appearing to read 'Clyde H. Allen', written over a horizontal line.

WOODWARD TERRY & COMPANY

THIS WRIT was issued by Clyde H. Allen whose address for service is Woodward Terry & Company, Attorneys-At-Law PO Box 822 GT, West Wind Building, Harbour Drive and Fort Street, Grand Cayman, Cayman Islands, BWI.

Tel: (345)-949-8600
Ext: 2794/5
Fax: (345)-949-2998



CAYMAN ISLANDS

Cayman Islands Health Services
George Town Hospital
P.O. Box 915 GT
Grand Cayman
Cayman Islands, B.W.I.

26 February 2002

CONFIDENTIAL MEDICAL REPORT

RE: Delgado RICHARDS

DOB: 14 May 1977

192603

This patient was a cyclist and was knocked down by a van on 28th May 2001. He had no history of loss of consciousness; he had a laceration over the right arm; no other injuries made out; elbow movements were full; there was some crepitus over the deltoid due to subcutaneous emphysema; no evidence of radial nerve involvement. He was taken to the operating room on 29th May 2001 and the wound was explored. He had a laceration about 7 inches on the back of the arm, extending into the armpit. A piece of metal about 1 inch long was removed from the wound and this was handed over to the patient. The wound was washed out. There was a tear on the triceps muscle but no other evidence of damage to any other structures. Closed with vicryl and skin clips. He was sent home the following day.

I saw him in the clinic on 4th June 2001 when he complained of some pain over the lower chest in the region of 7, 8 and 9th ribs which are a bit tender in the front. He may have a cracked rib. I saw him 2 days later and removed all the clips and the wound appeared clean. His shoulder abduction was 90°. Finally I saw him on 19th June 2001 when the wound had completely healed and he had full range of movements in his shoulder with some induration around the scar with no evidence of infection. I discharged him from the clinic.

PROGNOSIS

The soft tissue injury to his arm should not cause any long-term problem as regards movement or any joint problems. He will have a fully functional arm with no long-term risk of any disability.

Dictated and signed by

DR S GNANAVOLIVU FRCS (Edin)
ORTHOPAEDIC CONSULTANT

IN THE GRAND COURT OF THE CAYMAN ISLAND
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CAUSE NO. ²⁶² OF 2004

BETWEEN
AND:

RICHARD DELGARDO
EDWARD SCOTT

PLAINTIFF
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 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 a 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 is acknowledged accordingly

(Signed).....

[Attorney] for

Address for service: (please see overleaf)

Please complete overleaf

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 or principal office.

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

C. H. Allen
Woodward Terry & Company
Attorneys-At-Law
PO Box 822 GT
West Wind Building
Harbour Drive and Fort Street
Grand Cayman
Cayman Islands

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