

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

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

CAUSE NO. ⁰⁶¹⁴ OF 2007

BETWEEN EDWARD ANDRES EBANKS POWERY PLAINTIFF
AND: NORMAN CLARKE DEFENDANT

SPECIALLY ENDORSED WRIT OF SUMMONS

TO: DEFENDANT: Mr. Norman Clarke, 5 Crescent Close, West Bay, 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 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 13 day of December 2007.

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 26 December 2003 at or about 10 p.m. the Plaintiff was riding his bicycle home from work along the West Bay Road in a northerly direction and had just reached the roundabout at the junction with Easterly Tibbetts By-Pass.
2. The Plaintiff's cycle had lights on it both in the rear and he held a flash light at the front. The Plaintiff was wearing his work uniform which consisted of a light green top and light creamy brown trousers.
3. On approaching the junction the Plaintiff kept close to the left side kerb and stayed within or close to the yellow lines marked on the road.
4. Whilst driving along West Bay Road at its junction with Easterly Tibbetts By-Pass the Defendant so negligently drove his motor vehicle Toyota Bus registration number 89 664 that it collided with the Plaintiff hitting him from behind at the entrance to the junction of the roundabout.

PARTICULARS OF NEGLIGENCE

- (a) Driving too fast in the circumstances or at an excessive speed.
 - (b) Failing to keep any or any proper lookout or to have any or any sufficient regard for the traffic and/or the cyclist that was or might reasonably be expected to be at the roundabout.
 - (c) Failing to provide sufficient room between his motor vehicle and the cyclist at the roundabout or at all.
 - (d) Failing to stop, to give way or to wait at the entrance to the roundabout until the cyclist had emerged safely onto the roundabout.
 - (e) Failing to see the cyclist in sufficient time or at all so as to avoid colliding with the cyclist.
 - (f) Emerging onto the roundabout without first ascertaining or ensuring that it was safe so to do and when it was unsafe and dangerous so to do.
 - (g) Failing to stop, to slow down, to swerve, or in any other way so to manage or control the motor vehicle so as to avoid the collision.
5. By reason of the matters aforesaid, the Plaintiff sustained personal injuries and has suffered loss and damage.

PARTICULARS OF INJURIES

The Plaintiff's date of birth is 26 August 1964. Following the accident on 26 December 2003 the Plaintiff suffered injuries, which included a serious craneoencephalic and rechimedular injury and the Plaintiff will be relying on the report (undated) of Dr. Dr. Amado Jose Delgado Gomez who is a specialist in neurosurgery.

PARTICULARS OF SPECIAL DAMAGE

Date	Description	Costs (CIS)
27 December 2003-4 February 2003	Treatment	10,930.00
31 December 2003	Cubanacan Cobrado Medical Bill	5,000.00
12 Dec 2003-31 January 2004	Telephone Bill	394.20
3 January 2004-March 2004	Telephone calls to Cuba	359.31
13 January 2004	Passport	135.00
14 January 2004	Acompanante	40.00
14 January 2004		6.75
14 January 2004	Acompanante	760.00
15 January 2004	Round trip ticket to Cuba	220.00
20 January 2004	Vale De Venta	2.10
20 January 2004	Pago De Acompanante	400.00
29 January 2004	Bank Transaction	65.00
29 January 2004	Immigration	25.00
2 February 2004	Uinerva Cervical	40.00
3 February 2004	Hospital Bill	360.00
3 February 2004	Bank Transaction	5.00
3 February 2004	Telephone Bill	39.45
4 February 2004	Cubanaco Pendiente	0.95
Clinica Central 4 February 2004	Medical Bill	9,767.55
3 March 2004	Traffic Accident Report	75.00
10 March 2004	Pago De Acompanante	80.00
10 March 2004	Vale De Venta	178.90
10 March 2004	Hospital Bill	625.00
10 March 2004	Medical Fees	803.90
7 June 2004	Medication	395.00
7 June 2004	Medication	102.20
7 June 2004	Medical Bill	25.00
9 June 2004	Tegretol	22.80
<u>Total:</u>		<u>30,858</u>

AND the Plaintiff claims:

- (i) Damages
- (ii) 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.
- (iii) Costs



CLYDE H. ALLEN, CHAMBERS

THIS WRIT was issued by Clyde H. Allen whose address for service is Clyde H. Allen, Attorneys-At-Law, PO Box 31076SMB, Jack & Jill Building, Fort Street, Grand Cayman, KY1-1205, Cayman Islands.

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CAUSE NO. OF 2007

BETWEEN EDWARD ANDRES EBANKS POWERY PLAINTIFF
AND: NORMAN CLARKE 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
Chambers
Attorneys-At-Law,
PO Box 31076SMB,
Jack & Jill Building,
Fort Street, Grand Cayman,
KY1-1205, 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.

[Empty box for defendant's attorney indorsement]