

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. III OF 2008

BETWEEN:

GARY CHISHOLM

Plaintiff

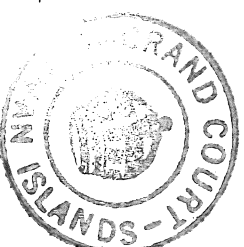
-AND-

TALBERT TYSON

Defendant



WRIT OF SUMMONS



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 495GT, 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 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 22nd day of February 2008

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 fo

STATEMENT OF CLAIM

1. The Plaintiff is an individual whose address is P.O. Box 148 NS, Hutland Road, North Side, Grand Cayman and who was born on December 16th 1955.
2. The Defendant is an individual whose address is 70 Moonbeam Drive, Savannah.
3. On the 9th of February 2006 at approximately 9:50 am the Plaintiff was traveling West in a Ford F-150 Truck, registration number 90 879, on Red Bay Road. The Defendant was driving a Ford Econoline, registration number 117 561, on the same road in the same direction traveling behind the Plaintiff. Due to traffic the Plaintiff brought his vehicle to a stop. The Defendant having taken his eyes off of the road failed to realize that the Plaintiff had brought his vehicle to a stop and collided into the rear of the Plaintiff's vehicle.
4. Both vehicles were damaged. The Defendant admitted liability for the accident both to the Plaintiff and to the Police when they subsequently arrived on the scene.
5. As a result of the accident the Plaintiff suffered personal injuries and pain and suffering.
6. 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 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 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;
- e) Driving his vehicle so as to collide with the Plaintiff's vehicle;
- f) Failing to stop, to slow down, to swerve, or in any way so to manage or control his vehicle so as to avoid the collision;

- g) Failing to see the Plaintiff in sufficient time to avoid colliding with him or at all;
- h) Failing to exercise reasonable skill and care to be expected of a reasonably skilful and careful driver in the circumstances.
7. By reason of the Defendant's negligence and breach of duty the Plaintiff has suffered loss and damage.

PARTICULARS OF INJURIES

The Plaintiff suffered injuries to his neck and back as a result of the accident and continues to suffer as a result of the injuries sustained. He has subsequently been diagnosed with whiplash. The Plaintiff continues to suffer from his injuries is impacted by them on a daily basis. Full particulars of the Plaintiff's injuries and the impact of them upon him will be provided prior to trial.

PARTICULARS OF SPECIAL DAMAGES

The Plaintiff incurred medical expenses and loss of income as a result of the accident. Full particulars of the Plaintiff's special damages and losses will be provided prior to trial.

AND THE PLAINTIFF CLAIMS

- (1) Damages;
- (2) Pre-Judgment and Post-Judgment interest in accordance with Section 34 of the Judicature Law (1995 Revision);
- (3) Costs;
- (4) Such further or other relief as this Honourable Court deems just.

Dated the ^{20th} day of February 2008

~~BROADHURST BARRISTERS~~

Broadhurst Barristers

Attorneys-at-Law for the Plaintiff

This Writ of Summons was issued by Broadhurst Barristers, Attorneys-at-Law for the Plaintiff, whose address for service is 40 Linwood Street, P.O. Box 2503 GT, George Town, Grand Cayman, Cayman Islands, British West Indies.

INDORSMENT 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 Motor & General Insurance Co. Ltd whose address is P.O. Box 1094 G.T. Shedden Road, George Town, 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 Acknowledgment 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.
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.
6. 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*.
7. A Defendant acting in person may obtain help in completing the form at the Courts Office.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

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CAUSE NO. ||| OF 2008

BETWEEN:

GARY CHISHOLM

Plaintiff

-AND-

TALBERT TYSON

**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 GT
GEORGE TOWN, GRAND CAYMAN
CAYMAN ISLANDS, BRITISH WEST INDIES

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