

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 207 OF 2007

BETWEEN:

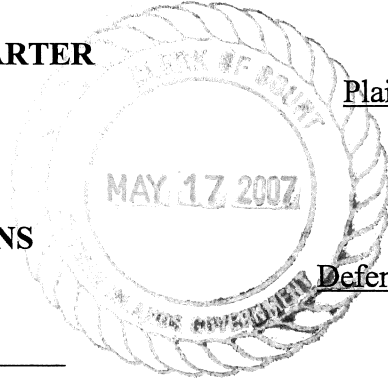
CLIVE AUSTERLEE CARTER

Plaintiff

-AND-

SHARON F. COLLINS

Defendant



WRIT OF SUMMONS

TO: SHARON COLLINS
Washington Boulevard
Cayman Islands, B.W.I.

AND TO: BRITISH CAYMANIAN INSURANCE COMPANY LTD.
BritCay House
236 Eastern Avenue
P.O. Box 74 GT
Grand Cayman, B.W.I. (Pursuant to GCR Order 6, Rule 4.)

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 fourteen (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 495 GT, Grand Cayman, Cayman Islands, 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 17th day of May 2007

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 issued unless renewed by order of the Court.

IMPORTANT

Directions for Acknowledgement of Services are given with the accompanying form.

This Writ of Summons was issued by Broadhurst Barristers, Attorneys for the Plaintiff, whose address for service is 40 Linwood Street, P.O. Box 2503, Grand Cayman KY1-1104.

STATEMENT OF CLAIM

1. The First Plaintiff is a Honduranian citizen residing at 2C Water Course Road, West Bay. He is employed in the Maintenance Department of the Department of Environmental Health ("DEH").
2. The Defendant is Caymanian and resides at Washington Boulevard, Grand Cayman. She is also an employee of the DEH.
3. On or about July 9, 2004 at approximately 2:30 pm, the Plaintiff was riding his bicycle along Success Circle, in a southerly direction, towards the exit gate leaving the Environmental Health compound in North Sound.
4. The Defendant was driving a green Daihatsu Terios motor vehicle registration number 82 318. The Defendant was also travelling south towards the gate of the DEH.
5. The Plaintiff had stopped and was parked on the right shoulder of the road when the Defendant struck the Plaintiff from behind at speed. The Plaintiff was thrown into the air, landed on the Defendant's windscreen, smashing it on impact with his head.
6. As a result of the collision, the Plaintiff suffered personal injuries, pain and suffering. He was taken to the George Town Hospital by ambulance. The bicycle on which he was riding was completely destroyed.
7. The said accident was caused by the Defendant's negligence and or breach of statutory duty under Sections 59 and 60 of the Traffic Law (2001 Revision).

PARTICULARS

The Defendant was negligent and is guilty of breaches of the said statutory duties by:

- a) Failing to exercise due care and attention when using the road and to have due regard to the safety and comfort of other road users and the preservation and protection of public and private property;
- b) Failing to drive in such a manner so as to have full control of the vehicle at all times;
- c) Driving at a speed which was too fast in the circumstances;

- d) Failing to keep any, or any proper, look-out or to have any sufficient regard for other road users;
- e) Driving the vehicle so as to collide with the Plaintiff;
- f) Failing to stop, to slow down, to swerve, or control her vehicle so as to avoid the accident;
- g) Failing to give any adequate warning of her approach;
- h) Failing to see the Plaintiff in sufficient time to avoid colliding with him or at all;
- i) Failing to exercise reasonable skill and care to be expected of a reasonably skilful and careful driver in the circumstances;
- j) To drive at such a speed and in such a manner and at such a distance from other vehicles as to be able to stop in an emergency without being involved in a collision; and
- k) To keep a watch on the road behind as well as in front of the vehicle being driven.

9. By reason of the Defendant's negligence and/or breach of duty the Plaintiff has suffered injury and loss and damage.

PARTICULARS OF INJURIES

The Plaintiff suffered very serious injuries as a result of the accident and continues to suffer as a result of the injuries sustained. The injuries include:

- (i) closed head injury;
- (ii) right upper limb paralysis;
- (iii) right knee injury; and
- (iv) multiple abrasions and lacerations.

The Plaintiff was born on April 28, 1975 and was 29 years old at the time of the accident. He was initially taken to the George Town Hospital by ambulance where he was treated for multiple cuts and abrasions and sent home.

The following morning, the Plaintiff manifested symptoms of a serious brain injury. That evening he presented at the George Town Hospital with

incoherent speech. On being admitted his condition deteriorated rapidly. He presented in an acute confusional state, unable to understand spoken commands, unable to balance himself, a complete loss of speech (aphasia), and general upper right side paralysis. Further deterioration in the Plaintiff's condition occurred as the Plaintiff suffered multiple *gran mal* seizures. He also became incontinent.

While at the George Town Hospital, the Plaintiff was treated with pain killers, sleep medication, antibiotics and various MRI and CT scans were undertaken. With the onset of seizures he was given anti-convulsant drugs.

On July 16, 2004, the Plaintiff was transferred to the Intensive Care Unit of the George Town Hospital for closer monitoring.

The decision was taken on July 17, 2004 to airlift the Plaintiff to South Miami Hospital after the bouts of seizure became more intense. He spent 14 days in the Hospital there.

