

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE No: <sup>23</sup> OF 2005

BETWEEN: THORNTON MUSTARD

PLAINTIFF

AND: BRITISH CAYMANIAN INSURANCE  
COMPANY LIMITED

DEFENDANT

WRIT OF SUMMONS

TO: British Caymanian Insurance Company Limited, whose registered office is situate at PO Box 1043GT Caledonian Bank and Trust, 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 overleaf.

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 495GT, 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 <sup>21<sup>st</sup></sup> day of January 2005.

**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 Acknowledgment of Service are given with the accompanying form.

**THE PLAINTIFF'S** claim against the Defendant is as follows:

**STATEMENT OF CLAIM**

1. By a settlement made in writing on or about 17 November 2004, the Plaintiff and the Defendant agreed that the Defendant would pay the Plaintiff the sum of C1\$32,831.00 in settlement of a claim which the Plaintiff had made under a policy of insurance concluded with the Defendant on or about 22 July 2004 pursuant to which the Defendant agreed to insure the Plaintiff's Subaru Impreza STi motor vehicle ("the motor vehicle") ("the Settlement Agreement").
2. The Settlement Agreement was concluded by the Plaintiff's acceptance, contained in and/or evidenced by a letter from the Plaintiff to the Defendant dated 17 November 2004, of an oral offer made by Angela Graham (an employee of the Defendant), on behalf of the Defendant, to Wanda Ebanks, acting on behalf of the Plaintiff, to pay the Plaintiff the said sum of C1\$32,831.00 in settlement of his insurance claim.
3. It was an express term, alternatively an implied term necessary to give business efficacy thereto, of the Settlement Agreement that payment of the sum of C1\$32,831.00 would be made forthwith on delivery by the Plaintiff to the Defendant of the keys and the logbook relating to the motor vehicle.
4. On or before 3 December 2004, the keys and the logbook relating to the motor vehicle were duly delivered to the Defendant. Shortly thereafter, the Defendant took possession of the motor vehicle.
5. Despite demands, and in breach of the requirements of the Settlement Agreement, the Defendant has failed to pay the said sum of C1\$32,831.00 or any part thereof to the Plaintiff. Paralegals acting on behalf of the Plaintiff attended at the offices of the Defendant on two occasions after 3 December 2004 and despite waiting for an hour on each occasion, the Defendant failed and refused to make any payment of the sum due to the Plaintiff. Further, the Plaintiff's attorneys made a formal written demand for payment of the said sum of C1\$32,831.00 by letter dated 13 January 2005, which demand has been ignored.
6. The Plaintiff is entitled to and does claim interest pursuant to Section 34 of the Judicature Law (2004 Revision) at the rate of 3% per annum on the sum of C1\$32,831.00 from 3 December 2004 until the date of the Writ. Interest for the period 3 December 2004 to 21 January 2005 at the rate of 3% per annum amounts to the sum of C1\$132.22. Interest as aforesaid continues to accrue at the daily rate of C1\$2.70 until judgment or sooner payment.
7. In the alternative to paragraph 7 above, the Plaintiff is entitled to and does claim interest pursuant to Section 34 of the Judicature Law (1995 Revision) at such

rates, for such periods and on such sums as to the Court shall seem just.

**AND THE PLAINTIFF CLAIMS AGAINST THE DEFENDANT:**

- (1) The sum of CI\$32,831.00.
- (2) Interest pursuant to Section 34 of the Judicature Law (2004 Revision) from 3 December 2004 to 20 January 2005 at the rate of 3% per annum amounting to the sum of CI\$132.22.
- (3) Continuing interest pursuant to Section 34 of the Judicature Law (2004 Revision) at the daily rate of CI\$2.70 until judgment or sooner payment.
- (4) In the alternative to (2) and (3) above, interest pursuant to Section 34 of the Judicature Law (2004 Revision) on such sums at such rates and for such periods as to the Court shall seem just.
- (5) Further or other relief.
- (6) Fixed costs of CI\$500 plus prescribed court fees of CI\$150 and ad valorem fee of CI\$228.31.

**Endorsement regarding interest under GCR Order 6 Rule 2(f)**

- (i) The prescribed rate of interest is 3% per annum in accordance with the Judicature Law (2004 Revision) and the Judgment Debts (Rates of Interest) Rules 2003.
- (ii) The date from which interest is calculated is 3 December 2004.
- (iii) The total amount of interest claimed as at the date of the issue of the Writ is CI\$132.22.
- (iv) The amount of interest accruing each day following the issue of the Writ is CI\$2.70.

If within the time for returning the Acknowledgment of Service, the Defendant pays the total amount claimed of C1\$33,841.53 (including interest and costs) further proceedings will be stayed. The money must be paid to the Plaintiff or his Attorneys.



Truman Bodden & Company  
Attorneys-at-law for the Plaintiff

**THIS WRIT** was issued by Truman Bodden & Company, Attorneys-at-Law, whose address for service is 5<sup>th</sup> Floor, Anderson Square Building, PO Box 866GT, George Town, Grand Cayman, British West Indies (reference PWJ), Attorneys for the Plaintiff, Thornton Mustard, whose address is Bayfield House, Lydford, Okehampton, Devon, United Kingdom EX20 4BH.