

HA # 100/06

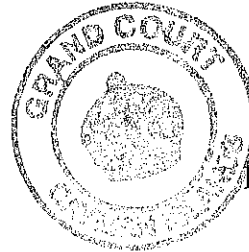
IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. ⁴⁷⁵ OF 2006

BETWEEN: Turley Albert EBANKS

AND: Collin SIMPSON

AND: MASSIVE EQUIPMENT RENTAL & SALES



Plaintiff

First Defendant

Second Defendant

WRIT OF SUMMONS

TO: Collin Simpson

AND TO: Massive Equipment Rental & Sales
P.O. Box 11730 APO
Grand Cayman, KY1-1010
#134 Industrial Way
Airport Industrial Park
Grand Cayman

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 Court Office, P.O. Box 495 GT, George Town, Grand Cayman, the accompanying Acknowledgement of Service, stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or 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 judgement may be entered against you forthwith without further notice.

Issued this 10th day of November 2006

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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. of 2006

BETWEEN: Turley Albert EBANKS Plaintiff

**AND: COLLIN SIMPSON
First Defendant**

**AND: MASSIVE EQUIPMENT RENTAL & SALES Ltd.
Second Defendant**

STATEMENT OF CLAIM.

1. The Plaintiff is a Caymanian Citizen currently residing at 78 Powell Smith Drive, West Bay. at all material times was a bus driver and the owner of the bus with the registration number 90051. At the time of the accident the plaintiff was aged 47.
2. The first Defendant is a resident of the Cayman Islands and was, at the material time of the accident, in the employment of the second Defendant as the driver of the truck registration 78136.
3. The second Defendant is a company registered under the Companies Law of the Cayman of the Cayman's Islands and has its registered office at #134 Industrial Way, Airport Industrial Park, Grand Cayman. The principle business of the second Defendant is the hire of equipment and plant rental. They were also the owners of the truck registration 78136.
4. On the 12th November 2003 at approximately 18.45, the Plaintiff Mr. Ebanks was driving a #2 Mitsubishi Bus (registration number 90051) southwards along the

West Bay Road at approximately mph. On the West Bay Road at the point that it intersects with Safe Haven Drive was a GMC truck (registration number 78136) facing northwards being driven by the First Defendant and owned by the second Defendants. The truck had moved into the middle lane as the plaintiff approached the junction with Safe Haven Drive. However, the truck did not stop in the middle lane, but suddenly turned right into Safe Haven Drive. Although there was enough time for the truck to enter into Safe Haven Drive the trailer was still in the West Bay Road and the bus being driven by the Plaintiff collided with it. The Plaintiff had seen the truck and attempted to stop but did not have enough time to do so and collided with the trailer of the truck. On the trailer was a generator that was knocked off as a result of the impact.

5. As a result of the collision, there was damage to the Plaintiff's vehicle and person (as detailed below).
6. The accident was caused by the negligence of the first Defendant (as detailed below).
7. The First defendant with the assistance of another employee from Massive Rental Equipment and Sales Ltd. assisted the first Defendant in moving the trailer and the generator from obstructing the West Bay Road. As a result when the police arrived they did not see the vehicles in situ.

8. **PARTICULARS OF NEGLIGENCE OF THE FIRST DEFENDANT**

The first Defendant was negligent in that he:

- i. drove too fast in the circumstances
- ii. failed to stop in the turning lane at Safe Haven Drive, although there was oncoming traffic.

- iii. failed to give the Plaintiff right of way on the southbound carriageway of the West Bay Road.
 - iv. failed to give any or sufficient warning of turning.
 - v. failed to keep any or a proper look.
 - vi. failed to take into account the length of the vehicle when turning into Safe Haven Drive.
 - vii. failed to wait for a sufficient gap in the oncoming south-bound traffic so as to be able safely and properly make his manoeuvre without causing a collision with the Plaintiff's bus.
9. At the time of the accident the first defendant was in the employment of and engaged by the second defendant and the second defendant is responsible for his acts and omissions.
10. As a result of the accident the plaintiff has suffered pain injury and sustained loss and damage.