In Miami, the Plaintiff was investigated for gyral oedema and swelling in the brain caused by trauma. His treatment was continued and additional MRI and CT scans performed.

The Plaintiff remained aphasic throughout much of July 2004. By July 28, 2004, the Plaintiff was remembering more and more family members and gradually regained his ability to speak, initially only able to verbalise "yes" or "no".

His right body paralysis, tenderness and oedema were investigated by means of colour flow duplex imaging. The diagnosis was a venous thrombosis of the right basilic vein from wrist to shoulder. A right subclavian vein venous catheter (CPV) was placed. This was later removed as it became partially dislodged and was malfunctioning. Thereafter, a left internal jugular vein triple lumen catheter with tip in the right atrium was placed. The Plaintiff's right arm was kept elevated, and he was given painkillers. Over time, the Plaintiff recovered movement in his fingers, wrist, elbow and shoulder.

On July 31, 2004, the Plaintiff was discharged from the South Miami Hospital and for the next 4 days, his medication was administered by arrangement with a home care company in Miami, on an out patient basis. Subsequently, the South Miami Hospital discharged the Plaintiff to the care of his physicians in Cayman.

On August 5, 2004, the Plaintiff returned to Cayman to continue his treatment at the George Town Hospital. He reported to the George Town Hospital on August 6, 2004.

The Plaintiff has a past history of a benign frontal brain tumor which was removed some 13 years ago in May of 1994. He remained asymptomatic since that surgery with no neurological deficits. He had enjoyed a healthy lifestyle prior to the accident and had no functional limitations whatsoever.

As a result of his closed brain injury, the Plaintiff suffers from epilepsy. He is on medication to control it. His physicians are unable to say whether or when he may be weaned from his anti-convulsant medication. The Plaintiff also complains of a decrease in memory, manifested by the fact that he has difficulty concentrating, misplaces things regularly, forgets appointments, and has difficulty performing simple functions.

The Plaintiff also suffers from bouts of dizziness and has regular painful headaches.

The Plaintiff's other physical injuries have also affected him permanently. More than two years after the accident, he continues to complain of pain in both shoulders but in the right shoulder more so than the left. The Plaintiff is right-handed and it appears that he will never regain full range of motion in his right shoulder. Additionally, since the accident he has not been able to assist with the lifting of equipment on the job, as he has very little strength in that shoulder.

The Plaintiff still experiences occasional pain in his lower back and right knee. The Plaintiff complains that after long periods of standing, he has to rest his right knee and that it makes a loud 'cracking' sound when it is moved from a resting position.

Since the accident, the Plaintiff has complained of a loss of hearing in his left ear. On further investigation, he was diagnosed with permanent hearing loss in that ear. That condition is irreversible.

The injuries have permanently affected the Plaintiff's day-to-day life and his ability to look after himself.

The Plaintiff reserves his right to expand upon the above at the trial of this matter.

PARTICULARS OF SPECIAL DAMAGES

The Plaintiff has incurred and continues to incur medical expenses as a result of the accident.

As a result of his injuries, the Plaintiff was unable to work for a little more than 1 year. He returned to work on August 1, 2005.

Full particulars of the Plaintiff's special damages and losses, which are continuing, will be provided at trial.

10. Further, the Plaintiff seek interest on the above special and general damages pursuant to s.34 of the Judicature Law (2002 Revision) at the prescribed rate from the date of accident until the date of issue herein and thereafter upon any sum awarded.

AND THE PLAINTIFF CLAIMS:

- (1) Damages;
- (2) Pre and Post-Judgment interest on the above damages in accordance with Section 34 of the Judicature Law (2002 Revision);
- (3) Such further and other relief as this Honourable Court deems just.

Dated this 17th day of May 2007.

Broadhurst Barristers
BROADHURST BARRISTERS
Attorneys-at-Law for the Plaintiff

This Statement of Claim was issued by Broadhurst Barristers, Attorneys for the Plaintiff, whose address for service is 40 Linwood Street, P.O. Box 2503, Grand Cayman KY1-1104.

INDORSEMENT AS TO INSURER OF MOTOR VEHICLE

The Plaintiff's claim arises out of the use of a motor vehicle on a public road. The insurer of the vehicle of the Defendant named herein is British Caymanian Insurance Ltd., whose address is BritCay House, 236 Eastern Avenue, P.O. Box 74 GT, Grand Cayman, Cayman Islands, British West Indies.

**DIRECTIONS FOR ACKNOWLEDGEMENT OF SERVICE
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgement 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, PO Box 495, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgement 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 endorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2). The defence must be served within fourteen (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 endorsed on the Writ, the defence need not be served until fourteen (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 Acknowledgement of Service, that he intends to apply for a stay, execution will be stayed for fourteen (14) days after his Acknowledgement, 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 installments or otherwise.

Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of fourteen (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 authorized to act on behalf of the Company, but the Company can take no further steps in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL HEALTH 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

CAUSE NO. 207 OF 2007

BETWEEN:

CLIVE AUSTERLEE CARTER

Plaintiff

-AND-

SHARON F. COLLINS

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 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 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
[Defendant in Person]
Address for service:

Please see 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 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.

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

BROADHURST BARRISTERS
ATTORNEYS-AT-LAW
40 LINWOOD STREET
PO BOX 2503
GRAND CAYMAN KY1-1104

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

[Empty box for endorsement by Defendant's Attorney]