11. **PARTICULARS OF INJURY.**

- i. Shock
 - ii. Severe pain to the lower back
 - iii. Severe pain to the legs
12. The Plaintiff was born on the 1st of June 1957 and at the time of the accident was 47 years old. Immediately, after the accident the Plaintiff was not in pain, however after two days he was taken to Georgetown Hospital where he was admitted as an emergency patient. He was x-rayed and examined, given various

pain killers and then discharged. The client's mobility has since this time become severely limited. In addition the Plaintiff was unable to sit for any sustained periods of time and therefore was unable to continue driving his bus.

13. Further particulars of the plaintiff's injuries are established in the medical report to be served.

14. **PARTICULARS OF SPECIAL DAMAGES**

The special damages claimed by the claimant are set out in the Schedule of Past and Future Expense and Losses served with these Particulars of Claim.

15. The special Damages are continuing.

16. The Plaintiff will also claim loss of future earnings/ earning capacity/ handicap on the labour market as well as future medical and other expenses.

17. Further the Plaintiff claims interest pursuant to section 34 of the Judicature Law at such a rate and for such a period as this Honourable Court seems just.

AND the plaintiff claims:

- (i) Damages
- (ii) Interest to be assessed
- (iii) Costs
- (iv) Such further and / or other relief as may be just

L.A. Samson & Co

L.A. Samson & Co.
Attorneys-at-Law for the Plaintiffs

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. of 2006

BETWEEN: Turley Albert EBANKS Plaintiff

**AND: COLLIN SIMPSON
First Defendant**

**AND: MASSIVE EQUIPMENT RENTAL & SALES Ltd.
Second Defendant**

STATEMENT OF PAST AND FUTURE EXPENSE AND LOSSES.

	\$CI
1. Damage to vehicle	250.
2. Loss of Earnings as a self –employed bus driver from the 12th November – 10th December 2003	8125.
3. Medical Expenses	640
4. Pharmaceutical purchases	120
6. Court and Hospital records	86.00
7. Future medical expenses	6000
8. Future pharmaceutical purchases	350
Total	15,571

TO: The Clerk of the Court

AND TO: Massive Equipment Rental & Sales Ltd.
PO Box 11370 APO, Grand Cayman, KY1-1010
#134 Industrial Way, Airport Industrial Park, Grand Cayman

AND TO: Collin Simpson

This Writ was issued by Messrs. L.A. Samson whose address for service is the Third Floor of the Genesis Buildings, Genesis Close, PO Box 446 GT, George Town, Grand Cayman.

Acknowledgment of service of writ of summons (O.12, r.3)

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 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.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

L/A # 100/06

CAUSE NO. 475 OF 2006

BETWEEN: Turley Albert EBANKS Plaintiff

AND: Collin SIMPSON First Defendant

AND: MASSIVE EQUIPMENT RENTAL & SALES
Second Defendant

ACKNOWLEDGEMENT 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 judgement being entered against a Defendant whereby he May have to pay the costs of applying to set it aside.

1. State the name of the Defendant by whom or on whose behalf the service of this Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick the 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 judgement entered by the Plaintiff (tick box).

yes

no

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for

[Defendant in person]

Address for service:

***Please complete overleaf
Notes on address for service***

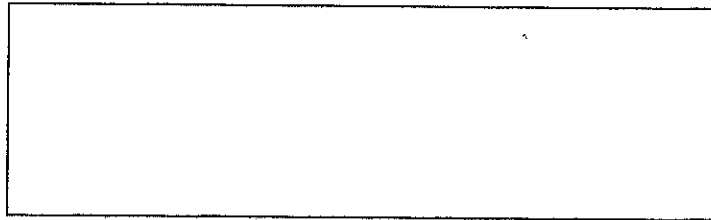
Attorney: where the Defendant is represented by an Attorney, state the Attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign Attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office 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 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:

Messrs. L.A. Samson
Attorneys-at-Law
Third Floor, Genesis Buildings
Genesis Close
PO Box 446 GT
George Town
GRAND CAYMAN

Indorsement by Defendant's Attorney (or by Defendant if 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 of the defendant's name, address, and reference.